

**Karianne Lisonbee** proposes the following substitute bill:

**Criminal Justice Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor:

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**LONG TITLE**

**General Description:**

This bill modifies statutory provisions related to criminal justice.

**Highlighted Provisions:**

This bill:

- modifies compliance requirements for sheriffs;
- modifies provisions related to the release of individuals due to overcrowding of correctional facilities;
- requires a county sheriff who permits probation to establish probations standards and procedures established by the Utah Sheriffs' Association;
- modifies contractual term requirements for the state court administrator in relation to provision of security;
- modifies provisions related to the definition and calculation of the state daily incarceration rate;
- modifies the definition of habitual offender and makes conforming changes;
- removes references to unsecured bonds;
- modifies provisions related to a county sheriff's release of individuals on their own recognizance;
- 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; and
- modifies provisions related to a magistrate's orders for pretrial release or detention.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 17-22-2**, as last amended by Laws of Utah 2024, Chapter 21
- 17-22-5.5**, as last amended by Laws of Utah 2024, Chapter 419
- 17-22-5.6**, as enacted by Laws of Utah 2024, Chapter 16
- 17-22-27**, as last amended by Laws of Utah 2011, Chapter 297
- 64-13e-102**, as last amended by Laws of Utah 2024, Chapter 467
- 64-13e-103.1**, as last amended by Laws of Utah 2024, Chapter 467
- 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
- 77-20-203**, as last amended by Laws of Utah 2024, Chapter 16
- 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
- 77-20-402**, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4

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

Section 1. Section **17-22-2** is amended to read:

**17-22-2 . Sheriff -- General duties.**

(1) The sheriff shall:

- (a) preserve the peace;
- (b) make all lawful arrests;
- (c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions[, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration];
- (d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;
- (e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

- (f) command the aid of as many inhabitants of the sheriff's county as the sheriff considers necessary in the execution of these duties;
- (g) take charge of and keep the county jail and the jail prisoners;
- (h) receive and safely keep all persons committed to the sheriff's custody, file and preserve the commitments of those persons in custody, and record the name, age, place of birth, and description of each person committed;
- (i) release on the record all attachments of real property when the attachment the sheriff receives has been released or discharged;
- (j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;
- (k) serve all process and notices as prescribed by law;
- (l) if the sheriff makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if the sheriff fails to make service, certify the reason upon the process or notice, and return them without delay;
- (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;
- (n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;
- (o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;
- (p) manage and direct search and rescue services in his county, including emergency medical responders and other related incident response activities;
- (q) obtain saliva DNA specimens as required under Section 53-10-404;
- (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;
- (s) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 80-1-102;
- (t) appoint a county security chief in accordance with Section 53-22-103 and ensure the

97 county security chief fulfills the county security chief's duties; and

98 (u) perform any other duties that are required by law.

99 (2)(a) Violation of Subsection (1)(j) is a class C misdemeanor.

100 (b) Violation of any other subsection under Subsection (1) is a class A misdemeanor.

101 (3)(a) As used in this Subsection (3):

102 (i) "Police interlocal entity" means the same as that term is defined in Sections  
103 17-30-3 and 17-30a-102.

104 (ii) "Police special district" means the same as that term is defined in Section 17-30-3.

105 (b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county  
106 which includes within its boundary a police special district or police interlocal entity,  
107 or both:

108 (i) serves as the chief executive officer of each police special district and police  
109 interlocal entity within the county with respect to the provision of law  
110 enforcement service within the boundary of the police special district or police  
111 interlocal entity, respectively; and

112 (ii) is subject to the direction of the police special district board of trustees or police  
113 interlocal entity governing body, as the case may be, as and to the extent provided  
114 by agreement between the police special district or police interlocal entity,  
115 respectively, and the sheriff.

116 (c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202  
117 (4), if a police interlocal entity or police special district enters an interlocal agreement  
118 with a public agency, as defined in Section 11-13-103, for the provision of law  
119 enforcement service, the sheriff:

120 (i) does not serve as the chief executive officer of any interlocal entity created under  
121 that interlocal agreement, unless the agreement provides for the sheriff to serve as  
122 the chief executive officer; and

123 (ii) shall provide law enforcement service under that interlocal agreement as provided  
124 in the agreement.

125 Section 2. Section **17-22-5.5** is amended to read:

126 **17-22-5.5 . Sheriff's classification of jail facilities -- Maximum operating capacity**  
127 **of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding**  
128 **release.**

129 (1)(a) Except as provided in Subsection [~~(4)~~] (5), a county sheriff shall determine:

130 (i) subject to Subsection (1)(b), the classification of each jail facility or section of a

- 131 jail facility under the sheriff's control;
- 132 (ii) the nature of each program conducted at a jail facility under the sheriff's control;
- 133 and
- 134 (iii) the internal operation of a jail facility under the sheriff's control.
- 135 (b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any
- 136 applicable zoning ordinance or conditional use permit of the county or municipality.
- 137 (2) Except as provided in Subsection [~~(4)~~] (5), each county sheriff shall:
- 138 (a) with the approval of the county legislative body, establish a maximum operating
- 139 capacity for each jail facility under the sheriff's control, based on facility design and
- 140 staffing; and
- 141 (b) upon a jail facility reaching the jail facility's maximum operating capacity:
- 142 (i) transfer prisoners to another appropriate facility:
- 143 (A) under the sheriff's control; or
- 144 (B) available to the sheriff by contract;
- 145 (ii) subject to the requirements of Subsection (4), release prisoners:
- 146 (A) to a supervised release program, according to release criteria established by
- 147 the sheriff; or
- 148 (B) to another alternative incarceration program developed by the sheriff; or
- 149 (iii) admit prisoners in accordance with law and a uniform admissions policy
- 150 imposed equally upon all entities using the county jail.
- 151 (3)(a) The sheriff shall keep records of the release status and the type of release program
- 152 or alternative incarceration program for any prisoner released under Subsection
- 153 (2)(b)(ii).
- 154 (b) The sheriff shall make these records available upon request to the Department of
- 155 Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.
- 156 (4) Before releasing an individual due to overcrowding, a sheriff shall, consistent with the
- 157 requirements of Subsection (5), contract with another county jail to house an individual
- 158 who:
- 159 (a) is arrested or convicted of a violent criminal offense as defined in Section
- 160 76-3-203.10;
- 161 (b) is arrested or convicted of a drug offense that is a felony;
- 162 (c) is arrested or convicted of possession of any composition or mixture, including pills,
- 163 that contains 100 grams or more of fentanyl or a fentanyl-related substance;
- 164 (d) is arrested or convicted of an offense of driving under the influence or driving with a

measurable controlled substance in the body, if the offense results in death or serious  
bodily injury to an individual;

(e) has been arrested or convicted of another crime within the 30-day period  
immediately preceding the date of the arrest or conviction;

(f) has been arrested or charged with a crime that:

(i) classifies the individual as a habitual offender as defined in Section 77-18-102; or

(ii) will classify the individual as a habitual offender under Section 77-18-102 if the  
individual is convicted of the crime; or

(g) has an outstanding warrant for failing, without just cause, to appear at a time and  
place that was ordered as a condition of pretrial release.

~~[(4)]~~ (5)(a) This section may not be construed to authorize a sheriff to modify provisions  
of a contract with the Department of Corrections to house in a county jail an  
individual sentenced to the Department of Corrections.

(b) A county contracting with another county to house an individual:

(i) shall contract with the nearest county that:

(A) has available capacity in its county jail; and

(B) contracts to house the individual;

(ii) may not house federal detainees; and

(iii) shall, subject to the agreement of the parties to the contract, pay to the county  
contracting to receive the transferred individual a day per capita rate that does not  
exceed the higher of:

(A) the current average cost of housing an individual in the transferring county  
jail; or

(B) the daily incarceration rates described in Section 64-13e-103.1.

~~[(5)]~~ (6) Regardless of whether a jail facility has reached the jail facility's maximum  
operating capacity under Subsection (2), a sheriff may release an individual from a jail  
facility in accordance with Section 77-20-203 or 77-20-204.

~~[(6)]~~ (7) The sheriff of a county of the first class is encouraged to open and operate all  
sections of a jail facility within the county that is not being used to full capacity.

Section 3. 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 who permits an individual to be granted probation shall adopt probation standards and practices that are established by the Utah Sheriffs' Association.

(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 4. Section **17-22-27** is amended to read:

**17-22-27 . Sheriff -- Assignment of court bailiffs -- Contract and costs.**

- (1) The sheriff shall assign law enforcement officers or special function officers, as defined under Sections 53-13-103 and 53-13-105, to serve as court bailiffs and security officers in the courts of record and county justice courts as required by the rules of the Judicial Council.
- (2)(a) The state court administrator shall [-]enter into a contract with the county sheriff for bailiffs and building security officers for the district and juvenile courts within the county.~~[-The contract may not exceed amounts appropriated by the Legislature for that purpose.]~~ The county shall assume costs related to security administration, supervision, travel, equipment, and training of bailiffs.
- (b) The contract shall specify the agreed services, costs of services, and terms of payment.
- (c) If the court is located in the same facility as a state or local law enforcement agency and the county sheriff's office is not in close proximity to the court, the state court administrator in consultation with the sheriff may enter into a contract with the state or local law enforcement agency for bailiff and security services subject to meeting all other requirements of this section. If the services are provided by another agency, the county sheriff shall have no responsibility for the services under this section.
- (3)(a) At the request of the court, the sheriff may appoint as a law clerk bailiff graduates of a law school accredited by the American Bar Association to provide security and legal research assistance. Any law clerk who is also a bailiff shall meet the requirements of Subsection (1) of this section.
- (b) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two years, who shall be exempt from the deputy sheriff merit service commission.

Section 5. Section **64-13e-102** is amended to read:

**64-13e-102 . Definitions.**

As used in this chapter:

- (1) "Alternative treatment program" means:
- (a) an evidence-based cognitive behavioral therapy program; or
  - (b) a certificate-based program provided by:
    - (i) an institution of higher education described in Subsection 53B-1-102(1)(b); or
    - (ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.
- (2) "Board" means the Board of Pardons and Parole.

- (3) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.
- (4)(a) "Condition of probation day" means a day spent by a state probationary inmate in a county correctional facility as a condition of probation.
- (b) "Condition of probation day" includes a day spent by a state probationary inmate in a county correctional facility:
- (i) after the date of sentencing;
  - (ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit for time served in a county correctional facility before the date of sentencing;
  - (iii) as a condition of an original order of probation; and
  - (iv) as a condition of a new order of probation after a prior revocation of probation.
- (c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county correctional facility:
- (i) as a probation sanction day;
  - (ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility for a single order of probation;
  - (iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;
  - (iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security; or
  - (v) after the termination of probation if the state probationary inmate is:
    - (A) sentenced to prison; or
    - (B) eligible for release.
- (5) "Department" means the Department of Corrections, created in Section 64-13-2.
- (6) "Division" means the Division of Finance, created in Section 63A-3-101.
- (7)(a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.
- (b) "Eligible bed day" includes:
- (i) a condition of probation day;
  - (ii) a parole hold day;
  - (iii) a parole sanction day; and
  - (iv) a probation sanction day.

- (8)(a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.
- (b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:
- (i) after the state parole inmate has spent 72 hours, excluding weekends and holidays, for a single suspected violation of the state parole inmate's terms of parole; or
  - (ii) as a parole sanction day.
- (9)(a) "Parole sanction day" means a day spent in a county correctional facility by a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state parole inmate's terms of parole.
- (b) "Parole sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.
- (c) "Parole sanction day" does not include a parole hold day.
- (10)(a) "Probation sanction day" means a day spent in a county correctional facility by a state probationary inmate as a sanction under Subsection 64-13-6(2) based on a violation of the state probationary inmate's terms of probation.
- (b) "Probation sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.
- (c) "Probation sanction day" does not include:
- (i) a condition of probation day; or
  - (ii) a day spent in a county correctional facility by a state probationary inmate under Subsection 64-13-29(3) based on a suspected violation of the state probationary inmate's terms of probation.
- (11) "State daily incarceration rate" means the average daily incarceration rate~~[, calculated by the department based on the previous three fiscal years,]~~ that reflects the following expenses incurred by the department for housing an inmate:
- (a) executive overhead;
  - (b) administrative overhead;
  - (c) transportation overhead;
  - (d) division overhead; and
  - (e) motor pool expenses.
- (12) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

- 335 (13) "State parole inmate" means an individual who is:
- 336 (a) on parole, as defined in Section 77-27-1; and
- 337 (b) housed in a county correctional facility for a reason related to the individual's parole.
- 338 (14) "State probationary inmate" means a felony probationer sentenced to time in a county
- 339 correctional facility under Subsection 77-18-105(6).
- 340 (15) "Treatment program" means:
- 341 (a) an alcohol treatment program;
- 342 (b) a substance abuse treatment program;
- 343 (c) a sex offender treatment program; or
- 344 (d) an alternative treatment program.

345 Section 6. Section **64-13e-103.1** is amended to read:

346 **64-13e-103.1 . Calculating the state incarceration rate.**

- 347 (1)(a) Before July 1, 2026, the department shall calculate the state daily incarceration rate based on the
- 348 previous four fiscal years.
- 349 (b) Beginning July 1, 2026, the department shall calculate the state daily incarceration
- 350 rate based on the previous five fiscal years.
- 351 (2) Before September 15 of each year, the department shall:
- 352 (a) calculate the state daily incarceration rate; and
- 353 (b) inform each county and the commission of the state daily incarceration rate.
- 354 [(2)] (3) The state daily incarceration rate may not be less than the rate presented to the
- 355 Executive Appropriations Committee of the Legislature for purposes of setting the
- 356 appropriation for the department's budget.

357 Section 7. Section **77-18-102** is amended to read:

358 **77-18-102 . Definitions.**

359 As used in this chapter:

- 359 (1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.
- 360 (2) "Board" means the Board of Pardons and Parole.
- 361 (3) "Civil accounts receivable" means the same as that term is defined in Section
- 362 77-32b-102.
- 363 (4) "Civil judgment of restitution" means the same as that term is defined in Section
- 364 77-32b-102.
- 365 (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- 366 (6) "Criminal accounts receivable" means the same as that term is defined in Section
- 367 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) has been convicted in 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) within five years before] the conviction for each case referred to in Subsection (10)(a)(i) occurred within the five-year period immediately preceding the day on which the defendant is convicted of the new felony offense before the court[-] ;
  - (b)(i) has been charged with one or more felony offenses in at least nine separate cases; and
  - (ii) a felony charge in each case referred to in Subsection (10)(b)(i) was issued within the five-year period immediately preceding the day on which the defendant is convicted of the new felony offense before the court;
  - (c)(i) has been convicted in at least nine previous cases for one or more misdemeanor offenses in each case; and
  - (ii) the conviction for each case referred to in Subsection (10)(c)(i) occurred within the three-year period immediately preceding the day on which the defendant is convicted of a new misdemeanor or felony offense before the court; or
  - (d)(i) has been charged with one or more misdemeanor offenses in at least 19 separate cases; and
  - (ii) a misdemeanor charge in each case referred to in Subsection (10)(d)(i) was issued within the three-year period immediately preceding the day on which the defendant is convicted of the 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 8. 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:

- 436 (A) the alleged inaccuracy shall be brought to the attention of the court at  
437 sentencing; and
- 438 (B) the court may grant an additional 10 working days after the day on which the  
439 alleged inaccuracy is brought to the court's attention to allow the parties and  
440 the department to resolve the alleged inaccuracy in the presentence  
441 investigation report.
- 442 (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the  
443 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds  
444 that there is an inaccuracy in the presentence investigation report, the court shall:
- 445 (A) enter a written finding as to the relevance and accuracy of the challenged  
446 portion of the presentence investigation report; and
- 447 (B) provide the written finding to the department or the law enforcement agency.
- 448 (b) The department shall attach the written finding to the presentence investigation  
449 report as an addendum.
- 450 (c) If a party fails to challenge the accuracy of the presentence investigation report at the  
451 time of sentencing, the matter shall be considered waived.
- 452 (6) The contents of the presentence investigation report are protected and not available  
453 except by court order for purposes of sentencing as provided by rule of the Judicial  
454 Council or for use by the department or law enforcement agency.
- 455 (7)(a) A presentence investigation report is classified as protected in accordance with  
456 Title 63G, Chapter 2, Government Records Access and Management Act.
- 457 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee  
458 may not order the disclosure of a presentence investigation report.
- 459 (8) Except for disclosure at the time of sentencing in accordance with this section, the  
460 department or law enforcement agency may disclose a presentence investigation only  
461 when:
- 462 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 463 (b) requested by a law enforcement agency or other agency approved by the department  
464 for purposes of supervision, confinement, and treatment of a defendant;
- 465 (c) requested by the board;
- 466 (d) requested by the subject of the presentence investigation report or the subject's  
467 authorized representative;
- 468 (e) requested by the victim of the offense discussed in the presentence investigation  
469 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 9. 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 10. Section **77-20-203** is amended to read:

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

(1) As used in this section:

(a)(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.

(b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

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

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

(a) the individual was arrested without a warrant;

(b) the individual was not~~[-arrested for]~~:

(i) arrested for a violent [felony] offense as defined in Section 76-3-201.10;

(ii) arrested for a qualifying offense;

(iii) arrested for the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual;[-or]

- (iv) arrested for an offense described in Subsection 76-9-101(4);  
(v) arrested for possession of any composition or mixture, including pills, that  
contains 100 grams or more of fentanyl or a fentanyl-related substance;  
(vi) arrested for another crime within the immediately preceding 30-day period; or  
(vii) convicted in at least nine previous cases of one or more misdemeanor offenses  
in each case within the immediately preceding one-year period;

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

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

(e) the individual qualifies for release under the written policy described in Subsection  
(4) for the county.

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

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

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

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

- (i) criminal history;  
(ii) prior instances of failing to appear for a mandatory court appearance;  
(iii) current employment;  
(iv) residency;  
(v) ties to the community;  
(vi) an offense for which the individual was arrested;  
(vii) any potential criminal charges that have not yet been filed;  
(viii) the individual's health condition;  
(ix) any potential risks to a victim, a witness, or the public; and  
(x) any other similar factor a sheriff determines is relevant.

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

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

(ii) the individual was arrested for:

(A) a violent felony; or

(B) a qualifying domestic violence offense.

(b) The jail facility shall:

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

(ii) release the individual:

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

(B) if a court or magistrate orders release.

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

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

Section 11. 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 Under the Influence and Reckless Driving, or Section 76-5-102.1; or
- (B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;
- (iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
- (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- (b)(i) the individual is arrested for, or charged with, an eligible felony offense;
- (ii) the individual is not on pretrial release for a separate criminal offense;
- (iii) the individual is not on probation or parole;
- (iv) the primary risk posed by the individual is the risk of failure to appear;
- (v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
- (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- (3) A county jail official may not fix a financial condition at a monetary amount that exceeds:
- (a) \$5,000 for an eligible felony offense;
- (b) \$1,950 for a class A misdemeanor offense;
- (c) \$680 for a class B misdemeanor offense;
- (d) \$340 for a class C misdemeanor offense;

(e) \$150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) \$80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:

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

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

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

(6) If a county jail official fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of 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 12. 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:
- ~~[(i)]~~ (A) there is substantial evidence to support the individual's arrest for the felony offense;
- ~~[(ii)]~~ (B) the individual committed the felony offense while:
- ~~[(A)]~~ (I) the individual was on parole or probation for a conviction of a felony offense; or
- ~~[(B)]~~ (II) the individual was released and awaiting trial on a previous charge for a felony offense; and
- ~~[(iii)]~~ (C) based on information reasonably available to the magistrate, the individual ~~[has at least nine cases where the individual has been charged or convicted, or entered a plea of guilty, within five years from the day on which the individual was arrested for the felony offense described in Subsection (1)(e)(i).]~~ :
- (I) is a habitual offender as defined in Section 77-18-102; or
- (II) will be a habitual offender as defined in Section 77-18-102 if the individual is convicted of the felony offense.
- ~~[(d)]~~ (ii) [Subsection] This Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does not meet the requirements described in this Subsection (1)(c).
- (2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a

pretrial status order at an individual's first appearance before the court.

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

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

(ii) if a party requests a delay; or

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

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

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

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

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

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

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

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

(a) rely upon information contained in:

(i) the indictment or information;

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

(iii) a pretrial risk assessment;

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

(v) witness statements or testimony;

(vi) the results of a lethality assessment completed in accordance with Section

- 844 77-36-2.1; or
- 845 (vii) any other reliable record or source, including proffered evidence; and
- 846 (b) consider:
- 847 (i) the nature and circumstances of the offense, or offenses, that the individual was
- 848 arrested for, or charged with, including:
- 849 (A) whether the offense is a violent offense; and
- 850 (B) the vulnerability of a witness or alleged victim;
- 851 (ii) the nature and circumstances of the individual, including the individual's:
- 852 (A) character;
- 853 (B) physical and mental health;
- 854 (C) family and community ties;
- 855 (D) employment status or history;
- 856 (E) financial resources;
- 857 (F) past criminal conduct;
- 858 (G) history of drug or alcohol abuse; and
- 859 (H) history of timely appearances at required court proceedings;
- 860 (iii) the potential danger to another individual, or individuals, posed by the release of
- 861 the individual;
- 862 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 863 court proceeding at the time the individual allegedly committed the offense or
- 864 offenses;
- 865 (v) the availability of:
- 866 (A) other individuals who agree to assist the individual in attending court when
- 867 required; or
- 868 (B) supervision of the individual in the individual's community;
- 869 (vi) the eligibility and willingness of the individual to participate in various treatment
- 870 programs, including drug treatment; or
- 871 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
- 872 law if released.
- 873 (9) The magistrate or judge may not base a determination about pretrial release solely:
- 874 (a) on the seriousness or type of offense that the individual is arrested for or charged
- 875 with, unless the individual is arrested for or charged with a capital felony; or
- 876 (b) on an algorithm or a risk assessment tool score.
- 877 (10) An individual arrested for violation of a jail release agreement, or a jail release court

order, issued in accordance with Section 78B-7-802:

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

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

Section 13. Section **77-20-402** is amended to read:

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

(1) Subject to Subsection (2), a defendant may choose to post the amount of monetary bail imposed by a judge or magistrate by any of the following methods:

(a) in cash;

(b) by a bail bond with a surety; or

~~[(e) by an unsecured bond, at the discretion of the judge or magistrate; or]~~

~~[(d)]~~ (c) by credit or debit card, at the discretion of the judge or magistrate.

(2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described in Subsection (1):

(a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and the case involves a violent offense;

(b) in order to allow the defendant to voluntarily remit the fine in accordance with 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.

912 (b) The amount refunded shall be the full amount received by the court under Subsection  
913 (4), which may be less than the full amount of the monetary bail set by the judge or  
914 magistrate.

915 (c) Before refunding monetary bail that is posted by the defendant in cash, by credit  
916 card, or by debit card, the court may apply the amount posted toward a criminal  
917 accounts receivable, as defined in Section 77-32b-102, that is owed by the defendant  
918 in the priority set forth in Section 77-38b-304.

919 Section 14. **Effective Date.**

920 This bill takes effect on May 7, 2025.