

Senator Derrin R. Owens proposes the following substitute bill:

CORRECTIONS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the Department of Corrections.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the roles of county sheriffs and the Department of Corrections regarding the detention of probationers and parolees who have allegedly violated a condition of probation or parole;
- ▶ prohibits a county jail from releasing an individual booked on an allegation of violating probation or parole if the Department of Corrections has placed a hold on that individual under certain circumstances;
- ▶ clarifies that the Department of Health and Human Services shall provide comprehensive health care to inmates at each health care facility owned or operated by the Department of Corrections;
- ▶ directs the Department of Corrections to create a reentry division that focuses on the successful reentry of inmates into the community;
- ▶ allows the Department of Corrections to use an inmate supervision model other than a direct supervision model in certain circumstances;



- 26 ▶ clarifies the role of the Department of Corrections in probation supervision;
- 27 ▶ provides that the executive director of the Department of Corrections may authorize
- 28 the personal off-duty use of state vehicles;
- 29 ▶ removes an internal Department of Corrections audit requirement of certain
- 30 programs; and
- 31 ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 17-22-5.5, as last amended by Laws of Utah 2022, Chapter 115
- 39 26B-4-325, as enacted by Laws of Utah 2023, Chapter 322
- 40 64-13-6, as last amended by Laws of Utah 2023, Chapter 177
- 41 64-13-14, as last amended by Laws of Utah 2021, Chapter 246
- 42 64-13-21, as last amended by Laws of Utah 2022, Chapter 187
- 43 64-13-25, as last amended by Laws of Utah 2023, Chapter 155
- 44 64-13-29, as last amended by Laws of Utah 2022, Chapter 115
- 45 64-13-43, as enacted by Laws of Utah 2008, Chapter 368
- 46 77-18-105, as last amended by Laws of Utah 2023, Chapters 111, 257
- 47 77-20-203, as last amended by Laws of Utah 2023, Chapter 408
- 48 77-20-204, as last amended by Laws of Utah 2023, Chapters 34, 408

49 ENACTS:

50 17-22-5.6, Utah Code Annotated 1953

51

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

53 Section 1. Section 17-22-5.5 is amended to read:

54 **17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity**
55 **of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding**
56 **release.**

- 57 (1) (a) Except as provided in Subsection (4), a county sheriff shall determine:
- 58 (i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail
- 59 facility under the sheriff's control;
- 60 (ii) the nature of each program conducted at a jail facility under the sheriff's control;
- 61 and
- 62 (iii) the internal operation of a jail facility under the sheriff's control.
- 63 (b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any
- 64 applicable zoning ordinance or conditional use permit of the county or municipality.
- 65 (2) Except as provided in Subsection (4), each county sheriff shall:
- 66 (a) with the approval of the county legislative body, establish a maximum operating
- 67 capacity for each jail facility under the sheriff's control, based on facility design and staffing;
- 68 and
- 69 (b) upon a jail facility reaching the jail facility's maximum operating capacity:
- 70 (i) transfer prisoners to another appropriate facility:
- 71 (A) under the sheriff's control; or
- 72 (B) available to the sheriff by contract;
- 73 (ii) release prisoners:
- 74 (A) to a supervised release program, according to release criteria established by the
- 75 sheriff; or
- 76 (B) to another alternative incarceration program developed by the sheriff; or
- 77 (iii) admit prisoners in accordance with law and a uniform admissions policy imposed
- 78 equally upon all entities using the county jail.
- 79 (3) (a) The sheriff shall keep records of the release status and the type of release
- 80 program or alternative incarceration program for any prisoner released under Subsection
- 81 (2)(b)(ii).
- 82 (b) The sheriff shall make these records available upon request to the Department of
- 83 Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.
- 84 (4) This section may not be construed to authorize a sheriff to modify provisions of a
- 85 contract with the Department of Corrections to house in a county jail an individual sentenced to
- 86 the Department of Corrections.
- 87 (5) Regardless of whether a jail facility has reached the jail facility's maximum

88 operating capacity under Subsection (2), a sheriff may release an individual from a jail facility
89 in accordance with Section [77-20-203](#) or [77-20-204](#).

90 ~~[(6) (a) Subject to Subsection (6)(c), a jail facility shall detain an individual for up to
91 24 hours from booking if:]~~

92 ~~[(i) the individual is on supervised probation or parole and that information is
93 reasonably available; and]~~

94 ~~[(ii) the individual was arrested for:]~~

95 ~~[(A) a violent felony as defined in Section [76-3-203.5](#); or]~~

96 ~~[(B) a qualifying domestic violence offense as defined in Subsection [77-36-1.1](#)(4) that
97 is not a criminal mischief offense.]~~

98 ~~[(b) The jail facility shall notify the entity supervising the individual's probation or
99 parole that the individual is being detained.]~~

100 ~~[(c) (i) The jail facility shall release the individual:]~~

101 ~~[(A) to the Department of Corrections if the Department of Corrections supervises the
102 individual and requests the individual's release; or]~~

103 ~~[(B) if a court or magistrate orders release.]~~

104 ~~[(ii) Nothing in this Subsection (6) prohibits a jail facility from holding the individual
105 in accordance with Title 77, Chapter 20, Bail, for new criminal conduct.]~~

106 Section 2. Section [17-22-5.6](#) is enacted to read:

107 **[17-22-5.6. Probation supervision -- Violation of probation -- Detention -- Hearing.](#)**

108 (1) As used in this section:

109 (a) "Probationer" means an individual on probation under the supervision of the county
110 sheriff.

111 (b) (i) "Qualifying domestic violence offense" means the same as that term is defined
112 in Subsection [77-36-1.1](#)(4).

113 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
114 described in Section [76-6-106](#).

115 (c) "Violent felony" means the same as that term is defined in Section [76-3-203.5](#).

116 (2) A county sheriff shall ensure that the court is notified of violations of the terms and
117 conditions of a probationer's probation when the county sheriff determines that:

118 (a) incarceration is recommended as a sanction;

119 (b) a graduated and evidence-based response is not an appropriate response to the
120 offender's violation and recommends revocation of probation; or

121 (c) there is probable cause that the conduct that led to a violation of probation is:

122 (i) a violent felony; or

123 (ii) a qualifying domestic violence offense.

124 (3) A county sheriff may take custody of, and detain, a probationer for a maximum of
125 72 hours, excluding weekends and holidays, if:

126 (a) the probationer commits a major violation or repeated violations of probation;

127 (b) it is unlikely that the court will conduct a hearing within a reasonable time to
128 determine if the probationer has violated the conditions of probation; and

129 (c) the county sheriff conducts a hearing, within a reasonable time, to determine if
130 there is probable cause to believe the probationer has violated the conditions of probation,
131 unless the hearing is waived by the probationer.

132 (4) If the requirements for Subsection (3) are met, the county sheriff shall ensure the
133 proper court is notified.

134 (5) A written order from the county sheriff is sufficient authorization for a peace
135 officer to incarcerate a probationer if the county sheriff has determined that there is probable
136 cause to believe that the probationer has violated the conditions of probation.

137 (6) If a probationer commits a violation outside of the jurisdiction of the county sheriff
138 supervising the probationer, the arresting law enforcement agency is not required to hold or
139 transport the probationer to the county sheriff.

140 Section 3. Section **26B-4-325** is amended to read:

141 **26B-4-325. Medical care for inmates -- Reporting of statistics.**

142 As used in this section:

143 (1) "Correctional facility" means a facility operated to house inmates in a secure or
144 nonsecure setting:

145 (a) by the Department of Corrections; or

146 (b) under a contract with the Department of Corrections.

147 (2) "Health care facility" means the same as that term is defined in Section [26B-2-201](#).

148 (3) "Inmate" means an individual who is:

149 (a) committed to the custody of the Department of Corrections; and

150 (b) housed at a correctional facility or at a county jail at the request of the Department
151 of Corrections.

152 (4) "Medical monitoring technology" means a device, application, or other technology
153 that can be used to improve health outcomes and the experience of care for patients, including
154 evidence-based clinically evaluated software and devices that can be used to monitor and treat
155 diseases and disorders.

156 (5) "Terminally ill" means the same as that term is defined in Section [31A-36-102](#).

157 (6) The department shall:

158 (a) for each health care facility owned or operated by the Department of Corrections~~];~~:

159 (i) assist the Department of Corrections in complying with Section [64-13-39](#); and

160 (ii) provide inmates with comprehensive health care;

161 (b) create policies and procedures for providing ~~[services]~~ comprehensive health care
162 to inmates; and

163 (c) in coordination with the Department of Corrections, develop standard population
164 indicators and performance measures relating to the health of inmates.

165 (7) In providing the comprehensive health care described in Subsection (6), the
166 department may not, without entering into an agreement with the Department of Corrections,
167 provide, operate, or manage any treatment plans for inmates that are:

168 (a) required to be provided, operated, or managed by the Department of Corrections in
169 accordance with Section [64-13-6](#); and

170 (b) not related to the comprehensive health care provided by the department.

171 ~~[(7)]~~ (8) Beginning July 1, 2023, and ending June 30, 2024, the department shall:

172 (a) evaluate and study the use of medical monitoring technology and create a plan for a
173 pilot program that identifies:

174 (i) the types of medical monitoring technology that will be used during the pilot
175 program; and

176 (ii) eligibility for participation in the pilot program; and

177 (b) make the indicators and performance measures described in Subsection (6)(c)
178 available to the public through the Department of Corrections and the department websites.

179 ~~[(8)]~~ (9) Beginning July 1, 2024, and ending June 30, 2029, the department shall
180 implement the pilot program.

181 [~~(9)~~] (10) The department shall submit to the Health and Human Services Interim
182 Committee and the Law Enforcement and Criminal Justice Interim Committee:

183 (a) a report on or before October 1 of each year regarding the costs and benefits of the
184 pilot program;

185 (b) a report that summarizes the indicators and performance measures described in
186 Subsection (6)(c) on or before October 1, 2024; and

187 (c) an updated report before October 1 of each year that compares the indicators and
188 population measures of the most recent year to the initial report described in Subsection
189 [~~(9)(b)~~] (10)(b).

190 (11) An inmate receiving comprehensive health care from the department remains in
191 the custody of the Department of Corrections.

192 Section 4. Section **64-13-6** is amended to read:

193 **64-13-6. Department duties.**

194 (1) The department shall:

195 (a) protect the public through institutional care and confinement, and supervision in the
196 community of offenders where appropriate;

197 (b) implement court-ordered punishment of offenders;

198 (c) provide evidence-based and evidence-informed program opportunities for offenders
199 designed to reduce offenders' criminogenic and recidivism risks, including behavioral,
200 cognitive, educational, and career-readiness program opportunities;

201 (d) ensure that offender participation in all program opportunities described in
202 Subsection (1)(c) is voluntary;

203 (e) where appropriate, utilize offender volunteers as mentors in the program
204 opportunities described in Subsection (1)(c);

205 (f) provide treatment for sex offenders who are found to be treatable based upon
206 criteria developed by the department;

207 (g) provide the results of ongoing clinical assessment of sex offenders and objective
208 diagnostic testing to sentencing and release authorities;

209 (h) manage programs that take into account the needs and interests of victims, where
210 reasonable;

211 (i) supervise probationers and parolees as directed by statute and implemented by the

212 courts and the Board of Pardons and Parole;

213 (j) subject to Subsection [~~(2)~~] (3), investigate criminal conduct involving offenders
214 incarcerated in a state correctional facility;

215 (k) cooperate and exchange information with other state, local, and federal law
216 enforcement agencies to achieve greater success in prevention and detection of crime and
217 apprehension of criminals;

218 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
219 Offender Supervision;

220 (m) establish a case action plan based on appropriate validated risk, needs, and
221 responsivity assessments for each offender as follows:

222 (i) (A) if an offender is to be supervised in the community, the department shall
223 establish a case action plan for the offender no later than 60 days after the day on which the
224 department's community supervision of the offender begins; and

225 (B) if the offender is committed to the custody of the department, the department shall
226 establish a case action plan for the offender no later than 90 days after the day on which the
227 offender is committed to the custody of the department;

228 (ii) each case action plan shall integrate an individualized, evidence-based, and
229 evidence-informed treatment and program plan with clearly defined completion requirements;

230 (iii) the department shall share each newly established case action plan with the
231 sentencing and release authority within 30 days after the day on which the case action plan is
232 established; and

233 (iv) the department shall share any changes to a case action plan, including any change
234 in an offender's risk assessment, with the sentencing and release authority within 30 days after
235 the day of the change;

236 (n) ensure that any training or certification required of a public official or public
237 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
238 22, State Training and Certification Requirements, if the training or certification is required:

239 (i) under this title;

240 (ii) by the department; or

241 (iii) by an agency or division within the department; [~~and~~]

242 (o) when reporting on statewide recidivism, include the metrics and requirements

243 described in Section [63M-7-102](#); and

244 (p) create a reentry division that focuses on the successful reentry of inmates into the
245 community.

246 (2) The department may in the course of supervising probationers and parolees:

247 (a) respond in accordance with the graduated and evidence-based processes established
248 by the Utah Sentencing Commission under Subsection [63M-7-404\(6\)](#), to an individual's
249 violation of one or more terms of the probation or parole; and

250 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
251 sanction for an individual's violation of the terms of probation or parole a period of
252 incarceration of not more than three consecutive days and not more than a total of five days
253 within a period of 30 days.

254 (3) (a) By following the procedures in Subsection (3)(b), the department may
255 investigate the following occurrences at state correctional facilities:

- 256 (i) criminal conduct of departmental employees;
- 257 (ii) felony crimes resulting in serious bodily injury;
- 258 (iii) death of any person; or
- 259 (iv) aggravated kidnaping.

260 (b) Before investigating any occurrence specified in Subsection (3)(a), the department
261 shall:

262 (i) notify the sheriff or other appropriate law enforcement agency promptly after
263 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has
264 occurred; and

265 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
266 conduct an investigation involving an occurrence specified in Subsection (3)(a).

267 (4) Upon request, the department shall provide copies of investigative reports of
268 criminal conduct to the sheriff or other appropriate law enforcement agencies.

269 (5) (a) The executive director of the department, or the executive director's designee if
270 the designee possesses expertise in correctional programming, shall consult at least annually
271 with cognitive and career-readiness staff experts from the Utah system of higher education and
272 the State Board of Education to review the department's evidence-based and evidence-informed
273 treatment and program opportunities.

274 (b) Beginning in the 2022 interim, the department shall provide an annual report to the
275 Law Enforcement and Criminal Justice Interim Committee regarding the department's
276 implementation of and offender participation in evidence-based and evidence-informed
277 treatment and program opportunities designed to reduce the criminogenic and recidivism risks
278 of offenders over time.

279 (6) (a) As used in this Subsection (6):

280 (i) "Accounts receivable" means any amount owed by an offender arising from a
281 criminal judgment that has not been paid.

282 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
283 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,
284 reimbursement of a reward, and damages that an offender is ordered to pay.

285 (b) The department shall collect and disburse, with any interest and any other costs
286 assessed under Section 64-13-21, an accounts receivable for an offender during:

287 (i) the parole period and any extension of that period in accordance with Subsection
288 (6)(c); and

289 (ii) the probation period for which the court orders supervised probation and any
290 extension of that period by the department in accordance with Subsection 77-18-105(7).

291 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the
292 time that the offender's sentence expires or terminates, the department shall be referred to the
293 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil
294 accounts receivable as described in Section 77-18-114.

295 (ii) If the board makes an order for restitution within 60 days from the day on which
296 the offender's sentence expires or terminates, the board shall refer the order for restitution to
297 the sentencing court to be entered as a civil judgment of restitution as described in Section
298 77-18-114.

299 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

300 Section 5. Section 64-13-14 is amended to read:

301 **64-13-14. Secure correctional facilities.**

302 (1) The department shall maintain and operate secure correctional facilities for the
303 incarceration of offenders.

304 (2) For each compound of secure correctional facilities, as established by the executive

305 director, wardens shall be appointed as the chief administrative officers by the executive
306 director.

307 (3) The department may transfer offenders from one correctional facility to another and
308 may, with the consent of the sheriff, transfer any offender to a county jail.

309 (4) Where new or modified facilities are designed appropriately, the department shall
310 implement an evidence-based direct supervision system in accordance with Subsections (5) and
311 (6).

312 (5) A direct supervision system shall be designed to meet the goals of:

313 (a) reducing offender violence;

314 (b) enhancing offenders' participation in treatment, program, and work opportunities;

315 (c) managing and reducing offender risk;

316 (d) promoting pro-social offender behaviors;

317 (e) providing a tiered-housing structure that:

318 (i) rewards an offender's pro-social behaviors and progress toward the completion
319 requirements of the offender's individual case action plan with less restrictive housing and
320 increased privileges; and

321 (ii) houses similarly behaving offenders together; and

322 (f) reducing departmental costs.

323 (6) A direct supervision system shall include the following elements:

324 (a) department staff will interact continuously with offenders to actively manage
325 offenders' behavior and to identify problems at early stages;

326 (b) department staff will use management techniques designed to prevent and
327 discourage negative offender behavior and encourage positive offender behavior;

328 (c) department staff will establish and maintain a professional supervisory relationship
329 with offenders; and

330 (d) barriers separating department staff and offenders shall be removed.

331 (7) (a) Notwithstanding Subsection (4), the department may implement a supervision
332 model other than the direct supervision model described in Subsection (4) if the executive
333 director:

334 (i) determines that the direct supervision model endangers:

335 (A) the health and safety of the inmates or correctional facility staff; or

336 (B) the security of the correctional facility; and
337 (ii) creates a policy detailing what the supervision model will be and why that model
338 will increase the health and safety of the inmates or correctional facility staff or the security of
339 the correctional facility over a direct supervision model.

340 (b) The department shall post on the department's website:
341 (i) the executive director's determinations regarding the dangers of using a direct
342 supervision model as described in Subsection (7)(a)(i); and

343 (ii) the policy detailing the supervision model to be used as described in Subsection
344 (7)(a)(ii).

345 ~~[(7)]~~ (8) ~~[Beginning in the 2022 interim, the]~~ The department shall provide an annual
346 report to the Law Enforcement and Criminal Justice Interim Committee regarding:

347 (a) the status of the implementation of direct supervision; and
348 (b) if applicable, the implementation of a supervision model other than the direct
349 supervision model as described in Subsection (7).

350 Section 6. Section **64-13-21** is amended to read:

351 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
352 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
353 **fee.**

354 (1) (a) The department, except as otherwise provided by law, shall supervise a
355 sentenced ~~[offenders]~~ offender placed in the community if the offender:

356 (i) (A) is placed on probation by ~~[the courts,]~~ a court;
357 (B) is released on parole by the Board of Pardons and Parole~~[-];~~ or
358 (C) ~~[upon acceptance]~~ is accepted for supervision under the terms of the Interstate
359 Compact for the Supervision of Parolees and Probationers; and

360 (ii) has been convicted of:
361 (A) a felony; or
362 (B) a class A misdemeanor when an element of the offense is the use or attempted use
363 of physical force against an individual or property.

364 (b) If a sentenced offender participates in substance use treatment or a residential,
365 vocational and life skills program, as defined in Section [13-53-102](#), while under supervision on
366 probation or parole, the department shall monitor the offender's compliance with and

367 completion of the treatment or program.

368 (c) The department shall establish standards for:

369 (i) the supervision of offenders in accordance with sentencing guidelines and
370 supervision length guidelines, including the graduated and evidence-based responses,
371 established by the Utah Sentencing Commission, giving priority, based on available resources,
372 to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and

373 (ii) the monitoring described in Subsection (1)(b).

374 (2) The department shall apply the graduated and evidence-based responses established
375 by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an
376 individual's violation of the terms of probation or parole, including:

377 (a) sanctions to be used in response to a violation of the terms of probation or parole;
378 and

379 (b) requesting approval from the court or Board of Pardons and Parole to impose a
380 sanction for an individual's violation of the terms of probation or parole, for a period of
381 incarceration of not more than three consecutive days and not more than a total of [~~five~~] six
382 days within a period of 30 days.

383 (3) The department shall implement a program of graduated incentives as established
384 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate
385 response to an offender's:

386 (a) compliance with the terms of probation or parole; or

387 (b) positive conduct that exceeds those terms.

388 (4) (a) The department shall, in collaboration with the State Commission on Criminal
389 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards
390 and procedures for the collection of information, including cost savings related to recidivism
391 reduction and the reduction in the number of inmates, related to the use of the graduated and
392 evidence-based responses and graduated incentives, and offenders' outcomes.

393 (b) The collected information shall be provided to the State Commission on Criminal
394 and Juvenile Justice not less frequently than annually on or before August 31.

395 (5) Employees of the department who are POST certified as law enforcement officers
396 or correctional officers and who are designated as parole and probation officers by the
397 executive director have the following duties:

398 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
399 with the conditions of the parole or probation agreement;

400 (b) investigating or apprehending any offender who has escaped from the custody of
401 the department or absconded from supervision;

402 (c) supervising any offender during transportation; or

403 (d) collecting DNA specimens when the specimens are required under Section
404 53-10-404.

405 (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on
406 probation or parole.

407 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the
408 department upon a showing by the offender that imposition would create a substantial hardship
409 or if the offender owes restitution to a victim.

410 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
411 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the
412 supervision fee and the circumstances under which an offender may request a hearing.

413 (ii) In determining whether the imposition of the supervision fee would constitute a
414 substantial hardship, the department shall consider the financial resources of the offender and
415 the burden that the fee would impose, with regard to the offender's other obligations.

416 (7) (a) For offenders placed on probation under Section 77-18-105 or parole under
417 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the
418 department shall establish a program allowing an offender to earn credits for the offender's
419 compliance with the terms of the offender's probation or parole, which shall be applied to
420 reducing the period of probation or parole as provided in this Subsection (7).

421 (b) The program shall provide that an offender earns a reduction credit of 30 days from
422 the offender's period of probation or parole for each month the offender completes without any
423 violation of the terms of the offender's probation or parole agreement, including the case action
424 plan.

425 (c) The department shall maintain a record of credits earned by an offender under this
426 Subsection (7) and shall request from the court or the Board of Pardons and Parole the
427 termination of probation or parole not fewer than 30 days prior to the termination date that
428 reflects the credits earned under this Subsection (7).

429 (d) This Subsection (7) does not prohibit the department from requesting a termination
430 date earlier than the termination date established by earned credits under Subsection (7)(c).

431 (e) The court or the Board of Pardons and Parole shall terminate an offender's
432 probation or parole upon completion of the period of probation or parole accrued by time
433 served and credits earned under this Subsection (7) unless the court or the Board of Pardons
434 and Parole finds that termination would interrupt the completion of a necessary treatment
435 program, in which case the termination of probation or parole shall occur when the treatment
436 program is completed.

437 (f) The department shall report annually to the State Commission on Criminal and
438 Juvenile Justice on or before August 31:

439 (i) the number of offenders who have earned probation or parole credits under this
440 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the
441 offenders on probation or parole during that time that this number represents;

442 (ii) the average number of credits earned by those offenders who earned credits;

443 (iii) the number of offenders who earned credits by county of residence while on
444 probation or parole;

445 (iv) the cost savings associated with sentencing reform programs and practices; and

446 (v) a description of how the savings will be invested in treatment and

447 early-intervention programs and practices at the county and state levels.

448 Section 7. Section **64-13-25** is amended to read:

449 **64-13-25. Standards for programs -- Audits.**

450 (1) (a) To promote accountability and to ensure safe and professional operation of
451 correctional programs, the department shall establish minimum standards for the organization
452 and operation of the department's programs, including collaborating with the Department of
453 Health and Human Services to establish minimum standards for programs providing assistance
454 for individuals involved in the criminal justice system.

455 (b) (i) The department shall promulgate the standards according to state rulemaking
456 provisions.

457 (ii) Those standards that apply to offenders are exempt from the provisions of Title
458 63G, Chapter 3, Utah Administrative Rulemaking Act.

459 (iii) Offenders are not a class of persons under Title 63G, Chapter 3, Utah

460 Administrative Rulemaking Act.

461 (c) The standards shall provide for inquiring into and processing offender complaints.

462 (d) (i) The department shall establish minimum standards and qualifications for
463 treatment programs provided in county jails to which persons committed to the state prison are
464 placed by jail contract under Section 64-13e-103.

465 (ii) In establishing the standards and qualifications for the treatment programs, the
466 department shall:

467 (A) consult and collaborate with the county sheriffs and the Office of Substance Use
468 and Mental Health; and

469 (B) include programs demonstrated by recognized scientific research to reduce
470 recidivism by addressing an offender's criminal risk factors as determined by a risk and needs
471 assessment.

472 (iii) All jails contracting to house offenders committed to the state prison shall meet the
473 minimum standards for treatment programs as established under this Subsection (1)(d).

474 (e) (i) The department shall establish minimum standards for sex offense treatment,
475 which shall include the requirements under Subsection 64-13-7.5(3) regarding licensure and
476 competency.

477 (ii) The standards shall require the use of evidence-based practices to address criminal
478 risk factors as determined by validated assessments.

479 (iii) The department shall collaborate with the Office of Substance Use and Mental
480 Health to develop and effectively distribute the standards to jails and to mental health
481 professionals who desire to provide mental health treatment for sex offenders.

482 (iv) The department shall establish the standards by administrative rule in accordance
483 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

484 (2) (a) The department shall establish a certification process for public and private
485 providers of treatment for sex offenders on probation or parole that requires the providers' sex
486 offense treatment practices meet the standards and practices established under Subsection
487 (1)(e)(i) with the goal of reducing sex offender recidivism.

488 (b) The department shall collaborate with the Office of Substance Use and Mental
489 Health to develop, coordinate, and implement the certification process.

490 (c) The department shall base the certification process on the standards under

491 Subsection (1)(e)(i) and require renewal of certification every two years.

492 (d) All public and private providers of sex offense treatment, including those providing
493 treatment to offenders housed in county jails by contract under Section ~~64-13e-103~~, shall
494 comply with the standards in order to begin receiving or continue receiving payment from the
495 department to provide sex offense treatment.

496 (e) The department shall establish the certification program by administrative rule in
497 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

498 ~~[(3)(a) The department shall establish an audit process to ensure compliance with sex
499 offense and substance use treatment standards established under this section in accordance with
500 the department's policies and procedures.]~~

501 ~~[(b) At least every three years, the department shall internally audit sex offense and
502 substance use treatment programs for compliance with standards established under this
503 section.]~~

504 ~~[(c) The individuals undertaking the audit shall provide a written report to the
505 managers of the programs audited and to the executive director of the department.]~~

506 ~~[(d) The department's internal audit reports shall:]~~

507 ~~[(i) be classified as confidential internal working papers; and]~~

508 ~~[(ii) be accessible at the discretion of the executive director or the governor, or upon
509 court order.]~~

510 ~~[(4)]~~ (3) The department:

511 (a) shall establish performance goals and outcome measurements for all programs that
512 are subject to the minimum standards established under this section and collect data to analyze
513 and evaluate whether the goals and measurements are attained;

514 (b) shall collaborate with the Office of Substance Use and Mental Health to develop
515 and coordinate the performance goals and outcome measurements, including recidivism rates
516 and treatment success and failure rates;

517 (c) may use the data collected under Subsection ~~[(4)(b)]~~ (3)(b) to make decisions on the
518 use of funds to provide treatment for which standards are established under this section;

519 (d) shall collaborate with the Office of Substance Use and Mental Health to track a
520 subgroup of participants to determine if there is a net positive result from the use of treatment
521 as an alternative to incarceration;

522 (e) shall collaborate with the Office of Substance Use and Mental Health to evaluate
523 the costs, including any additional costs, and the resources needed to attain the performance
524 goals established for the use of treatment as an alternative to incarceration; and

525 (f) shall annually provide data collected under this Subsection [~~(4)~~] (3) to the State
526 Commission on Criminal and Juvenile Justice on or before August 31.

527 [~~(5)~~] (4) The State Commission on Criminal and Juvenile Justice shall compile a
528 written report of the findings based on the data collected under Subsection [~~(4)~~] (3) and provide
529 the report to the legislative Judiciary Interim Committee, the Health and Human Services
530 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the
531 related appropriations subcommittees.

532 Section 8. Section **64-13-29** is amended to read:

533 **64-13-29. Violation of parole or probation -- Detention -- Hearing.**

534 (1) As used in this section:

535 (a) "72-hour hold" means a directive from the department:

536 (i) prohibiting the release of a parolee or probationer from correctional custody who
537 has entered correctional custody due to a violation of a condition of parole or probation; and

538 (ii) lasting for a maximum of 72 hours, excluding weekends or holidays, from the time
539 the parolee or probationer entered correctional custody.

540 (b) "Correctional custody" means when a parolee or probationer is physically detained
541 in a county jail or a correctional facility operated by the department.

542 (c) "Parolee" means an individual on parole under the supervision of the department.

543 (d) (i) "Qualifying domestic violence offense" means the same as that term is defined
544 in Subsection 77-36-1.1(4).

545 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
546 described in Section 76-6-106.

547 (e) "Probationer" means an individual on probation under the supervision of the
548 department.

549 (f) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

550 [~~(a)~~] (2) The department [~~or local law enforcement agency~~] shall ensure that the court
551 or the Board of Pardons and Parole is notified of [violations] a violation of the terms and
552 conditions of probation [~~in the case of probationers under the supervision of the department,~~

553 ~~the local law enforcement agency, or the Board of Pardons and Parole in the case of parolees~~
554 ~~under the department's supervision] or parole by a probationer or parolee when:~~

555 ~~[(i)] (a) [a sanction of] incarceration is recommended as a sanction;~~

556 ~~[(ii)] (b) the department [or local law enforcement agency] determines that a graduated~~
557 ~~and evidence-based response is not an appropriate response to the [offender's] violation and~~
558 ~~recommends revocation of probation or parole; or~~

559 ~~[(iii)] (c) there is probable cause that the conduct that led to a violation of parole or~~
560 ~~probation is:~~

561 ~~[(A)] (i) a violent felony [as defined in Section 76-3-203.5]; or~~

562 ~~[(B)] (ii) a qualifying domestic violence offense [as defined in Subsection 77-36-1.1(4)~~
563 ~~that is not a criminal mischief offense.];~~

564 ~~[(b) In cases where the department desires to detain an offender alleged to have~~
565 ~~violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or~~
566 ~~court will conduct a hearing within a reasonable time to determine if the offender has violated~~
567 ~~his conditions of parole or probation, the department shall hold an administrative hearing~~
568 ~~within a reasonable time, unless the hearing is waived by the parolee or probationer, to~~
569 ~~determine if there is probable cause to believe that a violation has occurred.];~~

570 ~~[(c) If there is a conviction for a crime based on the same charges as the probation or~~
571 ~~parole violation, or a finding by a federal or state court that there is probable cause to believe~~
572 ~~that an offender has committed a crime based on the same charges as the probation or parole~~
573 ~~violation, the department need not hold an administrative hearing.];~~

574 ~~[(2) The appropriate officer or officers of the department shall, as soon as practical~~
575 ~~following the department's administrative hearing, report to the court or the Board of Pardons~~
576 ~~and Parole, furnishing a summary of the hearing, and may make recommendations regarding~~
577 ~~the disposition to be made of the parolee or probationer.];~~

578 ~~[(3)(a) Pending any proceeding under this section for a violation of probation or~~
579 ~~parole, the department:]~~

580 ~~[(i) except as provided in Subsection (3)(b), may take custody of and detain the parolee~~
581 ~~or probationer who committed the violation for a period not to exceed 72 hours excluding~~
582 ~~weekends and holidays; and]~~

583 ~~[(ii) if the department or the department's agent has probable cause that the conduct~~

584 ~~that led to the violation is an offense described in Subsection (1)(a)(iii), shall take custody of~~
585 ~~and detain the parolee or probationer who committed the violation for a period not to exceed 72~~
586 ~~hours excluding weekends and holidays.]~~

587 ~~[(b) The 72-hour period described in this Subsection (3) is reduced by the amount of~~
588 ~~time a probationer or parolee is detained under Subsection 17-22-5.5(6).]~~

589 ~~[(4) In cases where probationers are supervised by a local law enforcement agency, the~~
590 ~~agency may take custody of and detain the probationer involved for a period not to exceed 72~~
591 ~~hours excluding weekends and holidays if:]~~

592 ~~[(a) the probationer commits a major violation or repeated violations of probation;]~~

593 ~~[(b) it is unlikely that the court will conduct a hearing within a reasonable time to~~
594 ~~determine if the offender has violated the conditions of probation; and]~~

595 ~~[(c) the law enforcement agency conducts an administrative hearing within a~~
596 ~~reasonable time to determine if there is probable cause to believe the offender has violated the~~
597 ~~conditions of probation, unless the hearing is waived by the probationer.]~~

598 ~~[(5) If the requirements for Subsection (4) are met, the local law enforcement agency~~
599 ~~shall ensure the proper court is notified.]~~

600 (3) (a) Except as provided in Subsection (3)(e), the department shall hold an
601 administrative hearing, within a reasonable time, to determine if there is probable cause to
602 believe that a probationer or parolee committed a violation of probation or parole if:

603 (i) the department seeks to detain, or have a county jail detain, the probationer or
604 parolee for the violation; and

605 (ii) it is unlikely that the Board of Pardons and Parole or the court will conduct a
606 hearing within a reasonable time to determine whether there is probable cause to believe the
607 probationer or parolee committed a violation of probation or parole.

608 (b) A probationer or parolee may waive the administrative hearing described in
609 Subsection (3)(a).

610 (c) The department shall:

611 (i) report to the Board of Pardons and Parole or the court as soon as practical following
612 the administrative hearing described in Subsection (3)(a); and

613 (ii) provide a summary of the hearing to the Board of Pardons and Parole or the court.

614 (d) The department may make recommendations regarding the disposition of the

615 probationer or parolee in a report under Subsection (3)(c).

616 (e) The department may detain a probationer or parolee without an administrative
617 hearing described in Subsection (3)(a) if:

618 (i) the parolee or probationer has been convicted of an offense that is based on the
619 same charges as the violation of probation or parole; or

620 (ii) a court has found that probable cause exists to believe that the probationer or
621 parolee has committed an offense that is based on the same charges as the violation of
622 probation or parole.

623 ~~[(6)]~~ (4) (a) [H] The department may detain a probationer or parolee who has violated a
624 condition of probation or parole for a reasonable period of time as necessary to arrange for the
625 incarceration of the probationer or parolee if:

626 (i) the probationer or parolee waives the hearing as described in Subsection (3);

627 (ii) at an administrative hearing described in Subsection (3), the hearing officer
628 determines that ~~[there is]~~ probable cause exists to believe that the ~~[offender]~~ probationer or
629 parolee has violated ~~[the conditions of the offender's parole or probation, the department may~~
630 detain the offender for a reasonable period of time after the hearing or waiver, as necessary to
631 arrange for the incarceration of the offender.] a condition of probation or parole as described in
632 Subsection (3); or

633 (iii) the department has determined that a hearing is not required as described in
634 Subsection (3)(e).

635 (b) A written order of the department is sufficient authorization for any peace officer to
636 incarcerate the ~~[offender. The department may promulgate rules for the implementation of this~~
637 section] probationer or parolee.

638 ~~[(7) A written order from the local law enforcement agency is sufficient authorization~~
639 ~~for any peace officer to incarcerate the offender if:]~~

640 ~~[(a) the probationers are supervised by a local law enforcement agency; and]~~

641 ~~[(b) the appropriate officer or officers determine that there is probable cause to believe~~
642 ~~that the offender has violated the conditions of probation.]~~

643 ~~[(8) If a probationer supervised by a local law enforcement agency commits a violation~~
644 ~~outside of the jurisdiction of the supervising agency, the arresting agency is not required to~~
645 ~~hold or transport the probationer for the supervising agency.]~~

646 (5) Pending the holding of a hearing under Subsection (3)(a), the department:
647 (a) may place a 72-hour hold on a parolee or probationer who has allegedly committed
648 a violation other than a violent felony or qualifying domestic violence offense; and

649 (b) shall place a 72-hour hold on a parolee or probationer who has allegedly committed
650 a violent felony or qualifying domestic violence offense.

651 (6) The department may make rules as necessary to implement this section in
652 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

653 Section 9. Section **64-13-43** is amended to read:

654 **64-13-43. Use of state vehicles by department personnel.**

655 The [department] executive director may authorize the use of a state vehicle for:

656 (1) official and commute purposes for a department employee who:

657 ~~[(1)]~~ (a) supervises probationers or parolees; or

658 ~~[(2)]~~ (b) investigates the criminal activity of inmates, probationers, or parolees[-]; and

659 (2) off-duty personal use.

660 Section 10. Section **77-18-105** is amended to read:

661 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**
662 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**
663 **supervision for payments on criminal accounts receivable.**

664 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
665 abeyance agreement, the court may hold the plea in abeyance:

666 (a) in accordance with Chapter 2a, Pleas in Abeyance; and

667 (b) under the terms of the plea in abeyance agreement.

668 (2) If a defendant is convicted, the court:

669 (a) shall impose a sentence in accordance with Section **76-3-201**; and

670 (b) subject to Subsection (5), may suspend the execution of the sentence and place the
671 defendant:

672 (i) on probation under the supervision of the department;

673 (ii) on probation under the supervision of an agency of a local government or a private
674 organization; or

675 (iii) on court probation under the jurisdiction of the sentencing court.

676 (3) (a) The legal custody of all probationers under the supervision of the department is

677 with the department.

678 (b) The legal custody of all probationers under the jurisdiction of the sentencing court
679 is vested as ordered by the court.

680 (c) The court has continuing jurisdiction over all probationers.

681 (4) (a) Court probation may include an administrative level of services, including
682 notification to the sentencing court of scheduled periodic reviews of the probationer's
683 compliance with conditions.

684 (b) Supervised probation services provided by the department, an agency of a local
685 government, or a private organization shall specifically address the defendant's risk of
686 reoffending as identified by a screening or an assessment.

687 (c) If a court orders supervised probation and determines that a public probation
688 provider is unavailable or inappropriate to supervise the defendant, the court shall make
689 available to the defendant the list of private probation providers prepared by a criminal justice
690 coordinating council under Section [17-55-201](#).

691 (5) (a) Before ordering supervised probation, the court shall consider the supervision
692 costs to the defendant for each entity that can supervise the defendant.

693 (b) (i) A court may order an agency of a local government to supervise the probation
694 for an individual convicted of any crime if:

695 (A) the agency has the capacity to supervise the individual; and

696 (B) the individual's supervision needs will be met by the agency.

697 (ii) A court may only order:

698 (A) the department to supervise the probation for an individual convicted of a felony or
699 a class A misdemeanor [or any felony] when an element of the offense is the use or attempted
700 use of physical force against an individual or property; or

701 (B) a private organization to supervise the probation for an individual convicted of a
702 class A, B, or C misdemeanor or an infraction.

703 (c) A court may not order a specific private organization to supervise an individual
704 unless there is only one private organization that can provide the specific supervision services
705 required to meet the individual's supervision needs.

706 (6) (a) If a defendant is placed on probation, the court may order the defendant as a
707 condition of the defendant's probation:

708 (i) to provide for the support of persons for whose support the defendant is legally
709 liable;

710 (ii) to participate in available treatment programs, including any treatment program in
711 which the defendant is currently participating if the program is acceptable to the court;

712 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and
713 Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

714 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an
715 initial condition of probation that does not exceed one year in a county jail designated by the
716 department, after considering any recommendation by the court as to which jail the court finds
717 most appropriate;

718 (v) to serve a term of home confinement in accordance with Section 77-18-107;

719 (vi) to participate in compensatory service programs, including the compensatory
720 service program described in Section 76-3-410;

721 (vii) to pay for the costs of investigation, probation, or treatment services;

722 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime
723 Victims Restitution Act; or

724 (ix) to comply with other terms and conditions the court considers appropriate to
725 ensure public safety or increase a defendant's likelihood of success on probation.

726 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a
727 defendant to include a period of time that is served in a county jail immediately before the
728 termination of probation as long as that period of time does not exceed one year.

729 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation
730 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply
731 to the period of time that the court orders the defendant to serve in a county jail under this
732 Subsection (6)(b)(ii).

733 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on
734 probation after December 31, 2018:

735 (i) may not exceed the individual's maximum sentence;

736 (ii) shall be for a period of time that is in accordance with the supervision length
737 guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the
738 extent the guidelines are consistent with the requirements of the law; and

739 (iii) shall be terminated in accordance with the supervision length guidelines
740 established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the
741 guidelines are consistent with the requirements of the law.

742 (b) Probation of an individual placed on probation after December 31, 2018, whose
743 maximum sentence is one year or less, may not exceed 36 months.

744 (c) Probation of an individual placed on probation on or after October 1, 2015, but
745 before January 1, 2019, may be terminated at any time at the discretion of the court or upon
746 completion without violation of 36 months probation in felony or class A misdemeanor cases,
747 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance
748 with Section 64-13-21 regarding earned credits.

749 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
750 offense for criminal nonsupport under Section 76-7-201.

751 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal
752 accounts receivable for the defendant upon termination of the probation period for the
753 defendant under Subsection (7), the court may require the defendant to continue to make
754 payments towards the criminal accounts receivable in accordance with the payment schedule
755 established by the court under Section 77-32b-103.

756 (b) A court may not require the defendant to make payments as described in Subsection
757 (8)(a) beyond the expiration of the defendant's sentence.

758 (c) If the court requires a defendant to continue to pay in accordance with the payment
759 schedule for the criminal accounts receivable under this Subsection (8) and the defendant
760 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil
761 judgment of restitution and a civil accounts receivable for the defendant as described in Section
762 77-18-114.

763 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
764 own motion, the court may require a defendant to show cause as to why the defendant's failure
765 to pay in accordance with the payment schedule should not be treated as contempt of court.

766 (ii) A court may hold a defendant in contempt for failure to make payments for a
767 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

768 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
769 offense for criminal nonsupport under Section 76-7-201.

770 (9) When making any decision regarding probation, the court shall consider
771 information provided by the Department of Corrections regarding a defendant's individual case
772 action plan, including any progress the defendant has made in satisfying the case action plan's
773 completion requirements.

774 Section 11. Section **77-20-203** is amended to read:

775 **77-20-203. County sheriff authority to release an individual from jail on own**
776 **recognizance.**

777 (1) As used in this section:

778 (a) (i) "Qualifying domestic violence offense" means the same as that term is defined in
779 Subsection [77-36-1.1\(4\)](#).

780 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
781 described in Section [76-6-106](#).

782 [~~(a)~~] (b) "Qualifying offense" means the same as that term is defined in Section
783 [78B-7-801](#).

784 [~~(b)~~] (c) "Violent felony" means the same as that term is defined in Subsection
785 [~~76-3-203.5(1)(c)(i)~~] [76-3-203.5](#).

786 (2) [~~A~~] Except as provided in Subsection (3), a county jail official may release an
787 individual from a jail facility on the individual's own recognizance if:

788 (a) the individual was arrested without a warrant;

789 (b) the individual was not arrested for:

790 (i) a violent felony;

791 (ii) a qualifying offense;

792 (iii) the offense of driving under the influence or driving with a measurable controlled
793 substance in the body if the offense results in death or serious bodily injury to an individual; or

794 (iv) an offense described in Subsection [76-9-101\(4\)](#);

795 (c) law enforcement has not submitted a probable cause statement to a court or
796 magistrate;

797 (d) the individual agrees in writing to appear for any future criminal proceedings
798 related to the arrest; and

799 (e) the individual qualifies for release under the written policy described in Subsection
800 [~~(3)~~] (4) for the county.

801 (3) A county jail official may not release an individual from a jail facility if the
802 individual is subject to a 72-hour hold placed on the individual by the Department of
803 Corrections as described in Subsection 64-13-29(5).

804 [~~3~~] (4) (a) A county sheriff shall create and approve a written policy for the county
805 that governs the release of an individual on the individual's own recognizance.

806 (b) The written policy shall describe the criteria an individual shall meet to be released
807 on the individual's own recognizance.

808 (c) A county sheriff may include in the written policy the criteria for release relating to:

809 (i) criminal history;

810 (ii) prior instances of failing to appear for a mandatory court appearance;

811 (iii) current employment;

812 (iv) residency;

813 (v) ties to the community;

814 (vi) an offense for which the individual was arrested;

815 (vii) any potential criminal charges that have not yet been filed;

816 (viii) the individual's health condition;

817 (ix) any potential risks to a victim, a witness, or the public; and

818 (x) any other similar factor a sheriff determines is relevant.

819 (5) (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an
820 individual for up to 24 hours from booking if:

821 (i) the individual is on supervised probation or parole and that information is
822 reasonably available; and

823 (ii) the individual was arrested for:

824 (A) a violent felony; or

825 (B) a qualifying domestic violence offense.

826 (b) The jail facility shall:

827 (i) notify the entity supervising the individual's probation or parole that the individual
828 is being detained; and

829 (ii) release the individual:

830 (A) to the Department of Corrections if the Department of Corrections supervises the
831 individual and requests the individual's release; or

832 (B) if a court or magistrate orders release.

833 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
834 accordance with this chapter for a new criminal offense.

835 [~~(4)~~] (6) [~~Nothing in this section prohibits~~] This section does not prohibit a court and a
836 county from entering into an agreement regarding release.

837 Section 12. Section **77-20-204** is amended to read:

838 **77-20-204. Bail commissioner authority to release an individual from jail on**
839 **monetary bail.**

840 (1) As used in this section, "eligible felony offense" means a third degree felony
841 violation under:

842 (a) Section [23A-4-501](#) or [23A-4-502](#);

843 (b) Section [23A-5-311](#);

844 (c) Section [23A-5-313](#);

845 (d) Title 76, Chapter 6, Part 4, Theft;

846 (e) Title 76, Chapter 6, Part 5, Fraud;

847 (f) Title 76, Chapter 6, Part 6, Retail Theft;

848 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

849 (h) Title 76, Chapter 6, Part 8, Library Theft;

850 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

851 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

852 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

853 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

854 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

855 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

856 (o) Title 76, Chapter 6a, Pyramid Scheme Act;

857 (p) Title 76, Chapter 7, Offenses Against the Family;

858 (q) Title 76, Chapter 7a, Abortion Prohibition;

859 (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

860 (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

861 (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

862 (u) Title 76, Chapter 9, Part 5, Libel; or

- 863 (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.
- 864 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial
865 condition for an individual if:
- 866 (a) (i) the individual is ineligible to be released on the individual's own recognizance
867 under Section 77-20-203;
- 868 (ii) the individual is arrested for, or charged with:
- 869 (A) a misdemeanor offense under state law; or
- 870 (B) a violation of a city or county ordinance that is classified as a class B or C
871 misdemeanor offense;
- 872 (iii) the individual agrees in writing to appear for any future criminal proceedings
873 related to the arrest; and
- 874 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 875 (b) (i) the individual is arrested for, or charged with, an eligible felony offense;
- 876 (ii) the individual is not on pretrial release for a separate criminal offense;
- 877 (iii) the individual is not on probation or parole;
- 878 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 879 (v) the individual agrees in writing to appear for any future criminal proceedings
880 related to the arrest; and
- 881 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 882 (3) A county jail official may not fix a financial condition at a monetary amount that
883 exceeds:
- 884 (a) \$5,000 for an eligible felony offense;
- 885 (b) \$1,950 for a class A misdemeanor offense;
- 886 (c) \$680 for a class B misdemeanor offense;
- 887 (d) \$340 for a class C misdemeanor offense;
- 888 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
889 misdemeanor; or
- 890 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
891 misdemeanor.
- 892 (4) If an individual is arrested for more than one offense, and the county jail official
893 fixes a financial condition for release:

894 (a) the county jail official shall fix the financial condition at a single monetary amount;
895 and

896 (b) the single monetary amount may not exceed the monetary amount under Subsection
897 (3) for the highest level of offense for which the individual is arrested.

898 (5) Except as provided in Subsection (7)(b), an individual shall be released if the
899 individual posts a financial condition fixed by a county jail official in accordance with this
900 section.

901 (6) If a county jail official fixes a financial condition for an individual, law
902 enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah
903 Rules of Criminal Procedure after the county jail official fixes the financial condition.

904 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
905 Rules of Criminal Procedure:

906 (a) a county jail official may not fix or modify a financial condition for an individual;
907 and

908 (b) if a county jail official fixed a financial condition for the individual before the
909 magistrate's review, the individual may no longer be released on the financial condition.

910 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
911 individual by the Department of Corrections as described in Subsection 64-13-29(5).

912 ~~[(8)] (9) [Nothing in this section prohibits]~~ This section does not prohibit a court and a
913 county from entering into an agreement regarding release.

914 Section 13. **Effective date.**

915 If approved by two-thirds of all the members elected to each house, this bill takes effect
916 upon approval by the governor, or the day following the constitutional time limit of Utah
917 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
918 the date of veto override.