

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;
- modifies provisions related to contracting with federal and county entities to house individuals, and establishes reporting requirements;
- requires a county sheriff who permits probation to establish probation standards and procedures adopted by the Utah Sheriffs' Association;
- prohibits the use of state funds for a syringe exchange program;
- adds "detention removal officer" to the definition of federal officers who have statewide law enforcement authority;
- prohibits the Department of Corrections from housing inmates in a private correctional facility, unless the purpose is federal immigration detention or civil detention;
- modifies definitions related to the state daily incarceration rate;
- 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;
- 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;
- modifies provisions related to interlocal agreements regarding release of incarcerated or supervised individuals;
- repeals the Subcommittee on County Correctional Facility Contracting and Reimbursement;
- repeals outdated provisions; and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 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapter 419
- 17-22-5.6 (Effective 09/01/25)**, as enacted by Laws of Utah 2024, Chapter 16
- 26B-7-117 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapter 250
- 53-13-106 (Effective 09/01/25)**, as last amended by Laws of Utah 2020, Chapter 153
- 64-13d-103 (Effective 09/01/25)**, as enacted by Laws of Utah 1999, Chapter 288
- 64-13e-102 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapter 467
- 64-13e-103 (Effective 07/01/25)**, as last amended by Laws of Utah 2023, Chapter 246
- 64-13e-103.1 (Effective 07/01/25)**, as last amended by Laws of Utah 2024, Chapter 467
- 64-13e-103.3 (Effective 09/01/25)**, as enacted by Laws of Utah 2023, Chapter 246
- 64-13g-102 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapter 208
- 76-5-114 (Effective 09/01/25)**, as renumbered and amended by Laws of Utah 2022, Chapter 181
- 77-18-102 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapters 245, 434
- 77-18-103 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434

63 **77-20-103 (Effective 09/01/25)**, as renumbered and amended by Laws of Utah 2021,
64 Second Special Session, Chapter 4

65 **77-20-203 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapter 16

66 **77-20-204 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapter 16

67 **77-20-205 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapters 187,
68 434

69 REPEALS:

70 **64-13e-105 (Effective 09/01/25)**, as last amended by Laws of Utah 2024, Chapter 467

71 **77-27-21.9 (Effective 09/01/25)**, as enacted by Laws of Utah 2008, Chapter 309

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

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

75 **17-22-5.5 (Effective 09/01/25). Sheriff's classification of jail facilities --**
76 **Maximum operating capacity of jail facilities -- Limitations on contracting -- Transfer or**
77 **release of prisoners -- Records regarding release.**

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

79 (i) subject to Subsection (1)(b), the classification of each jail facility or section of a
80 jail facility under the sheriff's control;

81 (ii) the nature of each program conducted at a jail facility under the sheriff's control;
82 and

83 (iii) the internal operation of a jail facility under the sheriff's control.

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

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

87 (a) with the approval of the county legislative body, establish a maximum operating
88 capacity for each jail facility under the sheriff's control, based on facility design and
89 staffing; and

90 (b) upon a jail facility reaching the jail facility's maximum operating capacity:

91 (i) transfer prisoners to another appropriate facility:

92 (A) under the sheriff's control; or

93 (B) available to the sheriff by contract;

94 (ii) subject to the requirements of Subsection (4), release prisoners:

95 (A) to a supervised release program, according to release criteria established by
96 the sheriff; or

- 97 (B) to another alternative incarceration program developed by the sheriff; or
98 (iii) admit prisoners in accordance with law and a uniform admissions policy
99 imposed equally upon all entities using the county jail.
- 100 (3)(a) The sheriff shall keep records of the release status and the type of release program
101 or alternative incarceration program for any prisoner released under Subsection
102 (2)(b)(ii).
- 103 (b) The sheriff shall make these records available upon request to the Department of
104 Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.
- 105 (4) A sheriff may not release an individual due to overcrowding who, based on information
106 that is reasonably available to the sheriff:
- 107 (a) is arrested or convicted of a violent criminal offense as defined in Section
108 76-3-203.10;
- 109 (b) is arrested or convicted of a drug offense that is a felony;
- 110 (c) is arrested or convicted of possession of any composition or mixture, including pills,
111 that contains 100 grams or more of fentanyl or a fentanyl-related substance;
- 112 (d) is arrested or convicted of an offense of driving under the influence or driving with a
113 measurable controlled substance in the body, if the offense results in death or serious
114 bodily injury to an individual;
- 115 (e) has been previously booked into the same jail within the immediately preceding
116 12-month period; or
- 117 (f) has an outstanding warrant for failing to appear in a case:
- 118 (i) involving any charge described in Subsections (4)(a) through (4)(d); or
119 (ii) where the individual classifies as a habitual offender as defined in Section
120 77-18-102.
- 121 ~~[(4)]~~ (5)(a) This section may not be construed to authorize a sheriff to modify provisions
122 of a contract with the Department of Corrections to house in a county jail an
123 individual sentenced to the Department of Corrections.
- 124 (b) A county contracting with another county to house an individual due to capacity
125 issues:
- 126 (i) shall contract with a county that:
- 127 (A) has available capacity in its county jail; and
- 128 (B) agrees to contract to house the individual;
- 129 (ii) shall, subject to the agreement of the parties to the contract, pay to the county
130 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; and

(iii) if the county is a county of the first class, and if the county or a sheriff in the county has released an individual due to overcrowding ~~§~~→ [within the previous fiscal] ←§

§→ [year] during the lookback period described in Subsection (5)(c) ←§ , the county:

(A) may not enter into a new contract with a federal agency for the purpose of housing individuals;

(B) may not house federal detainees in a number that exceeds the number of beds that the county has contracted for with a federal agency in the current fiscal year; and

(C) shall publish daily totals on the public data dashboard showing:

(I) the total number of federal detainees held;

(II) the total number of beds under contract with a federal agency; and

(III) the total number of beds that are currently under contract with another county for the purpose of housing individuals.

§→ (c) The lookback period described in Subsection (5)(b)(iii) is:

(i) beginning on September 1, 2025, the period that begins on September 1, 2025 and ends on August 31, 2026; and

(ii) for September 1, 2026 forward, the period that begins on September 1 of the previous calendar year and ends on August 31 of the current calendar year. ←§

~~[(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 2. Section **17-22-5.6** is amended to read:

17-22-5.6 (Effective 09/01/25). 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 3. Section **26B-7-117** is amended to read:

26B-7-117 (Effective 09/01/25). 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;
 - (B) testing for a blood-borne disease; and
 - (C) an opiate antagonist; and
 - (c) report annually to the department the following information about the program's activities:
 - (i) the number of individuals who have exchanged syringes;
 - (ii) the number of used syringes exchanged for new syringes; and
 - (iii) the number of new syringes provided in exchange for used syringes.
- (3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).
- (4) The use of state funds to operate a syringe exchange program is prohibited. Nothing in this section should be construed to prohibit the use or distribution of municipal, county, or federal funds in operating or financing a syringe exchange program under this section.

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

53-13-106 (Effective 09/01/25). Federal officers -- State law enforcement authority.

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

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

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

(c) "Federal officer" includes:

- (i) a special agent of the Federal Bureau of Investigation;
- (ii) a special agent of the United States Secret Service;
- (iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector~~[-or detention removal officer]~~;
- (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;
- (v) a special agent of the Drug Enforcement Administration;
- (vi) a United States marshal, deputy marshal, and special deputy United States marshal;
- (vii) a U.S. postal inspector of the United States Postal Inspection Service; and
- (viii) a police officer of the Department of Veterans Affairs.

(d)(i) Federal officers listed in Subsection (1)(c) have statewide law enforcement authority relating to felony offenses under the laws of this state. [-]This Subsection (1)(d)(i) takes precedence over Subsection (2).

(ii) Federal agencies and federal employees may exercise law enforcement authority related to misdemeanor and felony offenses under Utah law only as established by an agreement as provided in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7. This Subsection (1)(d)(ii) takes precedence over Subsection (2).

(iii) Consistent with Section 53-13-106.9, county sheriffs may enter into agreements with federal agencies that allow concurrent authority to enforce federal laws and state and local laws, provided that:

- (A) the agreement is limited to a term of not more than two years; and
- (B) the officers granted authority under the agreement have completed a 20-hour training course that is focused on Utah criminal law and procedure and that is approved by the director of the Peace Officer Standards and Training Division.
- (e) The council may designate other federal peace officers, as necessary, if the officers:
- (i) are persons employed full-time by the United States government as federally recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;
 - (ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and
 - (iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.
- (2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:
- (a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and
 - (b) except as provided in Subsection (3), each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.
- (3) A federal officer working as such in the state on or before July 1, 1995, may exercise 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 **64-13d-103** is amended to read:

64-13d-103 (Effective 09/01/25). 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 6. Section **64-13e-102** is amended to read:

64-13e-102 (Effective 09/01/25). 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) "Average state daily incarceration cost" means the average cost incurred by the department per bed day over 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.

~~[(2)]~~ (3) "Board" means the Board of Pardons and Parole.

~~[(3)]~~ (4) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

~~[(4)]~~ (5)(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

- 362 entered;
- 363 (iv) on a hold instituted by the federal Immigration and Customs Enforcement
- 364 Agency of the United States Department of Homeland Security; or
- 365 (v) after the termination of probation if the state probationary inmate is:
- 366 (A) sentenced to prison; or
- 367 (B) eligible for release.
- 368 ~~[(5)]~~ (6) "Department" means the Department of Corrections, created in Section 64-13-2.
- 369 ~~[(6)]~~ (7) "Division" means the Division of Finance, created in Section 63A-3-101.
- 370 ~~[(7)]~~ (8)(a) "Eligible bed day" means a day spent by a state probationary inmate or a state
- 371 parole inmate in a county correctional facility that is eligible for reimbursement
- 372 under Section 64-13e-104.
- 373 (b) "Eligible bed day" includes:
- 374 (i) a condition of probation day;
- 375 (ii) a parole hold day;
- 376 (iii) a parole sanction day; and
- 377 (iv) a probation sanction day.
- 378 ~~[(8)]~~ (9)(a) "Parole hold day" means a day spent in a county correctional facility by a
- 379 state parole inmate under Subsection 64-13-29(3) based on a suspected violation of
- 380 the state parole inmate's terms of parole.
- 381 (b) "Parole hold day" does not include a day spent in a county correctional facility by a
- 382 state parole inmate:
- 383 (i) after the state parole inmate has spent 72 hours, excluding weekends and holidays,
- 384 for a single suspected violation of the state parole inmate's terms of parole; or
- 385 (ii) as a parole sanction day.
- 386 ~~[(9)]~~ (10)(a) "Parole sanction day" means a day spent in a county correctional facility by
- 387 a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the
- 388 state parole inmate's terms of parole.
- 389 (b) "Parole sanction day" includes not more than three consecutive days and not more
- 390 than a total of five days within a period of 30 days for each sanction.
- 391 (c) "Parole sanction day" does not include a parole hold day.
- 392 ~~[(10)]~~ (11)(a) "Probation sanction day" means a day spent in a county correctional
- 393 facility by a state probationary inmate as a sanction under Subsection 64-13-6(2)
- 394 based on a violation of the state probationary inmate's terms of probation.
- 395 (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.

(12) "Rate surplus" means the dollar amount by which the average state daily incarceration cost for a given year exceeds 105% of the prior year's state daily incarceration rate.

~~[(11)] (13) "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:] the daily per bed dollar basis upon which the department will calculate payments to other parties for housing state inmates and state probationary inmates.~~

~~[(a) executive overhead;]~~

~~[(b) administrative overhead;]~~

~~[(c) transportation overhead;]~~

~~[(d) division overhead; and]~~

~~[(e) motor pool expenses.]~~

~~[(12)] (14) "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)] (15) "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)] (16) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).~~

~~[(15)] (17) "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 7. Section **64-13e-103** is amended to read:

64-13e-103 (Effective 07/01/25). 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)(ii)]~~ (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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(7)]~~ (6) The department may enter into a contract with a county government to house

inmates without complying with the approval process described in Subsection [(6)] (5) only if the county facility was under construction, or already in existence, on March 16, 2001.

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

Section 8. Section ~~64-13e-103.1~~ is amended to read:

64-13e-103.1 (Effective 07/01/25). Calculating the average state daily incarceration cost and the state incarceration rate.

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

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

~~[(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.]~~

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

(a) calculate the average state daily incarceration cost; and:

(i) if the average state daily incarceration cost equals more than 105% of the previous year's state daily incarceration rate:

(A) set the state daily incarceration rate at 105% of the prior year's state daily incarceration rate; and

(B) record that year's rate surplus; or

(ii) if the average state daily incarceration cost is less than 105% of the previous year's state daily incarceration rate:

(A) set the state daily incarceration rate at the state daily incarceration cost; or

(B) if in any one or more of the prior three years there existed a rate surplus, and that rate surplus has not been used to augment the state daily incarceration cost in another year, add the rate surplus or surpluses to the state daily incarceration cost and set the state daily incarceration rate to that combined amount, up to 105% of the previous year's state daily incarceration rate; and

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

(2) Except as provided in Subsections (3) and (4), 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.

(3) Notwithstanding any other provision in this section, in a fiscal year where General Fund

revenue growth is not sufficient to fund the state daily incarceration rate presented to the Executive Appropriations Committee, the state daily incarceration rate shall be reset by the Executive Appropriations Committee in an appropriations act.

- (4) For the fiscal year beginning July 1, 2025, only, the state daily incarceration rate is \$120.75.

Section 9. Section **64-13e-103.3** is amended to read:

64-13e-103.3 (Effective 09/01/25). 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 10. Section **64-13g-102** is amended to read:

64-13g-102 (Effective 09/01/25). Adult Probation and Parole Employment Incentive Program.

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

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

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

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

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

(c) the recidivism percentage, using applicable recidivism metrics described in

- Subsections 63M-7-102(1) and (3);
- (d) the number and percentage of individuals who successfully complete parole or felony probation;
- (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;
- (f) the number of individuals who successfully complete parole and, during the entire six months before the day on which the individuals' parole ends, held eligible employment; and
- (g) the number of individuals who successfully complete felony probation and, during the entire six months before the day on which the individuals' parole ended, held eligible employment.
- (4) In addition to the information described in Subsection (3), the department shall report, for each region, the number and types of parole or probation programs that were created, replaced, or discontinued during the preceding fiscal year.
- (5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:
- (a) add the region's baseline parole employment rate and the region's baseline probation employment rate;
- (b) add the region's parole employment rate and the region's probation employment rate;
- (c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and
- (d)(i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment incentive payment of zero to the region; or
- (ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater than zero, assign an employment incentive payment to the region by:
- (A) multiplying the rate difference by the average daily population for that region; and
- (B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by \$2,500.
- (6) In addition to the employment incentive payment described in Subsection (5), after

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

(7) The employment incentive payment, or end-of-supervision employment supervision payment, for a region is zero if the recidivism percentage for the region, described in Subsection (3)(c), represents an increase in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

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

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

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

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

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

Section 11. Section **76-5-114** is amended to read:

76-5-114 (Effective 09/01/25). Commission of domestic violence in the presence of a child.

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

(i) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(ii) "Criminal homicide offense" means an offense listed in Subsection 76-5-201(2).

(iii) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(iv) "In the presence of a child" means:

(A) in the physical presence of a child; or

(B) having knowledge that a child is present and may see or hear an act of domestic violence.

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

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

(a) commits or attempts to commit a criminal homicide offense against a cohabitant in the presence of a child;

(b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child;~~or~~

(c) intentionally or knowingly impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence by applying pressure to the neck or throat of an individual or obstructing the nose, mouth, or airway of an individual, in the presence of a child; or

~~[(e)] (d)~~ under circumstances not amounting to a violation of Subsection (2)(a)~~[(a)]~~ , (2)(b), or (2)(c), commits an act of domestic violence in the presence of a child.

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

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

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

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

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

Section 12. Section **77-18-102** is amended to read:

77-18-102 (Effective 09/01/25). Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

- (a)(i) 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 13. Section **77-18-103** is amended to read:

77-18-103 (Effective 09/01/25). Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

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

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

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

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

(3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence

investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203

(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

(c) recommendations for treatment for the defendant; and

(d) the number of days since the commission of the offense that the defendant has spent

in the custody of the jail and the number of days, if any, the defendant was released

to a supervised release program or an alternative incarceration program under Section

17-22-5.5.

(4) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(5)(a)(i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the department or the law enforcement agency.

(b) The department shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial

Council or for use by the department or law enforcement agency.

(7)(a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

(8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(9)(a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

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

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

Section 14. Section **77-20-103** is amended to read:

77-20-103 (Effective 09/01/25). 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;

- 838 (ii) for each of the categories described in Subsection (1)(b)(i), the average length of
839 time that the outstanding warrants had been outstanding; and
- 840 (iii) for each of the categories described in Subsection (1)(b)(i), the number of
841 outstanding warrants for arrest for crimes of each of the following categories:
842 (A) a first degree felony;
843 (B) a second degree felony;
844 (C) a third degree felony;
845 (D) a class A misdemeanor;
846 (E) a class B misdemeanor; and
847 (F) a class C misdemeanor.
- 848 (2) Each county jail shall submit the following data, based on the preceding calendar year,
849 to the Commission of Criminal and Juvenile Justice before July 1 of each year:
- 850 (a) the number of individuals released upon payment of monetary bail before appearing
851 before a court;
- 852 (b) the number of individuals released on the individual's own recognizance before
853 appearing before a court;[~~and~~]
- 854 (c) the amount of monetary bail, any fees, and any other money paid by or on behalf of
855 individuals collected by the county jail[:];
- 856 (d) the number of individuals released as a result of overcrowding; and
- 857 (e) the number of individuals released on pretrial release.
- 858 (3) The Commission on Criminal and Juvenile Justice shall compile the data collected
859 under this section and shall submit the compiled data in an electronic report to the Law
860 Enforcement and Criminal Justice Interim Committee before November 1 of each year.
- 861 Section 15. Section **77-20-203** is amended to read:
- 862 **77-20-203 (Effective 09/01/25). County sheriff authority to release an individual**
863 **from jail on own recognizance.**
- 864 (1) As used in this section:
- 865 (a)(i) "Qualifying domestic violence offense" means the same as that term is defined
866 in Subsection 77-36-1.1(4).
- 867 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
868 described in Section 76-6-106.
- 869 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
- 870 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 871 (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 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;

- 906 (viii) the individual's health condition;
- 907 (ix) any potential risks to a victim, a witness, or the public; and
- 908 (x) any other similar factor a sheriff determines is relevant.
- 909 (5)(a)(i) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an
- 910 individual for no less than eight hours and up to 24 hours from booking if[.] the
- 911 individual is on supervised probation or parole and that information is reasonably
- 912 available.
- 913 ~~[(i) the individual is on supervised probation or parole and that information is~~
- 914 ~~reasonably available; and]~~
- 915 ~~[(ii) the individual was arrested for:]~~
- 916 ~~[(A) a violent felony; or]~~
- 917 ~~[(B) a qualifying domestic violence offense]~~
- 918 (ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than
- 919 eight hours if:
- 920 (A) the entity supervising the individual on probation or parole informs the jail
- 921 that the supervising entity does not intend to place a hold on the individual; and
- 922 (B) a court or magistrate has ordered a release.
- 923 (b) [The] Before any release, a jail facility shall:
- 924 (i) notify the entity supervising the individual's probation or parole that the individual
- 925 is being detained and provide that entity an opportunity to place a hold on the
- 926 individual; and
- 927 (ii) only release the individual:
- 928 (A) to the Department of Corrections if the Department of Corrections supervises
- 929 the individual and requests the individual's release; or
- 930 (B) if a court or magistrate orders release.
- 931 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
- 932 accordance with this chapter for a new criminal offense.
- 933 (6) This section does not prohibit a court and a county from entering into an agreement
- 934 regarding release, except that any such agreement shall apply only to an individual who
- 935 meets the criteria in an agreement as those criteria existed as of January 1, 2025.
- 936 Section 16. Section **77-20-204** is amended to read:
- 937 **77-20-204 (Effective 09/01/25). County jail authority to release an individual**
- 938 **from jail on monetary bail.**
- 939 (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;

- 974 (iii) the individual agrees in writing to appear for any future criminal proceedings
975 related to the arrest; and
- 976 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 977 (b)(i) the individual is arrested for, or charged with, an eligible felony offense;
- 978 (ii) the individual is not on pretrial release for a separate criminal offense;
- 979 (iii) the individual is not on probation or parole;
- 980 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 981 (v) the individual agrees in writing to appear for any future criminal proceedings
982 related to the arrest; and
- 983 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 984 (3) A county jail official may not fix a financial condition at a monetary amount that
985 exceeds:
- 986 (a) \$5,000 for an eligible felony offense;
- 987 (b) \$1,950 for a class A misdemeanor offense;
- 988 (c) \$680 for a class B misdemeanor offense;
- 989 (d) \$340 for a class C misdemeanor offense;
- 990 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
991 misdemeanor; or
- 992 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
993 misdemeanor.
- 994 (4) If an individual is arrested for more than one offense, and the county jail official fixes a
995 financial condition for release:
- 996 (a) the county jail official shall fix the financial condition at a single monetary amount;
997 and
- 998 (b) the single monetary amount may not exceed the monetary amount under Subsection
999 (3) for the highest level of offense for which the individual is arrested.
- 1000 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual
1001 posts a financial condition fixed by a county jail official in accordance with this section.
- 1002 (6) If a county jail official fixes a financial condition for an individual, law enforcement
1003 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
1004 Criminal Procedure after the county jail official fixes the financial condition.
- 1005 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
1006 Rules of Criminal Procedure:
- 1007 (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, except that any such agreement shall apply only to an individual who meets the criteria in an agreement as those criteria existed as of January 1, 2025.

Section 17. Section **77-20-205** is amended to read:

77-20-205 (Effective 09/01/25). 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).

(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: ~~[(+)]~~ (A) there is substantial evidence to support the individual's arrest for the felony offense;

- 1042 [(ii)] (B) the individual committed the felony offense while:
- 1043 [(A)] (I) the individual was on parole or probation for a conviction of a felony
- 1044 offense; or
- 1045 [(B)] (II) the individual was released and awaiting trial on a previous charge for
- 1046 a felony offense; and
- 1047 [(iii)] (C) based on information reasonably available to the magistrate, the
- 1048 individual ~~[has at least nine cases where the individual has been charged or~~
- 1049 ~~convicted, or entered a plea of guilty, within five years from the day on which~~
- 1050 ~~the individual was arrested for the felony offense described in Subsection~~
- 1051 ~~(1)(e)(i)]~~ is a habitual offender as defined in Section 77-18-102.
- 1052 [(d)] (ii) ~~[Subsection (1)(e)]~~ This Subsection (1)(c) does not limit or prohibit a
- 1053 magistrate's authority to detain an individual who does not meet the requirements
- 1054 described in this Subsection (1)(c).
- 1055 (2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
- 1056 pretrial status order at an individual's first appearance before the court.
- 1057 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
- 1058 individual's first appearance before the court:
- 1059 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion
- 1060 for pretrial detention as described in Section 77-20-206;
- 1061 (ii) if a party requests a delay; or
- 1062 (iii) if there is good cause to delay the issuance.
- 1063 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection
- 1064 (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
- 1065 the issuance of a pretrial status order.
- 1066 (3)(a) When a magistrate or judge issues a pretrial status order, the pretrial status order
- 1067 shall:
- 1068 (i) release the individual on the individual's own recognizance during the time the
- 1069 individual awaits trial or other resolution of criminal charges;
- 1070 (ii) designate a condition, or a combination of conditions, to be imposed upon the
- 1071 individual's release during the time the individual awaits trial or other resolution
- 1072 of criminal charges; or
- 1073 (iii) order the individual to be detained during the time that individual awaits trial or
- 1074 other resolution of criminal charges.
- 1075 (b) In making a determination about pretrial release in a pretrial status order, the

- 1076 magistrate or judge may not give any deference to a magistrate's decision in a
1077 temporary pretrial status order.
- 1078 (4) In making a determination about pretrial release, a magistrate or judge shall impose:
- 1079 (a) only conditions of release that are reasonably available; and
- 1080 (b) conditions of release that reasonably ensure:
- 1081 (i) the individual's appearance in court when required;
- 1082 (ii) the safety of any witnesses or victims of the offense allegedly committed by the
1083 individual;
- 1084 (iii) the safety and welfare of the public; and
- 1085 (iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice
1086 process.
- 1087 (5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a
1088 condition, or combination of conditions, for pretrial release that requires an individual to:
- 1089 (a) not commit a federal, state, or local offense during the period of pretrial release;
- 1090 (b) avoid contact with a victim of the alleged offense;
- 1091 (c) avoid contact with a witness who:
- 1092 (i) may testify concerning the alleged offense; and
- 1093 (ii) is named in the pretrial status order;
- 1094 (d) not consume alcohol or any narcotic drug or other controlled substance unless
1095 prescribed by a licensed medical practitioner;
- 1096 (e) submit to drug or alcohol testing;
- 1097 (f) complete a substance abuse evaluation and comply with any recommended treatment
1098 or release program;
- 1099 (g) submit to electronic monitoring or location device tracking;
- 1100 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
1101 psychiatric treatment;
- 1102 (i) maintain employment or actively seek employment if unemployed;
- 1103 (j) maintain or commence an education program;
- 1104 (k) comply with limitations on where the individual is allowed to be located or the times
1105 that the individual shall be, or may not be, at a specified location;
- 1106 (l) comply with specified restrictions on personal associations, place of residence, or
1107 travel;
- 1108 (m) report to a law enforcement agency, pretrial services program, or other designated
1109 agency at a specified frequency or on specified dates;

- 1110 (n) comply with a specified curfew;
- 1111 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 1112 (p) if the individual is charged with an offense against a child, limit or prohibit access to
- 1113 any location or occupation where children are located, including any residence where
- 1114 children are on the premises, activities where children are involved, locations where
- 1115 children congregate, or where a reasonable person would know that children
- 1116 congregate;
- 1117 (q) comply with requirements for house arrest;
- 1118 (r) return to custody for a specified period of time following release for employment,
- 1119 schooling, or other limited purposes;
- 1120 (s) remain in custody of one or more designated individuals who agree to:
- 1121 (i) supervise and report on the behavior and activities of the individual; and
- 1122 (ii) encourage compliance with all court orders and attendance at all required court
- 1123 proceedings;
- 1124 (t) comply with a financial condition; or
- 1125 (u) comply with any other condition that is reasonably available and necessary to ensure
- 1126 compliance with Subsection (4).
- 1127 (6)(a) If a county or municipality has established a pretrial services program, the
- 1128 magistrate or judge shall consider the services that the county or municipality has
- 1129 identified as available in determining what conditions of release to impose.
- 1130 (b) The magistrate or judge may not order conditions of release that would require the
- 1131 county or municipality to provide services that are not currently available from the
- 1132 county or municipality.
- 1133 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of
- 1134 release not identified by the county or municipality so long as the condition does not
- 1135 require assistance or resources from the county or municipality.
- 1136 (7)(a) If the magistrate or judge determines that a financial condition, other than an
- 1137 unsecured bond, is necessary to impose as a condition of release, the magistrate or
- 1138 judge shall consider the individual's ability to pay when determining the amount of
- 1139 the financial condition.
- 1140 (b) If the magistrate or judge determines that a financial condition is necessary to impose
- 1141 as a condition of release, and a county jail official fixed a financial condition for the
- 1142 individual under Section 77-20-204, the magistrate or judge may not give any
- 1143 deference to:

- 1144 (i) the county jail official's action to fix a financial condition; or
1145 (ii) the amount of the financial condition that the individual was required to pay for
1146 pretrial release.
- 1147 (c) If a magistrate or judge orders a financial condition as a condition of release, the
1148 judge or magistrate shall set the financial condition at a single amount per case.
- 1149 (8) In making a determination about pretrial release, the magistrate or judge may:
- 1150 (a) rely upon information contained in:
- 1151 (i) the indictment or information;
- 1152 (ii) any sworn or probable cause statement or other information provided by law
1153 enforcement;
- 1154 (iii) a pretrial risk assessment;
- 1155 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 1156 (v) witness statements or testimony;
- 1157 (vi) the results of a lethality assessment completed in accordance with Section
1158 77-36-2.1; or
- 1159 (vii) any other reliable record or source, including proffered evidence; and
- 1160 (b) consider:
- 1161 (i) the nature and circumstances of the offense, or offenses, that the individual was
1162 arrested for, or charged with, including:
- 1163 (A) whether the offense is a violent offense; and
- 1164 (B) the vulnerability of a witness or alleged victim;
- 1165 (ii) the nature and circumstances of the individual, including the individual's:
- 1166 (A) character;
- 1167 (B) physical and mental health;
- 1168 (C) family and community ties;
- 1169 (D) employment status or history;
- 1170 (E) financial resources;
- 1171 (F) past criminal conduct;
- 1172 (G) history of drug or alcohol abuse; and
- 1173 (H) history of timely appearances at required court proceedings;
- 1174 (iii) the potential danger to another individual, or individuals, posed by the release of
1175 the individual;
- 1176 (iv) whether the individual was on probation, parole, or release pending an upcoming
1177 court proceeding at the time the individual allegedly committed the offense or

1178 offenses;
1179 (v) the availability of:
1180 (A) other individuals who agree to assist the individual in attending court when
1181 required; or
1182 (B) supervision of the individual in the individual's community;
1183 (vi) the eligibility and willingness of the individual to participate in various treatment
1184 programs, including drug treatment; or
1185 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
1186 law if released.

1187 (9) The magistrate or judge may not base a determination about pretrial release solely:
1188 (a) on the seriousness or type of offense that the individual is arrested for or charged
1189 with, unless the individual is arrested for or charged with a capital felony; or
1190 (b) on an algorithm or a risk assessment tool score.

1191 (10) An individual arrested for violation of a jail release agreement, or a jail release court
1192 order, issued in accordance with Section 78B-7-802:

1193 (a) may not be released before the individual's first appearance before a magistrate or
1194 judge; and
1195 (b) may be denied pretrial release by the magistrate or judge.

1196 Section 18. **Repealer.**

1197 This bill repeals:

1198 Section **64-13e-105, Subcommittee on County Correctional Facility Contracting and**
1199 **Reimbursement -- Purpose -- Responsibilities -- Membership.**

1200 Section **77-27-21.9, Sex offender assessment.**

1201 Section 19. **Effective Date.**

1202 (1) Except as provided in Subsection (2), this bill takes effect September 1, 2025.

1203 (2) The actions affecting the following sections take effect on July 1, 2025:

1204 (a) Section 64-13e-103 (Effective 07/01/25); and

1205 (b) Section 64-13e-103.1 (Effective 07/01/25).