

**Representative Stephanie Pitcher** proposes the following substitute bill:

**BAIL AND PRETRIAL RELEASE AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Pitcher**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill makes changes to provisions relating to bail.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides procedural changes related to law enforcement issued citations;
- ▶ creates a presumption of release for individuals arrested for certain criminal offenses while the individual awaits trial;
- ▶ provides that a person who is eligible for pretrial release shall be released under the least restrictive reasonably available conditions to ensure the appearance of the accused and the safety to the public;
- ▶ provides standards and guidance for imposition of pretrial release conditions and pretrial detention;
- ▶ creates a presumption of pretrial detention for certain criminal offenses;
- ▶ specifies the conditions under which a defendant may be denied pretrial release;
- ▶ specifies pretrial release conditions that may be ordered by the court;
- ▶ reduces the time allowance for bond forfeiture;
- ▶ creates a special revenue fund to fund pretrial services programs with money



26 obtained from bond forfeiture proceedings; and  
27       ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29       None

30 **Other Special Clauses:**

31       This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34       77-7-19, as last amended by Laws of Utah 2009, Chapter 292
- 35       77-7-20, as last amended by Laws of Utah 2018, Chapter 309
- 36       77-7-21, as last amended by Laws of Utah 2009, Chapter 292
- 37       77-17-8, as last amended by Laws of Utah 1988, Second Special Session, Chapter 4
- 38       77-18a-1, as last amended by Laws of Utah 2016, Chapter 234
- 39       77-20-1, as last amended by Laws of Utah 2019, Chapters 184 and 397
- 40       77-20-4, as last amended by Laws of Utah 2019, Chapter 397
- 41       77-20-7, as last amended by Laws of Utah 2016, Chapter 234
- 42       77-20-8, as last amended by Laws of Utah 1988, Chapter 160
- 43       77-20-8.5, as last amended by Laws of Utah 2016, Chapter 234
- 44       77-20-9, as last amended by Laws of Utah 2018, Chapter 281
- 45       77-20-10, as last amended by Laws of Utah 2016, Chapter 234
- 46       77-20b-101, as last amended by Laws of Utah 2016, Chapter 234
- 47       77-20b-102, as last amended by Laws of Utah 2016, Chapter 234
- 48       77-20b-104, as last amended by Laws of Utah 2016, Chapter 234
- 49       78A-2-220, as last amended by Laws of Utah 2013, Chapter 245

50 ENACTS:

51       63M-7-213, Utah Code Annotated 1953

52 REPEALS:

53       77-20-3, as last amended by Laws of Utah 2016, Chapter 234



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

56       Section 1. Section 63M-7-213 is enacted to read:

57 63M-7-213. Pretrial Release Programs Special Revenue Fund -- Funding -- Uses.

58 (1) As used in this section:

59 (a) "Commission" means the Commission on Criminal and Juvenile Justice created in  
60 Section [63M-7-201](#).

61 (b) "Fund" means the Pretrial Release Programs Special Revenue Fund created in this  
62 section.

63 (2) There is created an expendable special revenue fund known as the "Pretrial Release  
64 Programs Special Revenue Fund."

65 (3) The Division of Finance shall administer the fund in accordance with this section.

66 (4) The fund shall consist of:

67 (a) money collected and remitted to the fund under Section [77-20-9](#);

68 (b) appropriations from the Legislature;

69 (c) interest earned on money in the fund; and

70 (d) contributions from other public or private sources.

71 (5) The commission shall award grants from the fund to county agencies and other  
72 agencies the commission determines appropriate to assist counties with establishing and  
73 expanding pretrial services programs that serve the purpose of:

74 (a) assisting a court in making an informed decision regarding an individual's pretrial  
75 release; and

76 (b) providing supervision of an individual released from law enforcement custody on  
77 conditions pending a final determination of a criminal charge filed against the individual.

78 (6) The commission may retain up to 3% of the money deposited into the fund to pay  
79 for administrative costs incurred by the commission, including salary and benefits, equipment,  
80 supplies, or travel costs that are directly related to the administration of this section.

81 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
82 commission shall establish a grant application and review process for the expenditure of money  
83 from the fund.

84 (8) The grant application and review process shall describe:

85 (a) the requirements to complete the grant application;

86 (b) requirements for receiving funding;

87 (c) criteria for the approval of a grant application; and

- 88 (d) support offered by the commission to complete a grant application.  
89 (9) Upon receipt of a grant application, the commission shall:  
90 (a) review the grant application for completeness;  
91 (b) make a determination regarding the grant application;  
92 (c) inform the grant applicant of the commission's determination regarding the grant  
93 application; and  
94 (d) if approved, award grants from the fund to the grant applicant.  
95 (10) Before November 30 of each year, the commission shall provide an electronic  
96 report to the Law Enforcement and Criminal Justice Interim Committee regarding the status of  
97 the fund and expenditures made from the fund.

98 Section 2. Section 77-7-19 is amended to read:

99 **77-7-19. Appearance required by citation -- Arrest for failure to appear --**

100 **Transfer of cases -- Disposition of fines and costs.**

101 (1) ~~[A person]~~ An individual receiving a citation issued pursuant to Section 77-7-18  
102 shall appear ~~[before the magistrate]~~ in the court designated in the citation on or before the time  
103 and date specified in the citation unless ~~[the uniform bail schedule adopted by the Judicial~~  
104 ~~Council or Subsection 77-7-21(1) permits forfeiture of bail for the offense charged.]:~~

105 (a) the citation states that the court will, within five to 14 days, notify the individual of  
106 when to appear; or

107 (b) the individual is permitted to remit the fine and other penalties without a personal  
108 appearance in accordance with a uniform fine schedule adopted by the Judicial Council or by  
109 court order under Section 77-7-21.

110 (2) A citation may not require ~~[a person]~~ an individual to appear or contact the court  
111 sooner than five days or later than 14 days following its issuance.

112 ~~[(3)(a) A person who receives a citation and who fails to comply with Section 77-7-21~~  
113 ~~on or before the time and date and at the court specified is subject to arrest.]~~

114 ~~[(b) The magistrate may issue a warrant of arrest based upon a citation that was served~~  
115 ~~and filed in accordance with Section 77-7-20.]~~

116 ~~[(4) Except where otherwise provided by law, a citation or information issued for~~  
117 ~~violations of Title 41, Motor Vehicles, shall state that the person receiving the citation or~~  
118 ~~information shall appear before the magistrate who has jurisdiction over the offense charged.]~~

119 ~~[(5) Any justice court judge may, upon the motion of either the defense attorney or~~  
120 ~~prosecuting attorney, based on a lack of territorial jurisdiction or the disqualification of the~~  
121 ~~judge, transfer cases to a justice court with territorial jurisdiction or the district court within the~~  
122 ~~county.]~~

123 (3) If the individual cited does not appear before the court as directed by the citation or  
124 the court, or pay the fine as allowed by Section 77-7-21, the court may issue a bench warrant  
125 for the individual's arrest.

126 ~~[(6)]~~ (4) (a) Clerks and other administrative personnel serving the courts shall ~~[ensure~~  
127 ~~that all citations for violation of Title 41, Motor Vehicles, are filed in a court with jurisdiction~~  
128 ~~and venue and shall refuse to receive citations that should be filed in another court]~~ identify for  
129 the judge any citations over which the court may lack jurisdiction.

130 ~~[(b) Fines, fees, costs, and forfeitures imposed or collected for violations of Title 41,~~  
131 ~~Motor Vehicles, which are filed contrary to this section shall be paid to the entitled~~  
132 ~~municipality or county by the state, county, or municipal treasurer who has received the fines,~~  
133 ~~fees, costs, or forfeitures from the court which collected them.]~~

134 ~~[(c) The accounting and remitting of sums due shall be at the close of the fiscal year of~~  
135 ~~the municipality or county which has received fines, fees, costs, or forfeitures as a result of any~~  
136 ~~improperly filed citations.]~~

137 (b) Upon determining that the court lacks jurisdiction over a citation, the court shall:

138 (i) transfer the case to a court with jurisdiction;

139 (ii) if the court cannot readily identify a court with jurisdiction, dismiss the charges  
140 contained in the citation; and

141 (iii) notify the prosecutor of the transfer or dismissal.

142 (c) Any fine, fee, or forfeiture collected by a court that lacks jurisdiction shall be:

143 (i) transferred to the court receiving the case; or

144 (ii) if the case is dismissed, returned to the defendant.

145 Section 3. Section 77-7-20 is amended to read:

146 **77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing --**

147 **Contents of citations.**

148 (1) Except as provided in Subsection (4), a peace officer or ~~[public]~~ other authorized  
149 official who issues a citation pursuant to Section 77-7-18 shall give the citation to the

150 individual cited and shall, within five business days, electronically file the data from  
 151 Subsections (2)(a) through (2)(~~g~~)(h) with the court specified in the citation. The data  
 152 transmission shall use the court's electronic filing interface. A nonconforming filing is not  
 153 effective.

154 (2) The citation issued under authority of this chapter shall contain the following data:

155 (a) the name, address, and phone number of the court before which the individual is to  
 156 appear;

157 (b) the name and date of birth of the individual cited;

158 (c) a brief description of the offense charged;

159 (d) the date, time, and place at which the offense is alleged to have occurred;

160 (e) the date on which the citation was issued;

161 (f) the name of the peace officer or [~~public~~] official who issued the citation, and the  
 162 name of the arresting individual if [~~an arrest was made by a private party~~] a private party made  
 163 the arrest and the citation was issued in lieu of taking the arrested individual before a  
 164 magistrate;

165 (g) the [~~time and~~] date on or [~~before and after~~] date range during which the individual  
 166 is to appear or a statement that the court will notify the individual of the time to appear;

167 [~~(h) the address of the court in which the individual is to appear;~~]

168 [(~~t~~)] (h) whether the offense is a domestic violence offense; and

169 [(~~j~~)] (i) a notice containing substantially the following language:

170 READ CAREFULLY

171 This citation is not an information and will not be used as an information without your  
 172 consent. If an information is filed you will be provided a copy by the court. You MUST  
 173 appear in court on or before the time set in this citation or as directed by the court. IF YOU  
 174 FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

175 (3) By electronically filing the data with the court, the peace officer or [~~public~~] official  
 176 [~~certifies~~] affirms to the court that:

177 (a) the citation or information, including the summons and complaint, was [~~served~~  
 178 upon] delivered to the defendant [~~in accordance with the law~~];

179 (b) the defendant committed the offense set forth in the [~~served documents~~] citation;  
 180 and

181 (c) the court to which the defendant was directed to appear ~~[is the proper court pursuant~~  
 182 ~~to Section 77-7-21]~~ has jurisdiction over the offense charged.

183 (4) (a) If a citing law enforcement officer is not reasonably able to access the e-filing  
 184 system, the citation need not be filed electronically if being filed with a justice court.

185 (b) The court may accept an electronic filing received after five business days if:

186 (i) the defendant consents to the filing; and

187 (ii) the court finds the interests of justice would be best served by accepting the filing.

188 Section 4. Section 77-7-21 is amended to read:

189 **77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature**  
 190 **required -- Information, when required.**

191 (1) (a) ~~[A copy of the citation issued under Section 77-7-18 that is filed with the~~  
 192 ~~magistrate]~~ A citation filed with the court may [be used], with the consent of the defendant,  
 193 serve in lieu of an information to which the [person cited] defendant may plead guilty or no  
 194 contest to the charge or charges listed and be sentenced [or on which bail may be forfeited]  
 195 accordingly.

196 ~~[(b) With the magistrate's approval, a person may voluntarily forfeit bail without~~  
 197 ~~appearance being required in any case of a class B misdemeanor or less.]~~

198 ~~[(c) Voluntary forfeiture of bail shall be entered as a conviction and treated the same as~~  
 199 ~~if the accused pleaded guilty.]~~

200 (b) If provided by the uniform fine schedule described in Section 76-3-301.5, an  
 201 individual may remit the fine and other penalties without a personal appearance before the  
 202 court in any case charging a class B misdemeanor or lower offense, unless the charge is:

203 (i) a domestic violence offense as defined in Section 77-36-1;

204 (ii) a violation of Section 41-6a-502, driving under the influence of alcohol, drugs, or a  
 205 combination of both or with specified or unsafe blood alcohol concentration;

206 (iii) a violation of Section 41-6a-517, driving with any measurable controlled substance  
 207 in the body;

208 (iv) a violation of a local ordinance similar to the offenses described in Subsections

209 (1)(b)(i) through (iii); or

210 (v) a violation that appears to:

211 (a) affect a victim, as defined in Section 77-38a-102; or

212 (b) require restitution, as defined in Section 77-38a-102.

213 (c) The remittal of fines and other penalties shall be entered as a conviction and treated  
214 the same as if the accused pleaded no contest.

215 (d) If the person cited is under 18 years of age, [~~and if any of the charges allege a~~  
216 ~~violation of Title 41, Motor Vehicles,~~] the court shall promptly mail a copy or notice of the  
217 citation [~~or a notice of the citation~~] to the address as shown on the citation, to the attention of  
218 the parent or guardian of the defendant.

219 (2) [~~An information shall be filed and~~] If the individual pleads not guilty to the offense  
220 charged, further proceedings shall be held in accordance with the Rules of Criminal Procedure  
221 and all other applicable provisions of this code [~~if the person cited pleads not guilty to the~~  
222 ~~offense charged~~].

223 [~~(3) (a) The information is an original pleading.~~]

224 [~~(b) If a person cited waives by written agreement the filing of the information, the~~  
225 ~~prosecution may proceed on the citation.~~]

226 Section 5. Section 77-17-8 is amended to read:

227 **77-17-8. Mistake in charging offense -- Procedure -- Witnesses.**

228 If<sub>2</sub> at any time before verdict or judgment<sub>2</sub> a mistake [~~has been~~] is made in charging the  
229 proper offense, and [~~it appears that~~] there is probable cause to believe that the defendant is  
230 chargeable with another offense, the court may commit [~~him or require him to give bail under~~  
231 ~~Section 77-20-1 for his appearance to answer to the proper charge when filed, and may also~~  
232 ~~require witnesses to give bail for their appearance~~] the defendant or require the defendant to  
233 comply with one or more pretrial release conditions in accordance with Section 77-20-1 to  
234 ensure the defendant's appearance in court.

235 Section 6. Section 77-18a-1 is amended to read:

236 **77-18a-1. Appeals -- When proper.**

237 (1) A defendant may, as a matter of right, appeal from:

238 (a) a final judgment of conviction, whether by verdict or plea;

239 (b) an order made after judgment that affects the substantial rights of the defendant;

240 (c) an order adjudicating the defendant's competency to proceed further in a pending  
241 prosecution; or

242 (d) an order denying bail, as provided in [~~Subsection 77-20-1(8)~~] Section 77-20-1.



243 (2) In addition to any appeal permitted by Subsection (1), a defendant may seek  
244 discretionary appellate review of any interlocutory order.

245 (3) The prosecution may, as a matter of right, appeal from:

246 (a) a final judgment of dismissal, including a dismissal of a felony information  
247 following a refusal to bind the defendant over for trial;

248 (b) a pretrial order dismissing a charge on the ground that the court's suppression of  
249 evidence has substantially impaired the prosecution's case;

250 (c) an order granting a motion to withdraw a plea of guilty or no contest;

251 (d) an order arresting judgment or granting a motion for merger;

252 (e) an order terminating the prosecution because of a finding of double jeopardy or  
253 denial of a speedy trial;

254 (f) an order granting a new trial;

255 (g) an order holding a statute or any part of it invalid;

256 (h) an order adjudicating the defendant's competency to proceed further in a pending  
257 prosecution;

258 (i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for  
259 Execution, that an inmate sentenced to death is incompetent to be executed;

260 (j) an order reducing the degree of offense pursuant to Section 76-3-402; or

261 (k) an illegal sentence.

262 (4) In addition to any appeal permitted by Subsection (3), the prosecution may seek  
263 discretionary appellate review of any interlocutory order entered before jeopardy attaches.

264 Section 7. Section 77-20-1 is amended to read:

265 **77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing**  
266 **-- Motion to modify.**

267 (1) As used in this chapter:

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

269 (b) "Financial condition" or "monetary bail" means any monetary condition that may be  
270 imposed under Section 77-20-4 to secure an individual's pretrial release.

271 (c) "Pretrial release" or "bail" means release of an individual charged with or arrested  
272 for a criminal offense from law enforcement or judicial custody during the time the individual  
273 awaits trial or other resolution of the criminal charges.

274 (d) "Pretrial status order" means an order issued by the court exercising jurisdiction  
275 over an individual charged with a criminal offense that sets the terms and conditions of the  
276 individual's pretrial release or denies pretrial release and orders that the individual be detained  
277 pending resolution of the criminal charges.

278 ~~[(b)]~~ (e) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

279 ~~[(c)]~~ (f) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

280 (2) An individual charged with or arrested for a criminal offense shall be admitted to  
281 bail as a matter of right, except if the individual is charged with a:

282 (a) capital felony, when the court finds there is substantial evidence to support the  
283 charge;

284 (b) felony committed while on probation or parole, or while free on bail awaiting trial  
285 on a previous felony charge, when the court finds there is substantial evidence to support the  
286 current felony charge;

287 (c) felony when there is substantial evidence to support the charge and the court finds  
288 by clear and convincing evidence that the individual would constitute a substantial danger to  
289 any other individual or to the community, or is likely to flee the jurisdiction of the court, if  
290 released on bail;

291 (d) felony when the court finds there is substantial evidence to support the charge and it  
292 finds by clear and convincing evidence that the individual violated a material condition of  
293 release while previously on bail; or

294 (e) domestic violence offense if the court finds:

295 (i) that there is substantial evidence to support the charge; and

296 (ii) by clear and convincing evidence, that the individual would constitute a substantial  
297 danger to an alleged victim of domestic violence if released on bail.

298 ~~[(3) Any individual who may be admitted to bail may be released by posting bail in the~~  
299 ~~form and manner provided in Section 77-20-4, or on the individual's own recognizance, on~~  
300 ~~condition that the individual appear in court for future court proceedings in the case, and on any~~  
301 ~~other conditions imposed in the discretion of the magistrate or court that will reasonably:]~~

302 ~~[(a) ensure the appearance of the accused;]~~

303 ~~[(b) ensure the integrity of the court process;]~~

304 ~~[(c) prevent direct or indirect contact with witnesses or victims by the accused, if~~

305 appropriate; and]

306 [~~(d) ensure the safety of the public.~~]

307 (3) (a) A court exercising jurisdiction over an individual charged with or arrested for a  
308 criminal offense shall issue a pretrial status order designating the conditions to be imposed  
309 upon the individual's release or ordering that the individual be detained under this section  
310 during the time the individual awaits trial or other resolution of the criminal charges.

311 (b) A court granting pretrial release shall impose the least restrictive reasonably  
312 available conditions of release on the individual who is the subject of the pretrial status order  
313 that the court determines will reasonably ensure:

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

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

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

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

320 (c) (i) The court shall issue the pretrial status order without unnecessary delay.

321 (ii) If a prosecutor files a motion for detention under Subsection (6), the court may  
322 delay issuing the pretrial status order until after hearing the motion to detain if the court finds:

323 (A) the prosecutor's motion states a reasonable case for detention; and

324 (B) detaining the defendant until after the motion is heard is in the interests of justice  
325 and public safety.

326 (4) (a) Except as otherwise provided in this section or Section [77-20-3.5](#), the court  
327 shall order that an individual charged with a criminal offense be released on the individual's  
328 own recognizance, on condition that the individual appear at all required court proceedings, if  
329 the court finds that additional conditions are not necessary to reasonably ensure compliance  
330 with Subsection (3)(b).

331 (b) The court shall impose additional release conditions if the court finds that  
332 additional release conditions are necessary to reasonably ensure compliance with Subsection  
333 (3)(b). The conditions imposed may include that the individual:

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

335 (ii) avoid contact with a victim or victims of the alleged offense;

- 336 (iii) avoid contact with a witness or witnesses who may testify concerning the alleged  
337 offense that are named in the pretrial status order;
- 338 (iv) not use or consume alcohol, or any narcotic drug or other controlled substance  
339 except as prescribed by a licensed medical practitioner;
- 340 (v) submit to drug or alcohol testing;
- 341 (vi) complete a substance abuse evaluation and comply with any recommended  
342 treatment or release program;
- 343 (vii) submit to electronic monitoring or location device tracking;
- 344 (viii) participate in inpatient or outpatient medical, behavioral, psychological, or  
345 psychiatric treatment;
- 346 (ix) maintain employment, or if unemployed, actively seek employment;
- 347 (x) maintain or commence an education program;
- 348 (xi) comply with limitations on where the individual is allowed to be located or the  
349 times the individual shall be or may not be at a specified location;
- 350 (xii) comply with specified restrictions on personal associations, place of residence, or  
351 travel;
- 352 (xiii) report to a law enforcement agency, pretrial services program, or other designated  
353 agency at a specified frequency or on specified dates;
- 354 (xiv) comply with a specified curfew;
- 355 (xv) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 356 (xvi) if the individual is charged with an offense against a child, is limited or denied  
357 access to any location or occupation where children are, including any residence where children  
358 are on the premises, activities including organized activities in which children are involved,  
359 locations where children congregate, or where a reasonable person should know that children  
360 congregate;
- 361 (xvii) comply with requirements for house arrest;
- 362 (xviii) return to custody for a specified period of time following release for  
363 employment, schooling, or other limited purposes;
- 364 (xix) remain in the custody of one or more designated individuals who agree to  
365 supervise and report on the behavior and activities of the individual charged and to encourage  
366 compliance with all court orders and attendance at all required court proceedings;

367 (xx) comply with a financial condition; or

368 (xxi) comply with any other condition that is necessary to reasonably ensure  
369 compliance with Subsection (3)(b).

370 (c) If the court determines a financial condition, other than an unsecured bond, is  
371 necessary to impose on an individual as part of the individual's pretrial release, the court shall  
372 consider the individual's ability to pay when determining the amount of the financial condition.

373 (5) In making a determination under Subsection (3), the court may rely on the  
374 following:

375 (a) any form of pretrial services assessment;

376 (b) the nature and circumstances of the offense or offenses charged, including whether  
377 the charges include a violent offense and the vulnerability of witnesses or alleged victims;

378 (c) the nature and circumstances of the individual, including the individual's character,  
379 physical and mental health, family and community ties, employment status and history,  
380 financial resources, past criminal conduct, history of drug or alcohol abuse, and history of  
381 timely appearances at required court proceedings;

382 (d) the potential danger to another individual or individuals posed by the release of the  
383 individual;

384 (e) if the individual was on probation, parole, or release pending an upcoming court  
385 proceeding at the time the individual allegedly committed the offense;

386 (f) the availability of other individuals who agree to assist the individual in attending  
387 court when required or other evidence relevant to the individual's opportunities for supervision  
388 in the individual's community;

389 (g) the eligibility and willingness of the individual to participate in various treatment  
390 programs, including drug treatment; or

391 (h) other evidence relevant to the individual's likelihood of fleeing or violating the law  
392 if released.

393 (6) (a) If the criminal charges filed against the individual include one or more offenses  
394 eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the  
395 prosecution may file a motion for pretrial detention.

396 (b) Upon receiving a motion under Subsection (6)(a), the court shall set a hearing on  
397 the matter as soon as practicable.

398 (c) The individual who is the subject of the detention hearing has the right to be  
399 represented by counsel at the pretrial detention hearing and, if a court finds the individual is  
400 indigent under Section 78B-22-202, the court shall appoint counsel to represent the individual  
401 in accordance with Section 78B-22-203.

402 (d) The court shall give both parties the opportunity to make arguments and to present  
403 relevant evidence at the detention hearing.

404 (7) After hearing evidence on a motion for pretrial detention, the court may detain the  
405 individual if:

406 (a) the individual is accused of committing an offense that qualifies the individual for  
407 detention under Subsection (2) or Utah Constitution, Article I, Section 8;

408 (b) the prosecution demonstrates substantial evidence to support the charge, and meets  
409 all additional evidentiary burdens required under Subsection (2) or Utah Constitution, Article I,  
410 Section 8; and

411 (c) the court finds that no conditions that may be imposed upon granting the individual  
412 pretrial release will reasonably ensure compliance with Subsection (3)(b).

413 (8) (a) If an individual is charged with a criminal offense described in Subsection  
414 (8)(b), there is a rebuttable presumption that the individual be detained.

415 (b) Criminal charges that create a rebuttable presumption of detention under  
416 Subsection (8)(a) include:

417 (i) criminal homicide as defined in Section 75-5-201; and

418 (ii) any offense for which the term of imprisonment may include life.

419 (c) The individual may rebut the presumption of detention by demonstrating, by a  
420 preponderance of the evidence, that specified conditions of release will reasonably ensure  
421 compliance with Subsection (3)(b).

422 ~~[(4)(a)]~~ (9) Except as otherwise provided, the court issuing a pretrial warrant of arrest  
423 shall issue the initial pretrial status order ~~[denying or fixing the amount of bail shall be issued~~  
424 ~~by the magistrate or court issuing the warrant of arrest].~~

425 ~~[(b) A magistrate may set bail upon determining that there was probable cause for a~~  
426 ~~warrantless arrest.]~~

427 ~~[(c) A bail commissioner may set bail in a misdemeanor case in accordance with~~  
428 ~~Sections 10-3-920 and 17-32-1.]~~

429 ~~[(4)]~~ (10) (a) An individual arrested for a violation of a jail release agreement or jail  
 430 release court order issued in accordance with Section 77-20-3.5:

431 (i) may not be released before the accused's first judicial appearance; and

432 (ii) may be denied [~~bail~~] pretrial release by the court under Subsection (2).

433 ~~[(5) The magistrate or court may rely upon information contained in:]~~

434 ~~[(a) the indictment or information;]~~

435 ~~[(b) any sworn probable cause statement;]~~

436 ~~[(c) information provided by any pretrial services agency; or]~~

437 ~~[(d) any other reliable record or source.]~~

438 (b) Nothing in this section precludes or nullifies a jail release agreement or jail release  
 439 order required under Section 77-20-3.5.

440 ~~[(6)]~~ (11) (a) A motion to modify the initial pretrial status order may be made by a  
 441 party at any time upon notice to the opposing party sufficient to permit the opposing party to  
 442 prepare for hearing and to permit [~~any victim~~] each alleged victim to be notified and be present.

443 (b) Hearing on a motion to modify a pretrial status order may be held in conjunction  
 444 with a preliminary hearing or any other pretrial hearing.

445 (c) The [~~magistrate or~~] court may rely on information as provided in Subsection (5) and  
 446 may base its ruling on evidence provided at the hearing so long as each party is provided an  
 447 opportunity to present additional evidence or information relevant to bail.

448 ~~[(7)]~~ (12) Subsequent motions to modify [~~bail orders~~] a pretrial status order may be  
 449 made only upon a showing that there has been a material change in circumstances.

450 ~~[(8)]~~ (13) An appeal may be taken from an order of [~~any~~] a court denying bail to the  
 451 [~~Supreme Court~~] Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure,  
 452 which shall review the determination under Subsection ~~[(2)]~~ (7).

453 ~~[(9)]~~ (14) For purposes of this section, any arrest or charge for a violation of Section  
 454 76-5-202, Aggravated murder, is a capital felony unless:

455 (a) the prosecutor files a notice of intent to not seek the death penalty; or

456 (b) the time for filing a notice to seek the death penalty has expired and the prosecutor  
 457 has not filed a notice to seek the death penalty.

458 Section 8. Section 77-20-4 is amended to read:

459 **77-20-4. Bail to be posted in cash, by credit or debit card, or by written**

460 **undertaking -- Specific monetary bail methods.**

461 (1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a  
462 single amount per case or charge.

463 (b) Subject to Subsection (2), a defendant may choose to post the amount described in  
464 Subsection (1)(a) by any of the following methods:

465 (i) in cash;

466 (ii) by written undertaking with sureties;

467 (iii) by written undertaking without sureties, at the discretion of the judge or  
468 magistrate; or

469 (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

470 (2) A judge or magistrate may limit a defendant to a specific method of posting  
471 monetary bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

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

474 (b) in order to allow the defendant to voluntarily forfeit monetary bail in accordance  
475 with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared  
476 master offense table as one for which an appearance is not mandatory;

477 (c) if the defendant has failed to respond to a citation or summons and the offense with  
478 which the defendant is charged is listed in the shared master offense table as one for which an  
479 appearance is not mandatory;

480 (d) if a warrant is issued for the defendant solely for failure to pay a criminal judgment  
481 account receivable, as defined in Section 77-32a-101, and the defendant's monetary bail is  
482 limited to the amount owed; or

483 (e) if a court has entered a judgment of [~~bail~~] bond forfeiture under Section 77-20b-104  
484 in any case involving the defendant.

485 (3) [~~Bail~~] Monetary bail may not be accepted without receiving in writing at the time  
486 the monetary bail is posted the current mailing address, telephone number, and email address of  
487 the surety.

488 (4) [~~Bail posted~~] Monetary bail paid by debit or credit card, less the fee charged by the  
489 financial institution, shall be tendered to the courts.

490 (5) [~~Bail~~] Monetary bail refunded by the court may be refunded by credit to the debit or



491 credit card, or cash. The amount refunded shall be the full amount received by the court under  
492 Subsection (4), which may be less than the full amount of the monetary bail set by the court.

493 (6) Before refunding monetary bail that is posted by the defendant in cash, by credit  
494 card, or by debit card, the court may apply the amount posted toward accounts receivable, as  
495 defined in Section 77-32a-101, that are owed by the defendant in the priority set forth in  
496 Section 77-38a-404.

497 Section 9. Section 77-20-7 is amended to read:

498 **77-20-7. Duration of liability on undertaking -- Notices to sureties -- Exoneration**  
499 **if charges not filed.**

500 (1) (a) Except as provided in Subsection (1)(b), the principal and the sureties on [~~the~~] a  
501 bond or other written undertaking are liable on the bond or other written undertaking during all  
502 proceedings and for all court appearances required of the defendant up to and including the  
503 surrender of the defendant for sentencing, irrespective of any contrary provision in the bond or  
504 other written undertaking. Any failure of the defendant to appear when required is a breach of  
505 the conditions of the bond or other written undertaking [~~or bail~~] and subjects [~~it~~] the bond to  
506 forfeiture, regardless of whether or not notice of appearance was given to the sureties. Upon  
507 sentencing the [~~bail~~] bond or other written undertaking shall be exonerated without motion.

508 (b) If the sentence includes a commitment to a jail or prison, the [~~bail~~] bond or other  
509 written undertaking shall be exonerated when the defendant appears at the appropriate jail or  
510 prison, unless the judge does not require the defendant to begin the commitment within seven  
511 days, in which case the [~~bail~~] bond or other written undertaking is exonerated upon sentencing.

512 (c) For purposes of this section, an order of the court accepting a plea in abeyance  
513 agreement and holding that plea in abeyance pursuant to Title 77, Chapter 2a, Pleas in  
514 Abeyance, is considered to be the same as a sentencing upon a guilty plea.

515 (d) Any suspended or deferred sentencing is not the responsibility of the surety and the  
516 [~~bail~~] bond is exonerated without any motion, upon acceptance of the court and the defendant  
517 of a plea in abeyance, probation, fine payments, post sentencing reviews, or any other deferred  
518 sentencing reviews or any other deferred sentencing agreement.

519 (e) If a surety issues a bail bond after [~~the~~] sentencing, the surety is liable on the  
520 undertaking during all proceedings and for all court appearances required of the defendant up  
521 to and including the defendant's appearance to commence serving the sentence imposed under

522 Subsection (1).

523 (2) If ~~[no]~~ the prosecutor does not file an information [or], indictment [charging a  
524 person with an offense is filed in court within], or request to extend time 120 days after the date  
525 [of the bail undertaking or cash receipt] on which the bond or other written undertaking is  
526 received, the court [may] shall:

527 (a) relieve a person from conditions of release [at the person's request, and the bail  
528 bond or undertaking is exonerated without further order of the court unless the prosecutor  
529 requests an extension of time before the end of the 120-day period by:];

530 ~~[(a) filing a notice for extension with the court; and]~~

531 ~~[(b) serving the notice for extension upon the sureties and the person or his attorney.]~~

532 ~~[(3) A court may extend bail and conditions of release for good cause.]~~

533 (b) refund any monetary bail, as provided in Subsection [77-20-4\(5\)](#); and

534 (c) exonerate any bond or other written undertaking without further order of the court.

535 (3) (a) A request to extend time shall:

536 (i) be served on any surety and the defendant or the defendant's attorney; and

537 (ii) be granted for a period of up to 60 days.

538 (b) A court may grant a request to extend time for a period of up to 120 days upon a  
539 showing of good cause.

540 ~~[(4) Subsection (2)]~~

541 (c) An extension of time does not prohibit the proper filing of charges against a person  
542 at any time.

543 ~~[(5) If the court does not set on a calendar any hearings on a case within 18 months of~~  
544 ~~the last court docket activity on a case, the undertaking of bail is exonerated without motion.]~~

545 Section 10. Section **77-20-8** is amended to read:

546 **77-20-8. Grounds for detaining or releasing defendant on conviction and prior to**  
547 **sentence.**

548 (1) Upon conviction, by plea or trial, the court shall order that the convicted defendant  
549 who is waiting imposition or execution of sentence be detained, unless the court finds by clear  
550 and convincing evidence presented by the defendant that the defendant is not likely to flee the  
551 jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial  
552 and economic safety or well-being of any other person or the community if released.

553 (2) If the court finds the defendant does not need to be detained, the court shall order  
554 the release of the defendant on suitable conditions, which may include the conditions under  
555 Subsection [~~77-20-10(2)~~] 77-20-1(4).

556 Section 11. Section **77-20-8.5** is amended to read:

557 **77-20-8.5. Sureties -- Surrender of defendant -- Arrest of defendant.**

558 (1) (a) Sureties may at any time prior to a defendant's failure to appear surrender the  
559 defendant and obtain exoneration of monetary bail, by notifying the clerk of the court in which  
560 the monetary bail was posted of the defendant's surrender and requesting exoneration.

561 Notification shall be made immediately following the surrender by surface mail, electronic  
562 mail, or fax.

563 (b) To effect surrender, a certified copy of the surety's undertaking from the court in  
564 which it was posted or a copy of the monetary bail agreement with the defendant shall be  
565 delivered to the on-duty jailer, who shall detain the defendant in the on-duty jailer's custody as  
566 upon a commitment, and shall in writing acknowledge the surrender upon the copy of the  
567 undertaking or monetary bail agreement. The certified copy of the undertaking or copy of the  
568 monetary bail agreement upon which the acknowledgment of surrender is endorsed shall be  
569 filed with the court. The court may then, upon proper application, order the undertaking  
570 exonerated and [~~may~~] shall order a refund of any paid premium, or part of a premium, as it  
571 finds just.

572 (2) For the purpose of surrendering the defendant, the sureties may:

573 (a) arrest the defendant:

574 (i) at any time before the defendant is finally exonerated; and

575 (ii) at any place within the state; and

576 (b) surrender the defendant to any county jail booking facility in Utah.

577 (3) An arrest under this section is not a basis for exoneration of the [~~bail~~] bond under  
578 Section 77-20b-101.

579 (4) A surety acting under this section is subject to Title 53, Chapter 11, Bail Bond  
580 Recovery Act.

581 Section 12. Section **77-20-9** is amended to read:

582 **77-20-9. Disposition of forfeitures.**

583 If by reason of the neglect of the defendant to appear, money deposited [~~instead of bail~~]

584 as a financial condition or money paid by sureties on [~~bail~~] bond is forfeited and the forfeiture  
585 is not discharged or remitted, the clerk with whom it is deposited or paid shall, immediately  
586 after final adjournment of the court, pay over the money forfeited as follows:

587 ~~[(1) the forfeited bail amount in cases in or appealed from district courts shall be~~  
588 ~~distributed as provided in Section [78A-5-110](#);~~]

589 ~~[(2)]~~ (1) the forfeited [~~bail~~] amount in cases in precinct justice courts or in municipal  
590 justice courts shall be distributed as provided in Sections [78A-7-120](#) and [78A-7-121](#); and

591 ~~[(3) the forfeited bail in cases in justice courts where the offense is not triable in that~~  
592 ~~court shall be paid into the General Fund; and]~~

593 ~~[(4) the forfeited bail in cases not provided for in this section shall be paid 50% to the~~  
594 ~~state treasurer and the remaining 50% to the county treasurer in the county in which the~~  
595 ~~violation occurred or the forfeited bail is collected.]~~

596 (2) in all other cases:

597 (a) 60% of the forfeited bond shall be paid to the Pretrial Release Programs Special  
598 Revenue Fund established in Section [63M-7-213](#);

599 (b) 25% of the forfeited bond shall be paid to the General Fund; and

600 (c) 15% of the forfeited bond shall be paid to the prosecuting agency that brings an  
601 action to collect under Section [77-20b-104](#).

602 Section 13. Section **77-20-10** is amended to read:

603 **77-20-10. Grounds for detaining defendant while appealing the defendant's**  
604 **conviction -- Conditions for release while on appeal.**

605 (1) The court shall order that a defendant who has been found guilty of an offense in a  
606 court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an  
607 appeal or a petition for a writ of certiorari, be detained, unless the court finds:

608 (a) the appeal raises a substantial question of law or fact likely to result in:

609 (i) reversal;

610 (ii) an order for a new trial; or

611 (iii) a sentence that does not include a term of imprisonment in jail or prison;

612 (b) the appeal is not for the purpose of delay; and

613 (c) by clear and convincing evidence presented by the defendant that the defendant is  
614 not likely to flee the jurisdiction of the court, and will not pose a danger to the physical,

615 psychological, or financial and economic safety or well-being of any other person or the  
616 community if released.

617 (2) If the court makes a finding under Subsection (1) that justifies not detaining the  
618 defendant, the court shall order the release of the defendant, subject to conditions that result in  
619 the least restrictive [~~condition or combination of~~] reasonably available conditions that the court  
620 determines will reasonably [~~assure~~] ensure the appearance of the [~~person~~] defendant as required  
621 and the safety of any other [~~person~~] individual, property, and the community. The conditions  
622 may include [~~that the defendant:~~] the conditions described in Subsection [77-20-1\(4\)\(b\)](#).

623 [~~(a) post appropriate bail;~~]

624 [~~(b) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act, in  
625 an amount necessary to assure the appearance of the defendant as required;~~]

626 [~~(c) (i) execute a written agreement to forfeit, upon failing to appear as required,  
627 designated property, including money, as is reasonably necessary to assure the appearance of  
628 the defendant; and]~~

629 [~~(ii) post with the court indicia of ownership of the property or a percentage of the  
630 money as the court may specify;~~]

631 [~~(d) not commit a federal, state, or local crime during the period of release;~~]

632 [~~(e) remain in the custody of a designated person who agrees to assume supervision of  
633 the defendant and who agrees to report any violation of a release condition to the court, if the  
634 designated person is reasonably able to assure the court that the defendant will appear as  
635 required and will not pose a danger to the safety of any other person or the community;~~]

636 [~~(f) maintain employment, or if unemployed, actively seek employment;~~]

637 [~~(g) maintain or commence an educational program;~~]

638 [~~(h) abide by specified restrictions on personal associations, place of abode, or travel;~~]

639 [~~(i) avoid all contact with the victims of the offense and with any witnesses who  
640 testified against the defendant or potential witnesses who may testify concerning the offense if  
641 the appeal results in a reversal or an order for a new trial;~~]

642 [~~(j) report on a regular basis to a designated law enforcement agency, pretrial services  
643 agency, or other designated agency;~~]

644 [~~(k) comply with a specified curfew;~~]

645 [~~(l) not possess a firearm, destructive device, or other dangerous weapon;~~]

646 ~~[(m) not use alcohol, or any narcotic drug or other controlled substances except as~~  
647 ~~prescribed by a licensed medical practitioner;]~~

648 ~~[(n) undergo available medical, psychological, or psychiatric treatment, including~~  
649 ~~treatment for drug or alcohol dependency, and remain under the supervision of or in a specified~~  
650 ~~institution if required for that purpose;]~~

651 ~~[(o) return to custody for specified hours following release for employment, schooling,~~  
652 ~~or other limited purposes;]~~

653 ~~[(p) satisfy any other condition that is reasonably necessary to assure the appearance of~~  
654 ~~the defendant as required and to assure the safety of any other person and the community; and]~~

655 ~~[(q) if convicted of committing a sexual offense or an assault or other offense involving~~  
656 ~~violence against a child 17 years of age or younger, is limited or denied access to any location~~  
657 ~~or occupation where children are, including but not limited to:]~~

658 ~~[(i) any residence where children are on the premises;]~~

659 ~~[(ii) activities, including organized activities, in which children are involved; and]~~

660 ~~[(iii) locations where children congregate, or where a reasonable person should know~~  
661 ~~that children congregate.]~~

662 (3) The court may, in its discretion, amend an order granting release to impose  
663 additional or different conditions of release.

664 (4) If the defendant [~~has been~~] is found guilty of an offense in a court not of record and  
665 files a timely notice of appeal pursuant to Subsection [78A-7-118\(1\)](#) for a trial de novo, the  
666 court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a  
667 preponderance of the evidence that the defendant poses a danger to another person or the  
668 community.

669 (5) If a stay is ordered, the court may order post-conviction restrictions on the  
670 defendant's conduct as appropriate, including:

671 (a) continuation of any pre-trial restrictions or orders;

672 (b) sentencing protective orders under Section [77-36-5.1](#);

673 (c) drug and alcohol use;

674 (d) use of an ignition interlock; and

675 (e) posting appropriate monetary bail.

676 (6) The provisions of Subsections (4) and (5) do not apply to convictions for an offense

677 under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

678 (7) Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by  
679 the district court.

680 Section 14. Section **77-20b-101** is amended to read:

681 **77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on**  
682 **failure of timely notice.**

683 (1) If a defendant who has posted bail fails to appear before the appropriate court as  
684 required, the court shall within 30 days of the failure to appear issue a bench warrant that  
685 includes the original case number. The court shall also direct that the surety or surety insurer  
686 be given notice of the nonappearance. The clerk of the court shall:

687 (a) [~~mail~~] email notice of nonappearance [~~by certified mail, return receipt requested,~~  
688 ~~within 30 days~~] to [~~the address of~~] the surety or surety insurer at the email address provided on  
689 the bond;

690 [~~(b) notify the surety as listed on the bail bond of the name, address, and telephone~~  
691 ~~number of the prosecutor;~~]

692 [~~(c) deliver~~] (b) email a copy of the notice sent under Subsection (1)(a) to the  
693 prosecutor's office [~~at the same time notice is sent under Subsection (1)(a)~~]; and

694 [~~(d)~~] (c) ensure that the name, address, business email address, and telephone number  
695 of the surety [~~or~~], its agent, or surety insurer as listed on the [~~bail~~] bond is stated on the bench  
696 warrant[~~; and~~].

697 [~~(e) mail notice of the failure to appear to the bail bond agency and the surety insurer.~~]

698 (2) The prosecutor may [~~mail~~] email notice of nonappearance [~~by certified mail, return~~  
699 ~~receipt requested~~]; to the address of the surety or surety insurer as listed on the [~~bail~~] bond  
700 within 37 days after the date of the defendant's failure to appear.

701 (3) If notice of nonappearance is not [~~mailed~~] emailed to a surety or surety insurer as  
702 listed on the [~~bail~~] bond, other than the defendant, in accordance with Subsection (1) or (2), the  
703 surety or surety insurer and its [~~bail~~] bond producer are relieved of further obligation under the  
704 [~~bail~~] bond if the [~~surety's current name and address or the current name and address of the bail~~  
705 ~~bond agency are on the bail bond~~] surety or surety insurer have listed their current name and  
706 email addresses on the bond in the court's file.

707 (4) (a) (i) If a defendant appears in court within [~~seven~~] 30 days after a missed,

708 scheduled court appearance, the court may reinstate the [bait] bond without further notice to the  
709 surety or surety insurer.

710 (ii) If the defendant, while in custody, appears on the case for which the [bait] bond  
711 was posted, the court may not reinstate the [bait] bond without the consent of the bond  
712 company.

713 (b) If a defendant fails to appear within [~~seven~~] 30 days after a scheduled court  
714 appearance, the court may not reinstate the [bait] bond without the consent of the surety or  
715 surety insurer.

716 (c) If the defendant is arrested and booked into a county jail booking facility pursuant  
717 to a warrant for failure to appear on the original charges and the court is notified of the arrest,  
718 or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of  
719 judgment of forfeiture, the court shall exonerate the [bait] bond.

720 (d) Unless the court makes a finding of good cause why the bond should not be  
721 exonerated, it shall exonerate the [bait] bond if:

722 (i) the surety or surety insurer has delivered the defendant to the county jail booking  
723 facility in the county where the original charge or charges are pending;

724 (ii) the defendant has been released on a bond secured from a subsequent surety or  
725 surety insurer for the original charge and the failure to appear;

726 (iii) after an arrest, the defendant has escaped from jail or has been released on the  
727 defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail  
728 capacity, or by a sheriff's release under Section [17-22-5.5](#);

729 (iv) the surety or surety insurer has transported or agreed to pay for the transportation  
730 of the defendant from a location outside of the county back to the county where the original  
731 charge is pending, and the payment is in an amount equal to government transportation  
732 expenses listed in Section [76-3-201](#); or

733 (v) the surety or surety insurer demonstrates by a preponderance of the evidence that:

734 (A) at the time the surety or surety insurer issued the [bait] bond, it had made  
735 reasonable efforts to determine that the defendant was legally present in the United States;

736 (B) a reasonable person would have concluded, based on the surety's or surety insurer's  
737 determination, that the defendant was legally present in the United States; and

738 (C) the surety or surety insurer has failed to bring the defendant before the court



739 because the defendant is in federal custody or has been deported.

740 (e) Under circumstances not otherwise provided for in this section, the court may  
741 exonerate the [~~bail~~] bond if it finds that the prosecutor has been given reasonable notice of a  
742 surety's or surety insurer's motion and there is good cause for the [~~bail~~] bond to be exonerated.

743 (f) If a surety's [~~bail~~] or surety insurer's bond has been exonerated under this section  
744 and the surety or surety insurer remains liable for the cost of transportation of the defendant,  
745 the surety or surety insurer may take custody of the defendant for the purpose of transporting  
746 the defendant to the jurisdiction where the charge is pending.

747 Section 15. Section **77-20b-102** is amended to read:

748 **77-20b-102. Time for bringing defendant to court.**

749 (1) If notice of nonappearance [~~has been mailed~~] is emailed to a surety or surety insurer  
750 under Section **77-20b-101**, the surety or surety insurer may bring the defendant before the court  
751 or surrender the defendant into the custody of a county sheriff within the state within [~~six~~  
752 ~~months of~~] 90 days after the date of nonappearance, during which time a forfeiture action on  
753 the [~~bail~~] bond may not be brought.

754 (2) A surety or surety insurer may request an extension of the [~~six-month~~] 90-day time  
755 period in Subsection (1), if the surety or surety insurer within that time:

756 (a) files a motion for extension with the court; and

757 (b) mails the motion for extension and a notice of hearing on the motion to the  
758 prosecutor.

759 (3) The court may extend the [~~six-month~~] 90-day time in Subsection (1) for not more  
760 than 60 days, if the surety or surety insurer has complied with Subsection (2) and the court  
761 finds good cause.

762 Section 16. Section **77-20b-104** is amended to read:

763 **77-20b-104. Forfeiture of bail.**

764 (1) If a surety or surety insurer fails to bring the defendant before the court within the  
765 time provided in Section **77-20b-102**, the prosecuting attorney may request the forfeiture of the  
766 [~~bail~~] bond by:

767 (a) filing a motion for [~~bail~~] bond forfeiture with the court, supported by proof of  
768 notice to the surety or surety insurer of the defendant's nonappearance; and

769 (b) [~~mailing~~] emailing a copy of the motion to the surety or surety insurer.

770 (2) A court shall enter judgment of [~~bail~~] bond forfeiture without further notice if [~~it~~]  
771 the court finds by a preponderance of the evidence:

772 (a) the defendant failed to appear as required;

773 (b) the surety or surety insurer was given notice of the defendant's nonappearance in  
774 accordance with Section 77-20b-101;

775 (c) the surety or surety insurer failed to bring the defendant to the court within the  
776 [~~six-month~~] 90-day period under Section 77-20b-102; and

777 (d) the prosecutor has complied with the notice requirements under Subsection (1).

778 (3) If the surety or surety insurer shows by a preponderance of the evidence that it has  
779 failed to bring the defendant before the court because the defendant is deceased through no act  
780 of the surety or surety insurer, the court may not enter judgment of [~~bail~~] bond forfeiture and  
781 the [~~bail~~] bond is exonerated.

782 (4) The amount of [~~bail~~] the bond forfeited is the face amount of the [~~bail~~] bond, but if  
783 the defendant is in the custody of another jurisdiction and the state extradites or intends to  
784 extradite the defendant, the court may reduce the amount forfeited to the actual or estimated  
785 costs of returning the defendant to the court's jurisdiction. A judgment under Subsection (5)  
786 shall:

787 (a) identify the surety or surety insurer against whom judgment is granted;

788 (b) specify the amount of [~~bail~~] the bond forfeited;

789 (c) grant the forfeiture of the [~~bail~~] bond; and

790 (d) be docketed by the clerk of the court in the civil judgment docket.

791 (5) A prosecutor may immediately commence collection proceedings to execute a  
792 judgment of [~~bail~~] bond forfeiture against the assets of the surety.

793 Section 17. Section 78A-2-220 is amended to read:

794 **78A-2-220. Authority of magistrate.**

795 (1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3  
796 shall have the authority to:

797 (a) commit a person to incarceration prior to trial;

798 (b) set or deny bail under Section 77-20-1 and release upon the payment of monetary  
799 bail and satisfaction of any other conditions of release;

800 (c) issue to any place in the state summonses and warrants of search and arrest and

801 authorize administrative traffic checkpoints under Section 77-23-104;

802 (d) conduct an initial appearance;

803 (e) conduct arraignments;

804 (f) conduct a preliminary examination to determine probable cause;

805 (g) appoint attorneys and order recoupment of attorney fees;

806 (h) order the preparation of presentence investigations and reports;

807 (i) issue temporary orders as provided by rule of the Judicial Council; and

808 (j) perform any other act or function authorized by statute.

809 (2) A judge of the justice court may exercise the authority of a magistrate specified in

810 Subsection (1) with the following limitations:

811 (a) a judge of the justice court may conduct an initial appearance, preliminary  
812 examination, or arraignment as provided by rule of the Judicial Council; and

813 (b) a judge of the justice court may not [~~set bail~~] perform any act or function in a  
814 capital felony [~~nor deny bail in any~~] case.

815 Section 18. **Repealer.**

816 This bill repeals:

817 Section 77-20-3, **Release on own recognizance -- Changing amount of bail or**  
818 **conditions of release.**

819 Section 19. **Effective date.**

820 This bill takes effect on October 1, 2020.