

Representative Colin W. Jack proposes the following substitute bill:

CRIMINAL JUSTICE CHANGES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Colin W. Jack

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- ▶ allows a magistrate or judge to consider the seriousness or type of offense in making a decision about pretrial release if the offense for which the individual is arrested for, or charged with, is a violent felony;
- ▶ creates a crime for a violation of a pretrial release agreement;
- ▶ allows a county sheriff to hold an individual for up to 24 hours for a violation of a pretrial release agreement; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-20-205, as last amended by Laws of Utah 2023, Chapters 408, 447



26 ENACTS:

27 **77-20-210**, Utah Code Annotated 1953



29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **77-20-205** is amended to read:

31 **77-20-205. Pretrial release by a magistrate or judge.**

32 (1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable
33 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure,
34 the magistrate shall issue a temporary pretrial status order that:

35 (i) releases the individual on the individual's own recognizance during the time the
36 individual awaits trial or other resolution of criminal charges;

37 (ii) designates a condition, or a combination of conditions, to be imposed upon the
38 individual's release during the time the individual awaits trial or other resolution of criminal
39 charges; or

40 (iii) orders the individual be detained during the time the individual awaits trial or
41 other resolution of criminal charges.

42 (b) At the time that a magistrate issues a summons, the magistrate may issue a
43 temporary pretrial status order that:

44 (i) releases the individual on the individual's own recognizance during the time the
45 individual awaits trial or other resolution of criminal charges; or

46 (ii) designates a condition, or a combination of conditions, to be imposed upon the
47 individual's release during the time the individual awaits trial or other resolution of criminal
48 charges.

49 (2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
50 pretrial status order at an individual's first appearance before the court.

51 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
52 individual's first appearance before the court:

53 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for
54 pretrial detention as described in Section **77-20-206**;

55 (ii) if a party requests a delay; or

56 (iii) if there is good cause to delay the issuance.

57 (c) If a magistrate or judge delays the issuance of a pretrial status order under
58 Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
59 the issuance of a pretrial status order.

60 (3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order
61 shall:

62 (i) release the individual on the individual's own recognizance during the time the
63 individual awaits trial or other resolution of criminal charges;

64 (ii) designate a condition, or a combination of conditions, to be imposed upon the
65 individual's release during the time the individual awaits trial or other resolution of criminal
66 charges; or

67 (iii) order the individual to be detained during the time that individual awaits trial or
68 other resolution of criminal charges.

69 (b) In making a determination about pretrial release in a pretrial status order, the
70 magistrate or judge may not give any deference to a magistrate's decision in a temporary
71 pretrial status order.

72 (4) In making a determination about pretrial release, a magistrate or judge shall impose
73 only conditions of release that are reasonably available and necessary to reasonably ensure:

74 (a) the individual's appearance in court when required;

75 (b) the safety of any witnesses or victims of the offense allegedly committed by the
76 individual;

77 (c) the safety and welfare of the public; and

78 (d) that the individual will not obstruct, or attempt to obstruct, the criminal justice
79 process.

80 (5) Except as provided in Subsection (6), a magistrate or judge may impose a
81 condition, or combination of conditions, for pretrial release that requires an individual to:

82 (a) not commit a federal, state, or local offense during the period of pretrial release;

83 (b) avoid contact with a victim of the alleged offense;

84 (c) avoid contact with a witness who:

85 (i) may testify concerning the alleged offense; and

86 (ii) is named in the pretrial status order;

87 (d) not consume alcohol or any narcotic drug or other controlled substance unless

88 prescribed by a licensed medical practitioner;

89 (e) submit to drug or alcohol testing;

90 (f) complete a substance abuse evaluation and comply with any recommended

91 treatment or release program;

92 (g) submit to electronic monitoring or location device tracking;

93 (h) participate in inpatient or outpatient medical, behavioral, psychological, or

94 psychiatric treatment;

95 (i) maintain employment or actively seek employment if unemployed;

96 (j) maintain or commence an education program;

97 (k) comply with limitations on where the individual is allowed to be located or the

98 times that the individual shall be, or may not be, at a specified location;

99 (l) comply with specified restrictions on personal associations, place of residence, or

100 travel;

101 (m) report to a law enforcement agency, pretrial services program, or other designated

102 agency at a specified frequency or on specified dates;

103 (n) comply with a specified curfew;

104 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;

105 (p) if the individual is charged with an offense against a child, limit or prohibit access

106 to any location or occupation where children are located, including any residence where

107 children are on the premises, activities where children are involved, locations where children

108 congregate, or where a reasonable person would know that children congregate;

109 (q) comply with requirements for house arrest;

110 (r) return to custody for a specified period of time following release for employment,

111 schooling, or other limited purposes;

112 (s) remain in custody of one or more designated individuals who agree to:

113 (i) supervise and report on the behavior and activities of the individual; and

114 (ii) encourage compliance with all court orders and attendance at all required court

115 proceedings;

116 (t) comply with a financial condition; or

117 (u) comply with any other condition that is reasonably available and necessary to

118 ensure compliance with Subsection (4).

119 (6) (a) If a county or municipality has established a pretrial services program, the
120 magistrate or judge shall consider the services that the county or municipality has identified as
121 available in determining what conditions of release to impose.

122 (b) The magistrate or judge may not order conditions of release that would require the
123 county or municipality to provide services that are not currently available from the county or
124 municipality.

125 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions
126 of release not identified by the county or municipality so long as the condition does not require
127 assistance or resources from the county or municipality.

128 (7) (a) If the magistrate or judge determines that a financial condition, other than an
129 unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall
130 consider the individual's ability to pay when determining the amount of the financial condition.

131 (b) If the magistrate or judge determines that a financial condition is necessary to
132 impose as a condition of release, and a county jail official fixed a financial condition for the
133 individual under Section 77-20-204, the magistrate or judge may not give any deference to:

134 (i) the county jail official's action to fix a financial condition; or

135 (ii) the amount of the financial condition that the individual was required to pay for
136 pretrial release.

137 (c) If a magistrate or judge orders a financial condition as a condition of release, the
138 judge or magistrate shall set the financial condition at a single amount per case.

139 (8) In making a determination about pretrial release, the magistrate or judge may:

140 (a) rely upon information contained in:

141 (i) the indictment or information;

142 (ii) any sworn or probable cause statement or other information provided by law
143 enforcement;

144 (iii) a pretrial risk assessment;

145 (iv) an affidavit of indigency described in Section 78B-22-201.5;

146 (v) witness statements or testimony;

147 (vi) the results of a lethality assessment completed in accordance with Section
148 77-36-2.1; or

149 (vii) any other reliable record or source, including proffered evidence; and

- 150 (b) consider:
- 151 (i) the nature and circumstances of the offense, or offenses, that the individual was
- 152 arrested for, or charged with, including:
- 153 (A) whether the offense is a violent offense; and
- 154 (B) the vulnerability of a witness or alleged victim;
- 155 (ii) the nature and circumstances of the individual, including the individual's:
- 156 (A) character;
- 157 (B) physical and mental health;
- 158 (C) family and community ties;
- 159 (D) employment status or history;
- 160 (E) financial resources;
- 161 (F) past criminal conduct;
- 162 (G) history of drug or alcohol abuse; and
- 163 (H) history of timely appearances at required court proceedings;
- 164 (iii) the potential danger to another individual, or individuals, posed by the release of
- 165 the individual;
- 166 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 167 court proceeding at the time the individual allegedly committed the offense or offenses;
- 168 (v) the availability of:
- 169 (A) other individuals who agree to assist the individual in attending court when
- 170 required; or
- 171 (B) supervision of the individual in the individual's community;
- 172 (vi) the eligibility and willingness of the individual to participate in various treatment
- 173 programs, including drug treatment; or
- 174 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
- 175 law if released.
- 176 (9) The magistrate or judge may not base a determination about pretrial release solely
- 177 on the seriousness or type of offense that the individual is arrested for or charged with, unless
- 178 the individual is arrested for or charged with a [~~capital felony~~] violent felony as defined in
- 179 Section 76-3-203.5.
- 180 (10) An individual arrested for violation of a jail release agreement, or a jail release

181 court order, issued in accordance with Section [78B-7-802](#):

182 (a) may not be released before the individual's first appearance before a magistrate or
183 judge; and

184 (b) may be denied pretrial release by the magistrate or judge.

185 Section 2. Section **77-20-210** is enacted to read:

186 **77-20-210. Violation of pretrial release order -- 24-hour hold for violation.**

187 (1) As used in this section, "pretrial release order" means a pretrial status order or a
188 temporary pretrial status order.

189 (2) (a) An individual commits a violation of a pretrial release order if the individual:

190 (i) is released by a magistrate or judge upon the issuance of a pretrial release order that
191 imposes a condition, or a combination of conditions, for the individual's pretrial release; and

192 (ii) the individual knowingly or intentionally violates a condition in the pretrial release
193 order.

194 (b) A violation of Subsection (2)(a) is a class C misdemeanor.

195 (3) (a) If a county sheriff determines that there is probable cause to believe that an
196 individual has committed a violation of a pretrial release order as described in Subsection (2),
197 the county sheriff may take custody of, and detain, the individual for a maximum of 24 hours
198 without obtaining a warrant issued by a court.

199 (b) If the county sheriff detains an individual under Subsection (3)(a), the county
200 sheriff shall ensure that the court is notified.

201 (4) A written order from the county sheriff is sufficient authorization for a peace
202 officer to detain an individual if the county sheriff has determined that there is probable cause
203 to believe that the individual has committed a violation of a pretrial release order.

204 (5) If an individual commits a violation of a pretrial release order outside of the
205 jurisdiction of the county sheriff supervising the individual on pretrial release, the arresting law
206 enforcement agency is not required to hold or transport the individual to the county sheriff.

207 (6) This section does not prohibit a county sheriff or jail facility from holding an
208 individual in accordance with this chapter for a new criminal offense.

209 Section 3. **Effective date.**

210 This bill takes effect on May 1, 2024.