

Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

LONG TITLE**General Description:**

This bill modifies statutory provisions related to criminal justice.

Highlighted Provisions:

This bill:

- permits city prosecutors to file certain charges after a county or district attorney has declined to do so;
- establishes requirements for standards and practices for adult probation programs;
- prohibits the use of state funds for a syringe exchange program;
- moves provisions governing sex offender assessments from the Utah Code of Criminal Procedure to the code chapter governing the Department of Corrections -- State Prison;
- modifies permitted uses for funds in the Adult Probation and Parole Employment Incentive Program;
- adds strangulation or choking as a criminal offense included with the crime of commission of domestic violence in the presence of a child;
- creates a criminal offense for the intentional concealment of identity in a public gathering;
- modifies the definition of habitual offender and makes conforming changes;
- removes references to unsecured bonds;
- prohibits a county jail official from fixing a financial condition for an individual with a misdemeanor charge for certain domestic violence and driving under the influence offenses;
- adds procedures and restrictions relating to a magistrate's orders for pretrial release or detention;
- repeals the requirement to use the services of a court reporter in a death sentence commutation hearing;
- modifies the duties of the Utah Indigent Defense Commission and the Office of Indigent Defense Services;
- extends the date of the verification of indigency pilot program;
- modifies duties and reporting requirements related to the verification of indigency pilot

program;

- permits a court to require that certain minors convicted of aggravated murder be housed in a prison or jail, rather than in a juvenile secure care facility; and

- permits a prosecutor to request that a judge review whether certain minors convicted of aggravated murder should be transferred from a juvenile secure care facility to a prison or jail.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-928, as last amended by Laws of Utah 2018, Chapter 24

17-22-5.6, as enacted by Laws of Utah 2024, Chapter 16

26B-7-117, as last amended by Laws of Utah 2024, Chapter 250

64-13g-102, as last amended by Laws of Utah 2024, Chapter 208

76-5-114, as renumbered and amended by Laws of Utah 2022, Chapter 181

77-18-102, as last amended by Laws of Utah 2024, Chapters 245, 434

77-18-103, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434

77-20-102, as last amended by Laws of Utah 2023, Chapter 408

77-20-204, as last amended by Laws of Utah 2024, Chapter 16

77-20-205, as last amended by Laws of Utah 2024, Chapters 187, 434

77-20-206, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

77-20-402, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4

77-27-8, as last amended by Laws of Utah 2010, Chapter 110

78B-22-301, as last amended by Laws of Utah 2020, Chapters 371, 392

78B-22-404, as last amended by Laws of Utah 2024, Chapter 193

78B-22-452, as last amended by Laws of Utah 2024, Chapter 193

78B-22-1001, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

80-6-507, as last amended by Laws of Utah 2022, Chapter 135

ENACTS:

17-22-5.7, Utah Code Annotated 1953

64-13-51, Utah Code Annotated 1953

66 **76-9-110**, Utah Code Annotated 1953

67 REPEALS:

68 **77-27-21.9**, as enacted by Laws of Utah 2008, Chapter 309

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

71 Section 1. Section **10-3-928** is amended to read:

72 **10-3-928 . Attorney duties -- Deputy public prosecutor.**

73 In cities with a city attorney, the city attorney:

- 74 (1) may prosecute violations of city ordinances;
- 75 (2) may prosecute, under state law, infractions and misdemeanors occurring within the
- 76 boundaries of the municipality;
- 77 (3) may review investigation results de novo and file criminal charges, if warranted, under
- 78 state law, for a felony of the third degree that occurs within the boundaries of the
- 79 municipality if:

80 (a)(i) the county attorney or district attorney has declined the case; or

81 (ii) the county attorney or district attorney has advised the city attorney of the county

82 or district attorney's intent to not file charges for a certain class of offense or

83 enhancement, and the felony of the third degree is within that class of offense or

84 enhancement; and

85 (b) no charges that arise from the same set of facts or circumstances of the actions

86 resulting in those potential charges are being pursued by another prosecuting attorney.

- 87 (4) has the same powers in respect to violations as are exercised by a county attorney or
- 88 district attorney, except that a city attorney's authority to grant immunity shall be limited
- 89 to:

90 (a) granting transactional immunity for violations of city ordinances; and

91 (b) granting transactional immunity under state law for infractions and misdemeanors

92 occurring within the boundaries of the municipality;

93 ~~[(4)]~~ (5) shall represent the interests of the state or the municipality in the appeal of any

94 matter prosecuted in any trial court by the city attorney;

95 ~~[(5)]~~ (6) may cooperate with the Office of the Attorney General during investigations; and

96 ~~[(6)]~~ (7) may designate a city attorney from another municipality or a public prosecutor to

97 prosecute a matter, in the court having jurisdiction over the matter, if the city attorney

98 has a conflict of interest regarding the matter being prosecuted.

99 Section 2. Section **17-22-5.6** is amended to read:

**17-22-5.6 . Probation supervision -- Violation of probation -- Detention --
Hearing.**

(1) As used in this section:

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

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

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

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

(2) A county sheriff shall adopt probation standards and practices as required by Section 17-22-5.7.

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

(a) incarceration is recommended as a sanction;

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

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

(i) a violent felony; or

(ii) a qualifying domestic violence offense.

~~[(3)]~~ (4) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours, excluding weekends and holidays, if there is probable cause to believe that the probationer has committed a violation of probation.

~~[(4)]~~ (5) A county sheriff may not detain a probationer or parolee for longer than 72 hours without obtaining a warrant issued by the court.

~~[(5)]~~ (6) If the county sheriff detains a probationer under Subsection ~~[(3)]~~ (4), the county sheriff shall ensure the proper court is notified.

~~[(6)]~~ (7) A written order from the county sheriff is sufficient authorization for a peace officer to incarcerate a probationer if the county sheriff has determined that there is probable cause to believe that the probationer has violated the conditions of probation.

~~[(7)]~~ (8) If a probationer commits a violation outside of the jurisdiction of the county sheriff supervising the probationer, the arresting law enforcement agency is not required to hold or transport the probationer to the county sheriff.

~~[(8)]~~ (9) This section does not require the county sheriff to release a probationer who is

being held for something other than a probation violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

Section 3. Section **17-22-5.7** is enacted to read:

17-22-5.7 . Probation standards and practices.

- (1) As used in this section, "probationer" means an individual on probation under the supervision of the county sheriff.
- (2) A county sheriff shall adopt written standards and procedures for probation that are consistent with the requirements of this section.
- (3) General probation program standards and procedures shall include:
 - (a) a written mission statement and a list of goals that provide guidance for general supervision and programmatic efforts;
 - (b) a code of conduct or ethics policy that employees are required to be familiar with and follow, which shall include a prohibition on unlawful discrimination against an individual based on race, national origin, color, gender, sexual orientation, religion, age, disability, or another status that is protected under state or federal law;
 - (c) a job description and required standards for each job type, or each category of employee, that has duties in relation to a probation unit within the county or state, which may include:
 - (i) any certification or education that is required for the job type or category of employee;
 - (ii) screening processes for new or existing employees; and
 - (iii) other standards as determined by the county sheriff;
 - (d) standards for training employees who have duties in relation to a probation unit, including requirements for:
 - (i) initial or onboarding training; and
 - (ii) ongoing training that requires or permits employees to stay current on changes or developments in the field of probation;
 - (e) a requirement that the county sheriff collect and document information related to the type and circumstances related to each probationer, which shall include, for each instance of probation:
 - (i) the classification of each offense involved, including the type and level of each misdemeanor or felony;
 - (ii) the circumstances of the probation, including pre-trial or post-conviction

- 168 probation; and
- 169 (iii) the general category of each offense, including domestic violence, drug-related
- 170 offenses, property-related crimes, or other classifications;
- 171 (f) a requirement that the county sheriff shall provide access to the information
- 172 contained in Subsection (3)(e) to:
- 173 (i) the court system for the purpose of assisting a court in determining the best
- 174 sentencing options for an offender; and
- 175 (ii) the public, including a written description of what portion of the information is
- 176 publicly available under state and federal law, and, if applicable, what portion is
- 177 private or protected under state or federal law;
- 178 (g) a description of the types of supervision that are provided or required in the
- 179 probation program, including electronic monitoring, alcohol use monitoring, office
- 180 visits, home visits, and other services;
- 181 (h) a requirement that the county sheriff shall provide notice of the types of supervision
- 182 that have been imposed on a probationer to the courts, treatment providers, and other
- 183 probation partners for the purpose of facilitating an appropriate and coordinated
- 184 supervision process; and
- 185 (i) a requirement that the county sheriff shall, through a records management system,
- 186 document and maintain a case management plan for each probationer, including
- 187 progress reports, violation reports, and other probation-related records or events.
- 188 (4) Standards and procedures for offender assessment and intake shall include:
- 189 (a) a description of the intake and assessment procedures required by the county sheriff
- 190 and employees;
- 191 (b) a requirement that each assessment for an individual being considered for
- 192 supervision:
- 193 (i) includes identification of criminogenic factors and risk levels for that individual;
- 194 and
- 195 (ii) be validated and based on criminogenic factors including antisocial beliefs,
- 196 antisocial associations, antisocial personality disorder or anger management
- 197 issues, history of criminal convictions, family relationship issues, level of
- 198 education, employment history, leisure and recreational activities, and substance
- 199 or alcohol abuse issues;
- 200 (c) a requirement that the county sheriff shall use the result of an assessment to assist in
- 201 planning and conducting the supervision of the individual;

- (d) a requirement that each individual who is subject to an assessment is:
- (i) notified that an assessment will be performed;
 - (ii) provided with a description of the intake and assessment procedures for the purpose of ensuring that an individual understands the process and is afforded an opportunity to positively engage with the assessment process; and
 - (iii) provided an opportunity to engage with the conductor of the assessment in a cooperative manner; and
- (e) a description of the procedures to be followed if an individual refuses to participate in an assessment, including procedures for documentation of the refusal, and notification to the courts and applicable treatment providers or agencies.
- (5) Standards and procedures for case planning, offender programming, and treatment shall include a requirement that:
- (a) case planning for a probationer shall be established based on:
 - (i) individual factors identified in intake assessments, treatment provider assessments, and other specifically-designated processes;
 - (ii) criminogenic and other risk factors identified in relation to the probationer; and
 - (iii) other factors specifically designated in the standards and procedures;
 - (b) case plans shall be clearly outlined and explained to each probationer for the purpose of allowing the probationer to cooperatively engage in the probationer's own treatment;
 - (c) case plans shall document and clearly identify long-term and short-term goals associated with treatment;
 - (d) treatment providers, education classes, behavior modification classes, and any other resource utilized in treatment shall be provided by properly certified providers;
 - (e) treatment options or requirements shall be tailored to the specific needs of each probationer; and
 - (f) a probationer may not be required to complete treatment options or requirements that have no relation to the probationer's specific needs.
- (6) Standards and procedures for supervision shall include:
- (a) a requirement that supervision be based on the individual risk factor of each probationer, with low, medium, and high risk probationers being subject to different standards and procedures;
 - (b) a description of the standards and procedures to be used in treating low, medium, and high risk probationers, respectively, including:

- 236 (i) a statement as to why procedures should vary for different risk levels, including a
237 goal to match procedures and treatments to the individual needs and risk level of
238 each probationer and other goals identified by the county sheriff;
239 (ii) procedures for separating and providing different treatments and requirements for
240 probationers with differing risk levels; and
241 (iii) a description of the different procedures and treatments that apply to each risk
242 level, which may include differing electronic monitoring options, frequency and
243 type of house checks, frequency of probationary check-ins, housing or
244 incarceration separation procedures, and other differing standards and procedures;
245 (c) a requirement that a probationer be re-assessed at intervals during the probationary
246 period to identify any change in the risk level of the probationer;
247 (d) a requirement that standards and procedures applying to a probationer be adjusted
248 consistent with any changes in the probationer's risk assessment;
249 (e) a requirement that case management and programmatic content shall change as
250 needed to reflect changes in the needs of each probationer;
251 (f) a requirement that any action taken by the county sheriff, an employee, a treatment
252 provider, or other probation partner be in compliance with state and federal laws and
253 consistent with best practices; and
254 (g) a requirement that any decision imposing sanctions against a probationer shall take
255 into account current and past behavior of the probationer, individual needs of the
256 probationer, progress or goals achieved or not achieved by the probationer, and any
257 other factor specifically identified in the standards and procedures.

258 Section 4. Section **26B-7-117** is amended to read:

259 **26B-7-117 . Syringe exchange and education -- Prohibition on use of state funds.**

- 260 (1) The following may operate a syringe exchange program in the state to prevent the
261 transmission of disease and reduce morbidity and mortality among individuals who
262 inject drugs, and those individuals' contacts:
263 (a) a government entity, including:
264 (i) the department;
265 (ii) a local health department; or
266 (iii) a local substance abuse authority, as defined in Section 26B-5-101;
267 (b) a nongovernment entity, including:
268 (i) a nonprofit organization; or
269 (ii) a for-profit organization; or

(c) any other entity that complies with Subsections (2) and (3).

(2) An entity operating a syringe exchange program in the state shall:

(a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

(b) ensure that a recipient of a new syringe is given verbal and written instruction on:

(i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and

(ii) options for obtaining:

(A) services for the treatment of a substance use disorder;

(B) testing for a blood-borne disease; and

(C) an opiate antagonist; and

(c) report annually to the department the following information about the program's activities:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes; and

(iii) the number of new syringes provided in exchange for used syringes.

(3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

(4) The use of state funds to operate a syringe exchange program is prohibited. Nothing in this section should be construed to prohibit the use or distribution of municipal, county, or federal funds in operating or financing a syringe exchange program under this section.

Section 5. Section **64-13-51** is enacted to read:

64-13-51 . Sex offender assessment.

(1) As used in this section:

(a) "Dynamic factors" means a person's individual characteristics, issues, resources, or circumstances that:

(i) can change or be influenced; and

(ii) affect the risk of recidivism or the risk of violating conditions of probation or parole.

(b) "Multi-domain assessment" means an evaluation process or tool which reports in quantitative and qualitative terms an offender's condition, stability, needs, resources, and dynamic factors affecting the offender's transition into the community and compliance with conditions of probation or parole, such as the following:

- (i) alcohol and other drug use;
- (ii) mental health status;
- (iii) physical health;
- (iv) criminal behavior;
- (v) education;
- (vi) emotional health and barriers;
- (vii) employment;
- (viii) family dynamics;
- (ix) housing;
- (x) physical health and nutrition;
- (xi) spirituality;
- (xii) social support systems; and
- (xiii) special population needs, including:

- (A) co-existing disorders;
- (B) domestic violence;
- (C) drug of choice;
- (D) gender, ethnic, and cultural considerations;
- (E) other health issues;
- (F) sexual abuse;
- (G) sexual orientation;
- (H) transportation; and
- (I) treatment involvement.

(c) "Qualitative terms" means written summaries used to describe meaning, enrich, or explain significant quantitative indicators or benchmarks within the areas defined in Subsection (1)(b).

(d) "Quantitative terms" means numerical distinctions or benchmarks used to describe conditions within the areas defined in Subsection (1)(b).

(2) The department shall issue a request for proposals to provide a periodic multi-domain assessment tool, as defined in Subsection (1)(b) and implement the tool for a three-year trial period in the management of sex offenders being supervised in the community in the department's Region 3.

(3) The request for proposals shall include a requirement that the multi-domain assessment tool be designed to be administered:

(a) every 16 weeks during the first year a sex offender is supervised in the community;

and

(b) every 12 to 26 weeks during the second and subsequent years a sex offender is supervised in the community, as determined appropriate by the department's supervisory personnel and the sex offender's treatment team.

(4) The department shall promptly make results of the multi-domain assessment available to:

(a) the sex offender's treatment team; and

(b) the corrections personnel responsible for supervising the offender.

(5) The department shall provide to the Law Enforcement and Criminal Justice Interim Committee at the conclusion of the trial period a written report of the results of the use of the multi-domain assessments, including:

(a) the impact on recidivism;

(b) other indicators of the effect of the use of the assessments;

(c) the number of assessments administered annually;

(d) the number of individuals who were assessed during the year; and

(e) any recommended legislative or policy changes.

Section 6. Section **64-13g-102** is amended to read:

64-13g-102 . Adult Probation and Parole Employment Incentive Program.

(1) There is created the Adult Probation and Parole Employment Incentive Program.

(2) The department and the office shall implement the program in accordance with the requirements of this chapter.

(3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the office, for the preceding fiscal year, for each region and statewide:

(a) the parole employment rate and the average length of employment of individuals on parole;

(b) the probation employment rate and average length of employment of individuals on felony probation;

(c) the recidivism percentage, using applicable recidivism metrics described in Subsections 63M-7-102(1) and (3);

(d) the number and percentage of individuals who successfully complete parole or felony probation;

(e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage described in Subsection (3)(c)

relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;

(f) the number of individuals who successfully complete parole and, during the entire six months before the day on which the individuals' parole ends, held eligible employment; and

(g) the number of individuals who successfully complete felony probation and, during the entire six months before the day on which the individuals' parole ended, held eligible employment.

(4) In addition to the information described in Subsection (3), the department shall report, for each region, the number and types of parole or probation programs that were created, replaced, or discontinued during the preceding fiscal year.

(5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:

(a) add the region's baseline parole employment rate and the region's baseline probation employment rate;

(b) add the region's parole employment rate and the region's probation employment rate;

(c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and

(d)(i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment incentive payment of zero to the region; or

(ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater than zero, assign an employment incentive payment to the region by:

(A) multiplying the rate difference by the average daily population for that region; and

(B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by \$2,500.

(6) In addition to the employment incentive payment described in Subsection (5), after receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region, multiply the sum of the numbers described in Subsections (3)(f) and (g) for the region by \$2,500 to determine the end-of-supervision employment incentive payment for the region.

(7) The employment incentive payment, or end-of-supervision employment supervision payment, for a region is zero if the recidivism percentage for the region, described in

Subsection (3)(c), represents an increase in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

(8) Upon determining an employment incentive payment for a region in accordance with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the incentive payment as follows:

- (a) 15% of the payment may be used by the department for expenses related to administering the program; and
- (b) 85% of the payment shall be used by the region to improve and expand supervision and rehabilitative services to individuals on parole or adult probation, including by:
 - (i) implementing and expanding evidence-based practices for risk and needs assessments for individuals;
 - (ii) implementing and expanding intermediate sanctions, including mandatory community service, home detention, day reporting, restorative justice programs, and furlough programs;
 - (iii) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and other employment services;
 - (iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for rehabilitative and vocational programing;
 - (v) purchasing and adopting new technologies or equipment that are relevant to, and enhance, supervision, rehabilitation, or vocational training;
 - (vi) funding workforce development coordinators, bus passes, soft skills instructors, job search technology in community correctional centers, or sector-specific workforce development programs; or
 - ~~[(vi)]~~ (vii) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(9)(a) The report described in Subsections (3) and (4) is a public record.

(b) The department shall maintain a complete and accurate accounting of the payment and use of funds under this section.

(c) If the money in the restricted account is insufficient to make the full employment incentive payments or the full end-of-supervision employment incentive payments, the office shall authorize the payments on a prorated basis.

Section 7. Section **76-5-114** is amended to read:

76-5-114 . Commission of domestic violence in the presence of a child.

(1)(a) As used in this section:

- (i) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- (ii) "Criminal homicide offense" means an offense listed in Subsection 76-5-201(2).
- (iii) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (iv) "In the presence of a child" means:
 - (A) in the physical presence of a child; or
 - (B) having knowledge that a child is present and may see or hear an act of domestic violence.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits domestic violence in the presence of a child if the actor:

- (a) commits or attempts to commit a criminal homicide offense against a cohabitant in the presence of a child;
- (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child;~~[-or]~~
- (c) intentionally or knowingly impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence by applying pressure to the neck or throat of an individual or obstructing the nose, mouth, or airway of an individual, in the presence of a child; or
- ~~[(e)]~~ (d) under circumstances not amounting to a violation of Subsection (2)(a)~~[-or]~~ , (b), or (c), commits an act of domestic violence in the presence of a child.

(3)(a) A violation of Subsection (2)(a)~~[-or]~~ , (b), or (c) is a third degree felony.

(b) A violation of Subsection ~~[(2)(e)]~~ (2)(d) is a class B misdemeanor.

(4)(a) A charge under this section is separate and distinct from, and is in addition to, a charge of domestic violence in which the victim is the cohabitant.

(b) Either or both charges may be filed by the prosecutor.

(5) An actor who commits a violation of this section when more than one child is present is guilty of one offense of domestic violence in the presence of a child regarding each child present when the violation occurred.

Section 8. Section **76-9-110** is enacted to read:

76-9-110 . Intentional concealment of identity in a public gathering.

(1)(a) As used in this section, "public place" means a place to which the public or a

substantial group of the public has access, including:

(i) streets or highways; and

(ii) the common areas of schools, hospitals, apartment houses, office buildings, public buildings, public facilities, transport facilities, and shops.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits intentional concealment of identity in a public gathering if the actor, with intent to conceal the actor's identity:

(a) wears a mask, or other facial obscurant or disguise; and

(b) does so while congregating in a public place where other individuals are also masked, facially obscured, or disguised.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to a Halloween activity or celebration, a masquerade party, or a similar activity or celebration.

Section 9. Section **77-18-102** is amended to read:

77-18-102 . Definitions.

As used in this chapter:

(1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.

(2) "Board" means the Board of Pardons and Parole.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Convicted" means the same as that term is defined in Section 76-3-201.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(7) "Default" means the same as that term is defined in Section 77-32b-102.

(8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

(9) "Department" means the Department of Corrections created in Section 64-13-2.

(10) "Habitual offender" means an individual who has been convicted in:

(a)(i) at least [six] five previous cases for one or more felony offenses in each case;

and

~~[(b)]~~ (ii) [each case described in Subsection (10)(a)] the conviction for each previous

case occurred within five years before the day on which the defendant is convicted

of the new felony offense before the court[.];

- (b)(i) at least nine previous cases for one or more misdemeanor offenses in each case;
and
(ii) the conviction for each previous case occurred within two years before the day on
which the defendant is convicted of a new misdemeanor or felony offense before
the court; or
- (c)(i) at least 19 previous arrests for one or more misdemeanor offenses in each
arrest; and
(ii) each arrest occurred within the two years before the day on which the defendant
is convicted on a new misdemeanor or felony offense before the court.

(11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(12) "Restitution" means the same as that term is defined in Section 77-38b-102.

(13) "Screening" means a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

(14) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Health and Human Services.

Section 10. Section **77-18-103** is amended to read:

77-18-103 . Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

- (a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and
- (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2)(a) Notwithstanding Subsection (1), if a defendant is convicted of [~~a felony~~] an offense and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the defendant is a habitual offender.

(b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for the conviction without ordering and obtaining a presentence investigation report, unless the court finds good cause to proceed with sentencing without the presentence investigation report.

- (3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:
- (a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);
 - (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);
 - (c) recommendations for treatment for the defendant; and
 - (d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.
- (4) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.
- (5)(a)(i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:
- (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and
 - (B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.
- (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:
- (A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and
 - (B) provide the written finding to the department or the law enforcement agency.
- (b) The department shall attach the written finding to the presentence investigation report as an addendum.
- (c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

- (6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.
- (7)(a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.
- (8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:
- (a) ordered by the court in accordance with Subsection 63G-2-202(7);
 - (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;
 - (c) requested by the board;
 - (d) requested by the subject of the presentence investigation report or the subject's authorized representative;
 - (e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:
 - (i) statements or materials provided by the victim;
 - (ii) the circumstances of the offense, including statements by the defendant; or
 - (iii) the impact of the offense on the victim or the victim's household; or
 - (f) requested by a sex offender treatment provider:
 - (i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);
 - (ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and
 - (iii) who provides written assurance to the department that the report:
 - (A) is necessary for the treatment of the defendant;
 - (B) will be used solely for the treatment of the defendant; and
 - (C) will not be disclosed to an individual or entity other than the defendant.
- (9)(a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.

(10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

Section 11. Section **77-20-102** is amended to read:

77-20-102 . Definitions.

As used in this chapter:

(1) "Bail" means pretrial release.

(2) "Bail bond" means the same as that term is defined in Section 31A-35-102.

(3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.

(5) "County jail official" means a county sheriff or the county sheriff's designee.

(6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability for a bail bond.

(7) "Financial condition" means any monetary condition that is imposed to secure an individual's pretrial release.

(8) "Forfeiture" means:

(a) to divest an individual or surety from a right to the repayment of monetary bail; or

(b) to enforce a pledge of assets or real or personal property from an individual or surety used to secure an individual's pretrial release.

(9) "Magistrate" means the same as that term is defined in Section 77-1-3.

(10)(a) "Material change in circumstances" includes:

(i) an unreasonable delay in prosecution that is not attributable to the defendant;

(ii) a material change in the risk that an individual poses to a victim, a witness, or the public if released due to the passage of time or any other relevant factor;

(iii) a material change in the conditions of release or the services that are reasonably available to the defendant if released;

(iv) a willful or repeated failure by the defendant to appear at required court appearances; or

(v) any other material change related to the defendant's risk of flight or danger to any other individual or to the community if released.

(b) "Material change in circumstances" does not include any fact or consideration that is known at the time that the pretrial status order is issued.

(11) "Monetary bail" means a financial condition.

- (12) "Own recognizance" means the release of an individual without any condition of release other than the individual's promise to:
- (a) appear for all required court proceedings; and
 - (b) not commit any criminal offense.
- (13) "Pretrial detention hearing" means a hearing described in Section 77-20-206.
- (14) "Pretrial release" means the release of an individual from law enforcement custody during the time the individual awaits trial or other resolution of criminal charges.
- (15) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures an individual's risk of flight and risk of anticipated criminal conduct while on pretrial release.
- (16) "Pretrial services program" means a program that is established to:
- (a) gather information on individuals booked into a jail facility;
 - (b) conduct pretrial risk assessments; and
 - (c) supervise individuals granted pretrial release.
- (17) "Pretrial status order" means an order issued by a magistrate or judge that:
- (a) releases the individual on the individual's own recognizance while the individual awaits trial or other resolution of criminal charges;
 - (b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or other resolution of criminal charges; or
 - (c) denies pretrial release and orders that the individual be detained while the individual awaits trial or other resolution of criminal charges.
- (18) "Principal" means the same as that term is defined in Section 31A-35-102.
- (19) "Surety" means a surety insurer or a bail bond agency.
- (20) "Surety insurer" means the same as that term is defined in Section 31A-35-102.
- (21) "Temporary pretrial status order" means an order issued by a magistrate that:
- (a) releases the individual on the individual's own recognizance until a pretrial status order is issued;
 - (b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued; or
 - (c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.
- ~~[(22) "Unsecured bond" means an individual's promise to pay a financial condition if the individual fails to appear for any required court appearance.]~~
- Section 12. Section **77-20-204** is amended to read:

77-20-204 . County jail authority to release an individual from jail on monetary bail.

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

- (a) Section 23A-4-501 or 23A-4-502;
- (b) Section 23A-5-311;
- (c) Section 23A-5-313;
- (d) Title 76, Chapter 6, Part 4, Theft;
- (e) Title 76, Chapter 6, Part 5, Fraud;
- (f) Title 76, Chapter 6, Part 6, Retail Theft;
- (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;
- (h) Title 76, Chapter 6, Part 8, Library Theft;
- (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;
- (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;
- (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;
- (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;
- (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;
- (o) Title 76, Chapter 6a, Pyramid Scheme Act;
- (p) Title 76, Chapter 7, Offenses Against the Family;
- (q) Title 76, Chapter 7a, Abortion Prohibition;
- (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
- (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;
- (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- (u) Title 76, Chapter 9, Part 5, Libel; or
- (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:

- (a)(i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;
- (ii) the individual is arrested for, or charged with:
 - (A) a misdemeanor offense under state law, excluding a misdemeanor offense:
 - (I) for domestic violence as defined in Section 77-36-1; or
 - (II) for driving under the influence under Title 41, Chapter 6, Part 5, Driving

- 712 Under the Influence and Reckless Driving, or Section 76-5-102.1; or
713 (B) a violation of a city or county ordinance that is classified as a class B or C
714 misdemeanor offense;
715 (iii) the individual agrees in writing to appear for any future criminal proceedings
716 related to the arrest; and
717 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
718 (b)(i) the individual is arrested for, or charged with, an eligible felony offense;
719 (ii) the individual is not on pretrial release for a separate criminal offense;
720 (iii) the individual is not on probation or parole;
721 (iv) the primary risk posed by the individual is the risk of failure to appear;
722 (v) the individual agrees in writing to appear for any future criminal proceedings
723 related to the arrest; and
724 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 725 (3) A county jail official may not fix a financial condition at a monetary amount that
726 exceeds:
727 (a) \$5,000 for an eligible felony offense;
728 (b) \$1,950 for a class A misdemeanor offense;
729 (c) \$680 for a class B misdemeanor offense;
730 (d) \$340 for a class C misdemeanor offense;
731 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
732 misdemeanor; or
733 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
734 misdemeanor.
- 735 (4) If an individual is arrested for more than one offense, and the county jail official fixes a
736 financial condition for release:
737 (a) the county jail official shall fix the financial condition at a single monetary amount;
738 and
739 (b) the single monetary amount may not exceed the monetary amount under Subsection
740 (3) for the highest level of offense for which the individual is arrested.
- 741 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual
742 posts a financial condition fixed by a county jail official in accordance with this section.
- 743 (6) If a county jail official fixes a financial condition for an individual, law enforcement
744 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
745 Criminal Procedure after the county jail official fixes the financial condition.

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

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

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

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

(9) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 13. Section **77-20-205** is amended to read:

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

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

- (i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;
- (ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or
- (iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges, subject to the requirements of Subsections (1)(c) and (1)(d).

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

- (i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or
- (ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

(c)(i) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary pretrial status order of detention under Subsection ~~[(1) that detains an individual]~~ (1)(a)(iii) if the individual is arrested for a felony offense and the magistrate finds:

- 780 [(i)] (A) there is substantial evidence to support the individual's arrest for the
781 felony offense;
- 782 [(ii)] (B) the individual committed the felony offense while:
- 783 [(A)] (I) the individual was on parole or probation for a conviction of a felony
784 offense; or
- 785 [(B)] (II) the individual was released and awaiting trial on a previous charge for
786 a felony offense; and
- 787 [(iii)] (C) based on information reasonably available to the magistrate, the
788 individual ~~[has at least nine cases where the individual has been charged or~~
789 ~~convicted, or entered a plea of guilty, within five years from the day on which~~
790 ~~the individual was arrested for the felony offense described in Subsection~~
791 ~~(1)(e)(i).]~~ is a habitual offender as defined in Section 77-18-102.
- 792 [(d)] (ii) ~~[Subsection]~~ This Subsection (1)(c) does not limit or prohibit a magistrate's
793 authority to detain an individual who does not meet the requirements described in
794 this Subsection (1)(c).
- 795 (d) When issuing a temporary pretrial status order of detention under Subsection
796 (1)(a)(iii), a magistrate shall:
- 797 (i) include in the order a written conclusion that:
- 798 (A) the order is required under Subsection (1)(c); or
- 799 (B) there is a substantial likelihood that the individual will reoffend if released; and
- 800 (ii) if the magistrate utilizes a pretrial risk assessment tool as part of the magistrate's
801 decision-making process, the magistrate shall:
- 802 (A) before deciding whether the individual should be released, consider the
803 individual's statistical likelihood of reoffending based on the individual's score
804 on the tool; and
- 805 (B) include the individual's score from the tool in the written conclusion.
- 806 (2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
807 pretrial status order at an individual's first appearance before the court.
- 808 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
809 individual's first appearance before the court:
- 810 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion
811 for pretrial detention as described in Section 77-20-206;
- 812 (ii) if a party requests a delay; or
- 813 (iii) if there is good cause to delay the issuance.

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

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

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

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

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

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

(4) In making a determination about pretrial release, a magistrate or judge shall impose:

(a) only conditions of release that are reasonably available; and

(b) conditions of release that reasonably ensure:

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

(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(iii) the safety and welfare of the public; and

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

(5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:

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

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

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

- (f) complete a substance abuse evaluation and comply with any recommended treatment or release program;
- (g) submit to electronic monitoring or location device tracking;
- (h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;
- (i) maintain employment or actively seek employment if unemployed;
- (j) maintain or commence an education program;
- (k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;
- (l) comply with specified restrictions on personal associations, place of residence, or travel;
- (m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;
- (n) comply with a specified curfew;
- (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- (p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;
- (q) comply with requirements for house arrest;
- (r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;
- (s) remain in custody of one or more designated individuals who agree to:
 - (i) supervise and report on the behavior and activities of the individual; and
 - (ii) encourage compliance with all court orders and attendance at all required court proceedings;
- (t) comply with a financial condition; or
- (u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).

- (6)(a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.
- (b) The magistrate or judge may not order conditions of release that would require the

882 county or municipality to provide services that are not currently available from the
883 county or municipality.

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

887 (7)(a) If the magistrate or judge determines that a financial condition[~~, other than an~~
888 ~~unsecured bond,~~] is necessary to impose as a condition of release, the magistrate or
889 judge shall consider the individual's ability to pay when determining the amount of
890 the financial condition.

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

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

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

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

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

901 (a) rely upon information contained in:

902 (i) the indictment or information;

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

905 (iii) a pretrial risk assessment;

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

907 (v) witness statements or testimony;

908 (vi) the results of a lethality assessment completed in accordance with Section
909 77-36-2.1; or

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

911 (b) consider:

912 (i) the nature and circumstances of the offense, or offenses, that the individual was
913 arrested for, or charged with, including:

914 (A) whether the offense is a violent offense; and

915 (B) the vulnerability of a witness or alleged victim;

- 916 (ii) the nature and circumstances of the individual, including the individual's:
917 (A) character;
918 (B) physical and mental health;
919 (C) family and community ties;
920 (D) employment status or history;
921 (E) financial resources;
922 (F) past criminal conduct;
923 (G) history of drug or alcohol abuse; and
924 (H) history of timely appearances at required court proceedings;
925 (iii) the potential danger to another individual, or individuals, posed by the release of
926 the individual;
927 (iv) whether the individual was on probation, parole, or release pending an upcoming
928 court proceeding at the time the individual allegedly committed the offense or
929 offenses;
930 (v) the availability of:
931 (A) other individuals who agree to assist the individual in attending court when
932 required; or
933 (B) supervision of the individual in the individual's community;
934 (vi) the eligibility and willingness of the individual to participate in various treatment
935 programs, including drug treatment; or
936 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
937 law if released.
- 938 (9) The magistrate or judge may not base a determination about pretrial release solely:
939 (a) on the seriousness or type of offense that the individual is arrested for or charged
940 with, unless the individual is arrested for or charged with a capital felony; or
941 (b) on an algorithm or a risk assessment tool score.
- 942 (10) An individual arrested for violation of a jail release agreement, or a jail release court
943 order, issued in accordance with Section 78B-7-802:
944 (a) may not be released before the individual's first appearance before a magistrate or
945 judge; and
946 (b) may be denied pretrial release by the magistrate or judge.
- 947 Section 14. Section **77-20-206** is amended to read:
948 **77-20-206 . Motion for pretrial detention -- Pretrial detention hearing.**
949 (1)(a) If the criminal charges filed against an individual include one or more offenses

950 eligible for detention under Subsection 77-20-201(1) or Utah Constitution, Article I,
951 Section 8, the prosecuting attorney may make a motion for pretrial detention.

952 (b) The motion for pretrial detention may include proposed factual findings for the court
953 to adopt.

954 ~~[(b)]~~ (c) Upon receiving a motion for pretrial detention under Subsection (1)(a), the judge
955 shall set a pretrial detention hearing in accordance with Subsection (2).

956 (2) If a pretrial status order is not issued at an individual's first appearance and the
957 individual remains detained, a pretrial detention hearing shall be held at the next
958 available court hearing that is:

959 (a) no sooner than seven days from the day on which the defendant was arrested; and

960 (b) no later than fourteen days from the day on which the defendant was arrested.

961 (3)(a) An individual, who is the subject of a pretrial detention hearing, has the right to be
962 represented by counsel at the pretrial detention hearing.

963 (b) If a judge finds the individual is indigent under Section 78B-22-202, the judge shall
964 appoint counsel to represent the individual in accordance with Section 78B-22-203.

965 (4) At the pretrial detention hearing:

966 (a) if requested by the prosecuting attorney or the individual, the court shall make a
967 finding that evidence presented at the hearing is subject to the Utah Rules of
968 Evidence;

969 (b) the judge shall give both parties the opportunity to make arguments and to present
970 relevant evidence or information;

971 ~~[(b)]~~ (c) the prosecuting attorney and the defendant have a right to subpoena witnesses to
972 testify; and

973 ~~[(e)]~~ (d) the judge shall issue a pretrial status order in accordance with Subsection (5) and
974 Section 77-20-205.

975 (5) After hearing evidence on a motion for pretrial detention, and based on the totality of
976 the circumstances, a judge may order detention if:

977 (a) the individual is accused of committing an offense that qualifies for detention of the
978 individual under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8;[
979 and]

980 (b) the prosecuting attorney demonstrates substantial evidence to support the charge, and
981 meets all additional evidentiary burdens required under Subsection 77-20-201(1) or [
982 ~~Utah Constitution, Article I, Section 8.~~] Utah Constitution, Article I, Section 8; and

983 (c) the order meets the requirements of Subsection (8).

- 984 (6) An alleged victim has the right to be heard at a pretrial detention hearing on a motion
985 for pretrial detention.
- 986 (7) If a defendant seeks to subpoena an alleged victim who did not willingly testify at the
987 pretrial detention hearing, a defendant may issue a subpoena, at the conclusion of the
988 pretrial detention hearing, compelling the alleged victim to testify at a subsequent
989 hearing only if the judge finds that the testimony sought by the subpoena:
990 (a) is material to the substantial evidence or clear and convincing evidence
991 determinations described in Section 77-20-201 in light of all information presented to
992 the court; and
993 (b) would not unnecessarily intrude on the rights of the victim or place an undue burden
994 on the victim.
- 995 (8)(a) An order of detention shall include written findings of fact and conclusions of law.
996 (b) A signed order of detention containing written findings of fact and conclusions of
997 law must be entered within 24 hours of the pretrial detention hearing. If the signed
998 order is not entered within 24 hours of the hearing, the individual shall be released.
999 (c) If the court bases its findings in the order of detention, in whole or in part, on the
1000 individual's score in a pretrial risk assessment tool, the order shall identify the
1001 statistical likelihood of reoffense or non-appearance based on the individual's score
1002 from the tool.

1003 Section 15. Section **77-20-402** is amended to read:

1004 **77-20-402 . Payment of monetary bail to court -- Specific payment methods --**
1005 **Refund of monetary bail.**

- 1006 (1) Subject to Subsection (2), a defendant may choose to post the amount of monetary bail
1007 imposed by a judge or magistrate by any of the following methods:
1008 (a) in cash;
1009 (b) by a bail bond with a surety; or
1010 ~~[(e) by an unsecured bond, at the discretion of the judge or magistrate; or]~~
1011 ~~[(d)]~~ (c) by credit or debit card, at the discretion of the judge or magistrate.
- 1012 (2) A judge or magistrate may limit a defendant to a specific method of posting monetary
1013 bail described in Subsection (1):
1014 (a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and
1015 the case involves a violent offense;
1016 (b) in order to allow the defendant to voluntarily remit the fine in accordance with
1017 Section 77-7-21 and the offense with which the defendant is charged is listed in the

- shared master offense table as one for which an appearance is not mandatory;
- (c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;
- (d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is limited to the amount owed; or
- (e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in any case involving the defendant.
- (3) Monetary bail may not be accepted without receiving in writing at the time the bail is posted the current mailing address, telephone number, and email address of the surety.
- (4) Monetary bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.
- (5)(a) Monetary bail refunded by the court may be refunded by credit to the debit or credit card or in cash.
- (b) The amount refunded shall be the full amount received by the court under Subsection (4), which may be less than the full amount of the monetary bail set by the judge or magistrate.
- (c) Before refunding monetary bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward a criminal accounts receivable, as defined in Section 77-32b-102, that is owed by the defendant in the priority set forth in Section 77-38b-304.

Section 16. Section **77-27-8** is amended to read:

77-27-8 . Record of hearing.

- (1) A verbatim record of proceedings before the Board of Pardons and Parole shall be maintained by a suitable electronic recording device, except when the board dispenses with a record in a particular hearing or a portion of the proceedings.
- ~~[(2) When the hearing involves the commutation of a death sentence, a certified shorthand reporter, in addition to electronic means, shall record all proceedings except when the board dispenses with a record for the purpose of deliberations in executive session. The compensation of the reporter shall be determined by the board. The reporter shall immediately file with the board the original record and when requested shall with reasonable diligence furnish a transcription or copy of the record upon payment of reasonable fees as determined by the board.]~~

1052 [(3)] (2) When an inmate or offender affirms by affidavit that he is unable to pay for a copy
1053 of the record, the board may furnish a copy of the record, at the expense of the state, to
1054 the inmate or offender.

1055 Section 17. Section **78B-22-301** is amended to read:

1056 **78B-22-301 . Standards for indigent defense systems -- Written report.**

1057 (1) An indigent defense system shall provide indigent defense services for an indigent
1058 individual in accordance with the core principles adopted by the commission under
1059 Section 78B-22-404.

1060 (2)(a) On or before March 30 of each year, all indigent defense systems shall submit a
1061 written report to the commission that[-] :

1062 (i) describes each indigent defense system's compliance with the commission's core
1063 principles[-] ; and

1064 (ii) if the indigent defense system operates in a county that is participating in the
1065 verification of indigency pilot program created in Section 78B-22-1002, provides
1066 information and feedback on the indigent defense system's activities in relation to
1067 the pilot program.

1068 (b) If an indigent defense system fails to submit a timely report under Subsection (2)(a),
1069 the indigent defense system is disqualified from receiving a grant from the
1070 commission for the following calendar year.

1071 Section 18. Section **78B-22-404** is amended to read:

1072 **78B-22-404 . Powers and duties of the commission.**

1073 (1) The commission shall:

1074 (a) adopt core principles for an indigent defense system to ensure the effective
1075 representation of indigent individuals consistent with the requirements of the United
1076 States Constitution, the Utah Constitution, and the Utah Code, which principles at a
1077 minimum shall address the following:

1078 (i) an indigent defense system shall ensure that in providing indigent defense services:

1079 (A) an indigent individual receives conflict-free indigent defense services; and

1080 (B) there is a separate contract for each type of indigent defense service; and

1081 (ii) an indigent defense system shall ensure an indigent defense service provider has:

1082 (A) the ability to exercise independent judgment without fear of retaliation and is
1083 free to represent an indigent individual based on the indigent defense service
1084 provider's own independent judgment;

1085 (B) adequate access to indigent defense resources;

- 1086 (C) the ability to provide representation to accused individuals in criminal cases at
1087 the critical stages of proceedings, and at all stages to indigent individuals in
1088 juvenile delinquency and child welfare proceedings;
- 1089 (D) a workload that allows for sufficient time to meet with clients, investigate
1090 cases, file appropriate documents with the courts, and otherwise provide
1091 effective assistance of counsel to each client;
- 1092 (E) adequate compensation without financial disincentives;
- 1093 (F) appropriate experience or training in the area for which the indigent defense
1094 service provider is representing indigent individuals;
- 1095 (G) compensation for legal training and education in the areas of the law relevant
1096 to the types of cases for which the indigent defense service provider is
1097 representing indigent individuals; and
- 1098 (H) the ability to meet the obligations of the Utah Rules of Professional Conduct,
1099 including expectations on client communications and managing conflicts of
1100 interest;
- 1101 (b) encourage and aid indigent defense systems in the state in the regionalization of
1102 indigent defense services to provide for effective and efficient representation to the
1103 indigent individuals;
- 1104 (c) emphasize the importance of ensuring constitutionally effective indigent defense
1105 services;
- 1106 (d) encourage members of the judiciary to provide input regarding the delivery of
1107 indigent defense services;
- 1108 (e) oversee individuals and entities involved in providing indigent defense services;[~~and~~]
- 1109 (f) establish, and periodically review and revise, recommended criteria and standards for
1110 determining and verifying indigency; and
- 1111 [~~(f)~~] (g) manage county participation in the Indigent Aggravated Murder Defense Fund
1112 created in Section 78B-22-701.
- 1113 (2) The commission may:
- 1114 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1115 Rulemaking Act, to carry out the commission's duties under this part;
- 1116 (b) assign duties related to indigent defense services to the office to assist the
1117 commission with the commission's statutory duties;
- 1118 (c) request supplemental appropriations from the Legislature to address a deficit in the
1119 Indigent Inmate Fund created in Section 78B-22-455; and

(d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.

Section 19. Section **78B-22-452** is amended to read:

78B-22-452 . Duties of the office.

(1) The office shall:

- (a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;
- (b) assist the commission in performing the commission's statutory duties described in this chapter;
- (c) identify and collect data that is necessary for the commission to:
 - (i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and
 - (ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;
- (d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;
- (e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;
- (f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;
- (g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:
 - (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501;
 - (ii) is charged with having committed a crime within that state prison; and
 - (iii) has been appointed counsel in accordance with Section 78B-22-203;
- (h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;
- (i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;
- (j) administer the Child Welfare Parental Representation Program in accordance with

- Part 8, Child Welfare Parental Representation Program;
- (k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
- (l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
- (m) annually report to the governor, ~~[Legislature,]~~ Judiciary Interim Committee, and Judicial Council, regarding:
- (i) the operations of the commission;
- (ii) the operations of the indigent defense systems in the state;~~and]~~
- (iii) the current activities and results of the verification of indigency pilot program created in Section 78B-22-1001; and
- ~~[(iii)]~~ (iv) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;
- (n) submit recommendations to the commission for improving indigent defense services in the state;
- (o) publish an annual report on the commission's website; and
- (p) perform all other duties assigned by the commission related to indigent defense services.

- (2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.
- (3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

Section 20. Section **78B-22-1001** is amended to read:

78B-22-1001 . Verification of indigency -- Pilot program.

- (1) Beginning on July 1, 2022, and ending on June 30, ~~[2025]~~ 2028, an indigent defense system in Cache County, Davis County, Duchesne County, and San Juan County shall conduct a pilot program to verify the indigency of individuals who were provided indigent defense services by the indigent defense system, except as provided in Subsection ~~[(5)]~~ (6).
- (2) Under the pilot program described in Subsection (1), the indigent defense system shall review and verify financial information in a statistically significant sample of cases for each calendar year where, except as provided in Subsection (5):

- (a) an individual was found to be indigent by a court; and
- (b) the indigent defense system provided indigent defense services to the individual.
- (3) To verify financial information under Subsection (2), the indigent defense system may require an individual to provide financial documentation or proof demonstrating that the individual qualifies as indigent under Section 78B-22-202.
- (4) An indigent defense system described in Subsection (1) shall report to ~~[the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee,]~~ the commission concerning the results of the pilot program described in this section, on or before ~~[November 1]~~ March 30 of each year of the three-year pilot program.

(5) The commission shall regularly coordinate with the office regarding the ongoing activities and results of the pilot program.

~~[(5)]~~ (6) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

Section 21. Section **80-6-507** is amended to read:

80-6-507 . Commitment of a minor by a district court -- Housing in secure care facility or correctional facility.

(1)(a) If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:

(i) the district court shall order the minor committed to prison; and

(ii)(A) the minor shall be provisionally housed in a secure care facility ~~[-]~~ until the minor reaches 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole~~[-]~~ ; or

(B) if the minor is convicted of aggravated murder under Section 76-5-202, the minor was 17 years old when the aggravated murder occurred, and the minor was 18 years old or older at the time of sentencing, the district court may order the minor to be housed in a correctional facility rather than a secure care facility.

(b) Upon a motion by a prosecuting attorney, a district court may review the status of a minor who is provisionally housed in a secure care facility as described in Subsection

(1)(a)(ii)(A) and order that the minor be committed to the physical custody of the Department of Corrections and housed in a correctional facility if:

(i) the minor meets the requirements of Subsection (1)(a)(ii)(B); and

(ii) the court finds that the transfer is warranted.

~~[(b) Subsection (1) applies to any minor being provisionally housed in a secure care~~

1222 facility as described in Subsection (1)(a) on or after May 4, 2022.]

1223 (2)(a) The division shall adopt procedures by rule, in accordance with Title 63G,
1224 Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor
1225 provisionally housed in a secure care facility under Subsection (1) to the physical
1226 custody of the Department of Corrections.

1227 (b) If, in accordance with the rules adopted under Subsection (2)(a), the division
1228 determines that housing the minor in a secure care facility [-]presents an unreasonable
1229 risk to others or that it is not in the best interest of the minor, the division shall
1230 transfer the physical custody of the minor to the Department of Corrections.

1231 (3)(a) When a minor is committed to prison but provisionally housed in a secure care
1232 facility [-]under this section, the district court and the division shall immediately
1233 notify the Board of Pardons and Parole so [that-]the minor may be scheduled for a
1234 hearing according to board procedures.

1235 (b) If a minor who is provisionally housed in a secure care facility [-]under this section
1236 has not been paroled or otherwise released from incarceration by the time the minor
1237 reaches 25 years old, the division shall as soon as reasonably possible, but not later
1238 than when the minor reaches 25 years and 6 months old, transfer the minor to the
1239 physical custody of the Department of Corrections.

1240 (4) Upon the commitment of a minor to the custody of the division or the Department of
1241 Corrections under this section, the Board of Pardons and Parole has authority over the
1242 minor for purposes of parole, pardon, commutation, termination of sentence, remission
1243 of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

1244 (5) The authority shall:

1245 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor
1246 in the custody of the division under this section; and

1247 (b) forward to the Board of Pardons and Parole any information or recommendations
1248 concerning the minor.

1249 (6) Commitment of a minor under this section is a prison commitment for all sentencing
1250 purposes.

1251 Section 22. **Repealer.**

1252 This bill repeals:

1253 Section **77-27-21.9, Sex offender assessment.**

1254 Section 1. **Effective Date.**

1255 This bill takes effect on May 7, 2025.