

Karianne Lisonbee proposes the following substitute bill:

Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies statutory provisions related to criminal justice.

Highlighted Provisions:

This bill:

- 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 adopted by the Utah Sheriffs' Association;
- prohibits the use of state funds for a syringe exchange program;
- prohibits the Department of Corrections from housing inmates in a private correctional facility, unless the purpose is federal immigration detention or civil detention;
- adds "detention removal officer" to the definition of federal officers who have statewide law enforcement authority;
- modifies contractual term requirements for the state court administrator in relation to providing security;
- modifies provisions related to the definition and calculation of the state daily incarceration rate;
- 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;
- requires that the Department of Corrections may only contract with a county facility to house state inmates in a county correctional facility;
- modifies the definition of habitual offender and makes conforming changes;
- requires a county sheriff to report statistics on releases due to overcrowding and pretrial

release;

- 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;

- modifies provisions related to a magistrate's orders for pretrial release or detention;

- repeals the Subcommittee on County Correctional Facility Contracting and Reimbursement; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

53-13-106, as last amended by Laws of Utah 2020, Chapter 153

64-13d-103, as enacted by Laws of Utah 1999, Chapter 288

64-13e-102, as last amended by Laws of Utah 2024, Chapter 467

64-13e-103, as last amended by Laws of Utah 2023, Chapter 246

64-13e-103.1, as last amended by Laws of Utah 2024, Chapter 467

64-13e-103.3, as enacted by Laws of Utah 2023, Chapter 246

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

77-20-103, as renumbered and amended by Laws of Utah 2021, Second Special Session, Chapter 4

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

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

Chapter 4

ENACTS:

64-13-51, Utah Code Annotated 1953

REPEALS:

64-13e-105, as last amended by Laws of Utah 2024, Chapter 467

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

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

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

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

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

- (i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;
- (ii) the nature of each program conducted at a jail facility under the sheriff's control;
- and
- (iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection [~~(4)~~] (5), each county sheriff shall:

- (a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and
- (b) upon a jail facility reaching the jail facility's maximum operating capacity:
 - (i) transfer prisoners to another appropriate facility:
 - (A) under the sheriff's control; or
 - (B) available to the sheriff by contract;
 - (ii) subject to the requirements of Subsection (4), release prisoners:
 - (A) to a supervised release program, according to release criteria established by the sheriff; or
 - (B) to another alternative incarceration program developed by the sheriff; or
 - (iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3)(a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) Before releasing an individual due to overcrowding, a sheriff shall, consistent with the requirements of Subsection (5), contract with another county jail to house an individual who:

(a) is arrested or convicted of a violent criminal offense as defined in Section 76-3-203.10;

(b) is arrested or convicted of a drug offense that is a felony;

(c) is arrested or convicted of possession of any composition or mixture, including pills, that contains 100 grams or more of fentanyl or a fentanyl-related substance;

(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; or

(f) has been previously booked into the same jail within the immediately preceding 12-month period;

(g) has an outstanding warrant for failing to appear in a case:

(i) involving any charge described in Subsections (4)(a) through (4)(d); or

(ii) where the individual classifies as a habitual offender as defined in Section 77-18-102.

~~[(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

131 exceed the higher of:

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

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

135 ~~[(5)]~~ (6) Regardless of whether a jail facility has reached the jail facility's maximum
136 operating capacity under Subsection (2), a sheriff may release an individual from a jail
137 facility in accordance with Section 77-20-203 or 77-20-204.

138 ~~[(6)]~~ (7) The sheriff of a county of the first class is encouraged to open and operate all
139 sections of a jail facility within the county that is not being used to full capacity.

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

141 **17-22-5.6 . Probation supervision -- Violation of probation -- Detention --**
142 **Hearing.**

143 (1) As used in this section:

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

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

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

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

151 (2) A county sheriff who permits an individual to be granted probation shall adopt
152 probation standards and practices that are established by the Utah Sheriffs' Association.

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

155 (a) incarceration is recommended as a sanction;

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

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

159 (i) a violent felony; or

160 (ii) a qualifying domestic violence offense.

161 ~~[(3)]~~ (4) A county sheriff may take custody of, and detain, a probationer for a maximum of
162 72 hours, excluding weekends and holidays, if there is probable cause to believe that the
163 probationer has committed a violation of probation.

164 ~~[(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 **26B-7-117** is amended to read:

26B-7-117 . Syringe exchange and education.

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

(a) a government entity, including:

(i) the department;

(ii) a local health department; or

(iii) a local substance abuse authority, as defined in Section 26B-5-101;

(b) a nongovernment entity, including:

(i) a nonprofit organization; or

(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;

- 199 (B) testing for a blood-borne disease; and
200 (C) an opiate antagonist; and
201 (c) report annually to the department the following information about the program's
202 activities:
203 (i) the number of individuals who have exchanged syringes;
204 (ii) the number of used syringes exchanged for new syringes; and
205 (iii) the number of new syringes provided in exchange for used syringes.

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

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

212 Section 4. Section **53-13-106** is amended to read:

213 **53-13-106 . Federal officers -- State law enforcement authority.**

214 (1)(a) "Federal agency" means:

- 215 (i) the United States Bureau of Land Management;
216 (ii) the United States Forest Service;
217 (iii) the National Park Service;
218 (iv) the United States Fish and Wildlife Service;
219 (v) the United States Bureau of Reclamation;
220 (vi) the United States Environmental Protection Agency;
221 (vii) the United States Army Corps of Engineers; and
222 (viii) the Department of Veterans Affairs.

223 (b) "Federal employee" means an employee of a federal agency.

224 (c) "Federal officer" includes:

- 225 (i) a special agent of the Federal Bureau of Investigation;
226 (ii) a special agent of the United States Secret Service;
227 (iii) a special agent of the United States Department of Homeland Security, excluding
228 a customs inspector[-or detention removal officer];
229 (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;
230 (v) a special agent of the Drug Enforcement Administration;
231 (vi) a United States marshal, deputy marshal, and special deputy United States
232 marshal;

- 233 (vii) a U.S. postal inspector of the United States Postal Inspection Service; and
234 (viii) a police officer of the Department of Veterans Affairs.
- 235 (d)(i) Federal officers listed in Subsection (1)(c) have statewide law enforcement
236 authority relating to felony offenses under the laws of this state. [-]This Subsection
237 (1)(d)(i) takes precedence over Subsection (2).
- 238 (ii) Federal agencies and federal employees may exercise law enforcement authority
239 related to misdemeanor and felony offenses under Utah law only as established by
240 an agreement as provided in Subsection (1)(d)(iii) and as provided in Section
241 53-13-106.9 or pursuant to Section 53-13-106.7. This Subsection (1)(d)(ii) takes
242 precedence over Subsection (2).
- 243 (iii) Consistent with Section 53-13-106.9, county sheriffs may enter into agreements
244 with federal agencies that allow concurrent authority to enforce federal laws and
245 state and local laws, provided that:
- 246 (A) the agreement is limited to a term of not more than two years; and
247 (B) the officers granted authority under the agreement have completed a 20-hour
248 training course that is focused on Utah criminal law and procedure and that is
249 approved by the director of the Peace Officer Standards and Training Division.
- 250 (e) The council may designate other federal peace officers, as necessary, if the officers:
- 251 (i) are persons employed full-time by the United States government as federally
252 recognized law enforcement officers primarily responsible for the investigation
253 and enforcement of the federal laws;
- 254 (ii) have successfully completed formal law enforcement training offered by an
255 agency of the federal government consisting of not less than 400 hours; and
256 (iii) maintain in-service training in accordance with the standards set forth in Section
257 53-13-103.
- 258 (2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title
259 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law
260 enforcement authority only if:
- 261 (a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an
262 agreement with the federal agency to be given authority; and
263 (b) except as provided in Subsection (3), each federal officer employed by the federal
264 agency meets the waiver requirements set forth in Section 53-6-206.
- 265 (3) A federal officer working as such in the state on or before July 1, 1995, may exercise
266 state law enforcement authority without meeting the waiver requirement.

- (4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.
- (5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.

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;

(xiii) special population needs, including:

(A) co-existing disorders;

(B) domestic violence;

- 301 (C) drug of choice;
302 (D) gender, ethnic, and cultural considerations;
303 (E) other health issues;
304 (F) sexual abuse; and
305 (G) sexual orientation;
306 (xiv) transportation; and
307 (xv) treatment involvement.
308 (c) "Qualitative terms" means written summaries used to describe meaning, enrich, or
309 explain significant quantitative indicators or benchmarks within the areas defined in
310 Subsection (1)(b).
311 (d) "Quantitative terms" means numerical distinctions or benchmarks used to describe
312 conditions within the areas defined in Subsection (1)(b).
313 (2) The department shall issue a request for proposals to provide a periodic multi-domain
314 assessment tool, as defined in Subsection (1)(b) and implement the tool for a three-year
315 trial period in the management of sex offenders being supervised in the community in
316 the department's Region 3.
317 (3) The request for proposals shall include a requirement that the multi-domain assessment
318 tool be designed to be administered:
319 (a) every 16 weeks during the first year a sex offender is supervised in the community;
320 and
321 (b) every 12 to 26 weeks during the second and subsequent years a sex offender is
322 supervised in the community, as determined appropriate by the department's
323 supervisory personnel and the sex offender's treatment team.
324 (4) The department shall promptly make results of the multi-domain assessment available
325 to:
326 (a) the sex offender's treatment team; and
327 (b) the corrections personnel responsible for supervising the offender.
328 (5) The department shall provide to the legislative Law Enforcement and Criminal Justice
329 Interim Committee at the conclusion of the trial period a written report of the results of
330 the use of the multi-domain assessments, including:
331 (a) the impact on recidivism;
332 (b) other indicators of the effect of the use of the assessments;
333 (c) the number of assessments administered annually;
334 (d) the number of individuals who were assessed during the year; and

(e) any recommended legislative or policy changes.

Section 6. Section **64-13d-103** is amended to read:

64-13d-103 . Private contracts -- Limitations on purpose -- Requirements before entering into contract -- Required terms.

(1)(a) The department may contract with a contractor to finance, acquire, construct, lease, or provide full or partial correctional services.

(b) A contractor may only house an inmate for federal immigration detention or civil detention. The department may not contract with a contractor to house an inmate for any other purpose.

(2) Before entering into a contract, the department shall:

(a) hold a public hearing within the county or municipality where the facility is to be sited for the purpose of obtaining public comment;

(b) give consideration to the input received at the public hearing when making decisions regarding the awarding of a contract and the contract process; and

(c) have received written notification from the legislative body of the municipality or county where the proposed facility is to be sited, stating that the legislative body has agreed to the establishment of the facility within its boundaries.

(3) Before entering into a contract, the department shall require that the contractor proposing to provide the services demonstrate that it has:

(a) management personnel with the qualifications and experience necessary to carry out the terms of the contract;

(b) sufficient financial resources to:

(i) complete and operate the facility;

(ii) provide indemnification for liability arising from the operation of the facility; and

(iii) provide reimbursement as required under Section 64-13d-105;

(c) the ability and resources to meet applicable court orders, correctional standards as defined by the department, and constitutional requirements; and

(d) liability insurance adequate to protect the state, the political subdivision where the facility is located, and the officers and employees of the facility from all claims and losses incurred as a result of action or inaction by the contractor or its employees.

(4) A contract awarded for the operation of a facility shall be consistent with commonly accepted correctional practices as defined by the department and shall include:

(a) adequate internal and perimeter security to protect the public, employees, and inmates, based on the security level of the inmate population;

- (b) work, training, educational, and treatment programs for inmates;
- (c) a minimum correctional officer to inmate ratio;
- (d) imposition of inmate discipline in accordance with applicable state law and department policy; and
- (e) adequate food, clothing, housing, and medical care for inmates.

Section 7. 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.

(13) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county correctional facility for a reason related to the individual's parole.

(14) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).

(15) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 8. Section ~~64-13e-103~~ is amended to read:

64-13e-103 . County correctional facility contracting program for state inmates --

Payments -- Reporting -- Contracts.

(1) Subject to Subsection ~~[(6)]~~ (7), the department may only contract with a county to house state inmates in a county correctional facility.

~~[(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).]~~

~~[(3)]~~ (2)(a) The compensation rate for housing state inmates pursuant to a contract

described in Subsection (1) shall be:

(i) except as provided in Subsection ~~[(3)(a)(i)]~~ (2)(a)(ii), 84% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection ~~[(3)(e)]~~ (2)(c);

(ii) 75% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection ~~[(3)(e)]~~ (2)(c); and

(iii) 70% of the state daily incarceration rate for a county correctional facility bed space in a county other than the bed spaces described in Subsections ~~[(3)(a)(i)]~~ (2)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection ~~[(3)(a)(i)]~~ (2)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection ~~[(3)(b)(i)]~~ (2)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection ~~[(3)(a)(i)]~~ (2)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection ~~[(3)(a)(i)]~~ (2)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection ~~[(3)(b)(i)]~~ (2)(b)(i); and

(ii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(d)(i) The department shall annually:

(A) collect information from each county described in Subsection (1) regarding the treatment programs for state inmates offered by the county;

505 (B) evaluate, review, and audit the results of each treatment program on state
506 inmate recidivism and other relevant metrics; and

507 (C) on or before November 30, report the results of the information described in
508 Subsection [~~(3)(d)(i)(B)~~] (2)(d)(i)(B) to the Executive Offices and Criminal
509 Justice Appropriations Subcommittee.

510 (ii) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
511 Administrative Rulemaking Act, to implement the provisions of Subsection [
512 ~~(3)(d)(i)~~] (2)(d)(i).

513 [~~(4)~~] (3)(a) Compensation to a county for state inmates incarcerated under this section
514 shall be made by the department.

515 (b) Funds from the County Correctional Facility Contracting Reserve Program may be
516 used only once existing annual appropriated funds for the fiscal year have been
517 exhausted.

518 [~~(5)~~] (4) Counties that contract with the department under Subsection (1) shall, on or before
519 June 30 of each year, submit a report to the department that includes:

520 (a) the number of state inmates the county housed under this section;

521 (b) the total number of state inmate days of incarceration that were provided by the
522 county; and

523 (c) the information required under Subsection [~~(3)(d)(i)(A)~~] (2)(d)(i)(A).

524 [~~(6)~~] (5) Except as provided under Subsection [~~(7)~~] (6), the department may not enter into a
525 contract with a county as described under Subsection (1), unless:

526 (a) beginning July 1, 2023, the county correctional facility within the county is in
527 compliance with the reporting requirements described in Subsection 17-22-32(2); and

528 (b) the Legislature has previously passed a joint resolution that includes the following
529 information regarding the proposed contract:

530 (i) the approximate number of beds to be contracted;

531 (ii) the approximate amount of the county's long-term debt; and

532 (iii) the repayment time of the debt for the facility where the inmates are to be housed.

533 [~~(7)~~] (6) The department may enter into a contract with a county government to house
534 inmates without complying with the approval process described in Subsection [~~(6)~~] (5)
535 only if the county facility was under construction, or already in existence, on March 16,
536 2001.

537 [~~(8)~~] (7) Any resolution passed by the Legislature under Subsection [~~(6)~~] (5) does not bind or
538 obligate the Legislature or the department regarding the proposed contract.

Section 9. Section **64-13e-103.1** is amended to read:

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

(1) ~~[Before September 15 of each year, the department shall:]~~

~~[(a) calculate the state daily incarceration rate; and]~~

~~shall submit the rate to the Executive Appropriations Committee for purposes of setting the appropriation for the department's budget.~~

~~[(b) inform each county and the commission of the state daily incarceration rate.]~~

~~[(2) The state daily incarceration rate may not be less than the rate presented to the~~

~~Executive Appropriations Committee of the Legislature for purposes of setting the~~

~~appropriation for the department's budget.] For the fiscal year beginning on July 1, 2025,~~

~~the state daily incarceration rate is \$120.75 and the department~~

~~(2) For a fiscal year beginning on or after July 1, 2026, the increase in the state daily~~

~~incarceration rate may not exceed 5% from the previous fiscal year and the department~~

~~shall submit the rate to the Executive Appropriations Committee for purposes of setting~~

~~the appropriation for the department's budget.~~

~~(3) For a fiscal year beginning on after July 1, 2028, the department shall compare the~~

~~calculated rate change in each of the past three years, and if the calculated rate change is~~

~~more than 5% in one or more of the past three years, shall subtract 5% from the~~

~~calculated rate change and apply any difference to the new state daily incarceration rate~~

~~in an amount sufficient to increase the calculated rate change to 5%, and shall submit the~~

~~rate to the Executive Appropriations Committee for purposes of setting the appropriation~~

~~for the department's budget.~~

~~(4) Notwithstanding any other provision in this section, in a year where General Fund~~

~~revenue growth is not sufficient to fund the calculated rate change up to 5%, the state~~

~~daily incarceration rate shall stay the same as the previous year.~~

Section 10. Section **64-13e-103.3** is amended to read:

64-13e-103.3 . Estimating the annual number of county correctional facility bed spaces required for state inmates.

(1)(a) Before September 15 of each year, the department shall estimate the total number

of annual county correctional facility bed spaces that are required for state inmates in

the upcoming fiscal year, including the annual number of bed spaces that shall be

dedicated to:

(i) a treatment program for state inmates under Subsection ~~[64-13e-103(3)(a)(i)]~~

~~64-13e-103(2)(a)(i); and~~

(ii) an alternative treatment program for state inmates under Subsection [64-13e-103(3)(a)(ii)] 64-13e-103(2)(a)(ii).

(b) The department's estimates described in Subsection (1)(a) shall be based upon:

(i) a review of the annual numbers of county correctional facility bed spaces used for state inmates during the preceding years; and

(ii) any other information relevant to the department.

(2) The department shall inform each county of the estimates described in Subsection (1)(a).

Section 11. 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 programming;
- (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 12. 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

- 673 domestic violence.
- 674 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 675 (2) An actor commits domestic violence in the presence of a child if the actor:
- 676 (a) commits or attempts to commit a criminal homicide offense against a cohabitant in
- 677 the presence of a child;
- 678 (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon
- 679 or other means or force likely to produce death or serious bodily injury against a
- 680 cohabitant, in the presence of a child; ~~or~~
- 681 (c) intentionally or knowingly impedes the breathing or the circulation of blood of
- 682 another individual by the actor's use of unlawful force or violence by applying
- 683 pressure to the neck or throat of an individual or obstructing the nose, mouth, or
- 684 airway of an individual, in the presence of a child; or
- 685 ~~[(e)]~~ (d) under circumstances not amounting to a violation of Subsection (2)(a), ~~or (b)]~~
- 686 (2)(b), or (2)(c), commits an act of domestic violence in the presence of a child.
- 687 (3)(a) A violation of Subsection (2)(a), ~~or (b)]~~ (2)(b), or (2)(c) is a third degree felony.
- 688 (b) A violation of Subsection ~~[(2)(e)]~~ (2)(d) is a class B misdemeanor.
- 689 (4)(a) A charge under this section is separate and distinct from, and is in addition to, a
- 690 charge of domestic violence in which the victim is the cohabitant.
- 691 (b) Either or both charges may be filed by the prosecutor.
- 692 (5) An actor who commits a violation of this section when more than one child is present is
- 693 guilty of one offense of domestic violence in the presence of a child regarding each child
- 694 present when the violation occurred.
- 695 Section 13. Section **77-18-102** is amended to read:
- 696 **77-18-102 . Definitions.**
- 697 As used in this chapter:
- 698 (1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.
- 699 (2) "Board" means the Board of Pardons and Parole.
- 700 (3) "Civil accounts receivable" means the same as that term is defined in Section
- 701 77-32b-102.
- 702 (4) "Civil judgment of restitution" means the same as that term is defined in Section
- 703 77-32b-102.
- 704 (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- 705 (6) "Criminal accounts receivable" means the same as that term is defined in Section
- 706 77-32b-102.

- 707 (7) "Default" means the same as that term is defined in Section 77-32b-102.
- 708 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 709 (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 710 (10) "Habitual offender" means an individual who~~[has been convicted in]~~:
- 711 (a)(i) has been convicted in at least ~~[six]~~ five previous cases for one or more felony
- 712 offenses in each case; and
- 713 ~~[(b)]~~ (ii) ~~[each case described in Subsection (10)(a) within five years before]~~ the
- 714 conviction for each case referred to in Subsection (10)(a)(i) occurred within the
- 715 five-year period immediately preceding the day on which the defendant is
- 716 convicted of the new felony offense before the court[-] ;
- 717 (b)(i) has been charged with one or more felony offenses in at least nine separate
- 718 cases; and
- 719 (ii) a felony charge in each case referred to in Subsection (10)(b)(i) was issued within
- 720 the five-year period immediately preceding the day on which the defendant is
- 721 convicted of the new felony offense before the court;
- 722 (c)(i) has been convicted in at least nine previous cases for one or more misdemeanor
- 723 offenses in each case; and
- 724 (ii) the conviction for each case referred to in Subsection (10)(c)(i) occurred within
- 725 the three-year period immediately preceding the day on which the defendant is
- 726 convicted of a new misdemeanor or felony offense before the court; or
- 727 (d)(i) has been charged with one or more misdemeanor offenses in at least 19
- 728 separate cases; and
- 729 (ii) a misdemeanor charge in each case referred to in Subsection (10)(d)(i) was issued
- 730 within the three-year period immediately preceding the day on which the
- 731 defendant is convicted of the new misdemeanor or felony offense before the court.
- 732 (11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- 733 (12) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 734 (13) "Screening" means a tool or questionnaire that is designed to determine whether an
- 735 individual needs further assessment or any additional resource or referral for treatment.
- 736 (14) "Substance use disorder treatment" means treatment obtained through a substance use
- 737 disorder program that is licensed by the Office of Licensing within the Department of
- 738 Health and Human Services.

739 Section 14. Section **77-18-103** is amended to read:

740 **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:

- 775 (A) the alleged inaccuracy shall be brought to the attention of the court at
776 sentencing; and
- 777 (B) the court may grant an additional 10 working days after the day on which the
778 alleged inaccuracy is brought to the court's attention to allow the parties and
779 the department to resolve the alleged inaccuracy in the presentence
780 investigation report.
- 781 (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the
782 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds
783 that there is an inaccuracy in the presentence investigation report, the court shall:
- 784 (A) enter a written finding as to the relevance and accuracy of the challenged
785 portion of the presentence investigation report; and
- 786 (B) provide the written finding to the department or the law enforcement agency.
- 787 (b) The department shall attach the written finding to the presentence investigation
788 report as an addendum.
- 789 (c) If a party fails to challenge the accuracy of the presentence investigation report at the
790 time of sentencing, the matter shall be considered waived.
- 791 (6) The contents of the presentence investigation report are protected and not available
792 except by court order for purposes of sentencing as provided by rule of the Judicial
793 Council or for use by the department or law enforcement agency.
- 794 (7)(a) A presentence investigation report is classified as protected in accordance with
795 Title 63G, Chapter 2, Government Records Access and Management Act.
- 796 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee
797 may not order the disclosure of a presentence investigation report.
- 798 (8) Except for disclosure at the time of sentencing in accordance with this section, the
799 department or law enforcement agency may disclose a presentence investigation only
800 when:
- 801 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 802 (b) requested by a law enforcement agency or other agency approved by the department
803 for purposes of supervision, confinement, and treatment of a defendant;
- 804 (c) requested by the board;
- 805 (d) requested by the subject of the presentence investigation report or the subject's
806 authorized representative;
- 807 (e) requested by the victim of the offense discussed in the presentence investigation
808 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 15. Section **77-20-103** is amended to read:

77-20-103 . Release data requirements.

(1) The Administrative Office of the Courts shall submit the following data on cases involving individuals for whom the Administrative Office of the Courts has a state identification number broken down by judicial district to the Commission on Criminal and Juvenile Justice before July 1 of each year:

(a) for the preceding calendar year:

(i) the number of individuals charged with a criminal offense who failed to appear at a required court proceeding while on pretrial release under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition;

(ii) the number of offenses that carry a potential penalty of incarceration an

- individual committed while on pretrial release under each of the following categories of release:
- (A) the individual's own recognizance;
 - (B) a financial condition; and
 - (C) a release condition other than a financial condition; and
- (iii) the total amount of fees and fines, including bond forfeiture, collected by the court from an individual for the individual's failure to comply with a condition of release under each of the following categories of release:
- (A) an individual's own recognizance;
 - (B) a financial condition; and
 - (C) a release condition other than a financial condition; and
- (b) at the end of the preceding calendar year:
- (i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody on pretrial release under each of the following categories of release:
 - (A) the individual's own recognizance;
 - (B) a financial condition; and
 - (C) a release condition other than a financial condition;
 - (ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that the outstanding warrants had been outstanding; and
 - (iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:
 - (A) a first degree felony;
 - (B) a second degree felony;
 - (C) a third degree felony;
 - (D) a class A misdemeanor;
 - (E) a class B misdemeanor; and
 - (F) a class C misdemeanor.
- (2) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:
- (a) the number of individuals released upon payment of monetary bail before appearing before a court;
 - (b) the number of individuals released on the individual's own recognizance before appearing before a court; ~~and~~

(c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals collected by the county jail[:] ;

(d) the number of individuals released as a result of overcrowding; and

(e) the number of individuals released on pretrial release.

(3) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

Section 16. 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; or

(vi) previously booked into the same jail within the immediately preceding 12-month 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

911 to the arrest; and

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

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

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

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

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

922 (i) criminal history;

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

924 (iii) current employment;

925 (iv) residency;

926 (v) ties to the community;

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

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

929 (viii) the individual's health condition;

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

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

932 (5)(a)(i) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an
933 individual for no less than eight hours and up to 24 hours from booking if[:]

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

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

937 ~~[(A) a violent felony; or]~~

938 ~~[(B) a qualifying domestic violence offense]~~ the individual is on supervised
939 probation or parole and that information is reasonably available.

940 (ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than
941 eight hours if:

942 (A) the entity supervising the person on probation or parole informs the jail that
943 they do not intend to place a hold on the individual; and

944 (B) a court or magistrate has ordered a release.

(b) [The] Before any release, a jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained and provide that entity an opportunity to place a hold on the individual; and

(ii) only 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 17. 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

- 1013 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
1014 misdemeanor.
- 1015 (4) If an individual is arrested for more than one offense, and the county jail official fixes a
1016 financial condition for release:
- 1017 (a) the county jail official shall fix the financial condition at a single monetary amount;
1018 and
- 1019 (b) the single monetary amount may not exceed the monetary amount under Subsection
1020 (3) for the highest level of offense for which the individual is arrested.
- 1021 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual
1022 posts a financial condition fixed by a county jail official in accordance with this section.
- 1023 (6) If a county jail official fixes a financial condition for an individual, law enforcement
1024 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
1025 Criminal Procedure after the county jail official fixes the financial condition.
- 1026 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
1027 Rules of Criminal Procedure:
- 1028 (a) a county jail official may not fix or modify a financial condition for an individual;
1029 and
- 1030 (b) if a county jail official fixed a financial condition for the individual before the
1031 magistrate's review, the individual may no longer be released on the financial
1032 condition.
- 1033 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
1034 individual by the Department of Corrections as described in Section 64-13-29.
- 1035 (9) This section does not prohibit a court and a county from entering into an agreement
1036 regarding release.
- 1037 Section 18. Section **77-20-402** is amended to read:
- 1038 **77-20-402 . Payment of monetary bail to court -- Specific payment methods --**
1039 **Refund of monetary bail.**
- 1040 (1) Subject to Subsection (2), a defendant may choose to post the amount of monetary bail
1041 imposed by a judge or magistrate by any of the following methods:
- 1042 (a) in cash;
1043 (b) by a bail bond with a surety; or
1044 [~~(c) by an unsecured bond, at the discretion of the judge or magistrate; or~~]
1045 [~~(d)~~] (c) by credit or debit card, at the discretion of the judge or magistrate.
- 1046 (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.

(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 19. **Repealer.**

This bill repeals:

Section **64-13e-105, Subcommittee on County Correctional Facility Contracting and Reimbursement -- Purpose -- Responsibilities -- Membership.**

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

Section 20. **Effective Date.**

This bill takes effect on September 1, 2025.