

Criminal Justice Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor:

LONG TITLE**General Description:**

This bill amends statutory provisions related to criminal justice.

Highlighted Provisions:

This bill:

- modifies the venue for a criminal action;
 - clarifies the definition of cohabitant for the battered person mitigation statute;
 - defines and modifies terms related to domestic violence, including expanding the definition of a domestic violence offense;
 - addresses the right to bail for a domestic violence offense;
 - clarifies a term regarding a predominant aggressor when a law enforcement officer is responding to multiple incidents of domestic violence;
 - clarifies and amends definitions for protective order statutes, including the definition of cohabitant;
 - provides that a jail release agreement may not prohibit an individual arrested or cited for the commission of domestic violence in the presence of a child from communicating with a minor child in certain circumstances;
 - prohibits a parent from waiving the conditions of a jail release agreement when the minor child is the alleged victim and the parent was arrested or cited for the qualifying offense;
- and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-1-202, as last amended by Laws of Utah 2025, Chapter 291

31 **76-1-402**, as last amended by Laws of Utah 2025, Chapter 302
 32 **76-2-409**, as enacted by Laws of Utah 2020, Chapter 411
 33 **77-20-102**, as last amended by Laws of Utah 2025, Chapter 526
 34 **77-20-201**, as last amended by Laws of Utah 2025, Chapter 227
 35 **77-20-204**, as last amended by Laws of Utah 2025, Chapter 243
 36 **77-36-1**, as last amended by Laws of Utah 2025, Chapters 173, 208 and 277
 37 **77-36-2.2**, as last amended by Laws of Utah 2023, Chapter 447
 38 **78B-7-102**, as last amended by Laws of Utah 2025, Chapters 212, 332
 39 **78B-7-801**, as last amended by Laws of Utah 2025, Chapters 173, 284
 40 **78B-7-802**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4

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

43 Section 1. Section **76-1-202** is amended to read:

44 **76-1-202 . Venue for a criminal action.**

45 (1) As used in this section, "body of water" includes any stream, river, lake, or reservoir,
 46 whether natural or man-made.

47 ~~[(1)]~~ (2) ~~[Criminal actions]~~ A criminal action shall be tried in the county, judicial district, or
 48 precinct ~~[where]~~ in which the offense is alleged to have been committed.

49 (3)(a) In determining the proper place of trial~~[-, the following provisions shall apply:]~~ for
 50 a criminal action, this Subsection (3) shall apply.

51 ~~[(a)]~~ (b) If the commission of an offense commenced outside the state is consummated
 52 within this state, the ~~[offender]~~ actor shall be tried in the county ~~[where]~~ in which the
 53 offense is consummated.

54 ~~[(b)]~~ (c) When conduct constituting elements of an offense or results that constitute
 55 elements, whether the conduct or result constituting elements is in itself unlawful,
 56 shall occur in two or more counties, trial of the offense may be held in any of the
 57 counties concerned.

58 ~~[(e)]~~ (d) If ~~[a person]~~ an actor committing an offense upon ~~[the person of another]~~ a
 59 person is located in one county and ~~[his victim]~~ the person is located in another
 60 county at the time of the commission of the offense, the trial may be held in either
 61 county.

62 ~~[(d)]~~ (e) If a cause of death is inflicted in one county and death ensues in another county,
 63 the ~~[offender]~~ actor may be tried in either county.

64 ~~[(e)]~~ (f) ~~[A person]~~ An actor who commits an inchoate offense may be tried in any county

65 in which any act that is an element of the offense, including the agreement in
66 conspiracy, is committed.

67 ~~[(f)]~~ (g) ~~[Where a person]~~ If an actor in one county solicits, aids, abets, agrees, or attempts
68 to aid another in the planning or commission of an offense in another county, ~~[he]~~ the
69 actor may be tried for the offense in either county.

70 ~~[(g)]~~ (h)(i) ~~[When]~~ If an offense is committed within this state and it cannot be readily
71 determined in which county or judicial district the offense occurred, ~~[the~~
72 ~~following provisions shall be applicable:]~~ this Subsection (3)(h) shall apply.

73 ~~[(i)]~~ (ii) ~~[When]~~ If an offense is committed upon any railroad car, vehicle, watercraft,
74 or aircraft passing within this state, the ~~[offender]~~ actor may be tried in any county
75 through which such railroad car, vehicle, watercraft, or aircraft has passed.

76 ~~[(ii)]~~ (iii) ~~[When]~~ If an offense is committed on any body of water bordering on or
77 within this state, the ~~[offender]~~ actor may be tried in any county adjacent to ~~[such]~~
78 the body of water.~~[The words "body of water" shall include but not be limited to~~
79 ~~any stream, river, lake, or reservoir, whether natural or man-made.]~~

80 ~~[(iii)]~~ (iv) ~~[A person]~~ An actor who commits theft may be tried in any county in which [
81 ~~he]~~ the actor exerts control over the property affected.

82 ~~[(iv)]~~ (v) If an offense is committed on or near the boundary of two or more counties,
83 the trial of the offense may be held in any of such counties.

84 ~~[(v)]~~ (vi) For any other offense, the trial may be held in the county in which the [
85 ~~defendant]~~ actor resides, or, if ~~[he]~~ the actor has no fixed residence, in the county in
86 which ~~[he]~~ the actor is apprehended or to which ~~[he]~~ the actor is extradited.

87 ~~[(h)]~~ (i) ~~[A person]~~ An actor who commits an offense based on Chapter 6, Part 11,
88 Identity Fraud Act, may be tried in the county:

- 89 (i) where the victim's personal identifying information was obtained;
- 90 (ii) where the ~~[defendant]~~ actor used or attempted to use the personally identifying
91 information;
- 92 (iii) where the victim of the identity fraud resides or is found; or
- 93 (iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any
94 county where the victim's identity was used or obtained, or where the victim
95 resides or is found.

96 ~~[(i)]~~ (j) For the purpose of establishing venue for a violation of Section 53-29-304
97 concerning sex offender, kidnap offender, or child abuse offender registration, the
98 offense is considered to be committed:

- 99 (i) at the most recent registered primary residence of the offender, if the actual
 100 location of the offender at the time of the violation is not known; or
 101 (ii) at the location of the offender at the time the offender is apprehended.
- 102 (4) A criminal action for multiple offenses may be tried in any county or precinct within a
 103 judicial district if:
 104 (a) the offenses were committed within the judicial district;
 105 (b)(i) the prosecution meets the requirements of Section 76-1-402; or
 106 (ii) the offenses may be joined in the same information or indictment under Section
 107 77-8a-1; and
 108 (c) the prosecuting agencies for the jurisdictions in which any of the offenses were
 109 committed consent to the place of trial.

110 [(2)] (5) All objections of improper place of trial are waived by a defendant unless made
 111 before trial.

112 Section 2. Section **76-1-402** is amended to read:

113 **76-1-402 . Separate offenses arising out of single criminal episode -- Included**
 114 **offenses.**

- 115 (1)(a) A defendant may be prosecuted in a single criminal action for all separate offenses
 116 arising out of a single criminal episode[; however,] .
 117 (b) Notwithstanding Subsection (1)(a), when the same act of a defendant under a single
 118 criminal episode shall establish offenses [which] that may be punished in different
 119 ways under different provisions of [this code,] the Utah Code, the act shall be
 120 punishable under only one such provision[; and] an acquittal or conviction and
 121 sentence under any such provision bars a prosecution under any other such provision.
- 122 (2) [~~Whenever conduct may establish separate offenses under a single criminal episode,~~
 123 ~~unless the court otherwise orders to promote justice, a defendant shall not be subject to~~
 124 ~~separate trials for multiple offenses when] Unless the court otherwise orders separate
 125 trials to promote justice, a defendant may not be subject to separate trials for separate
 126 offenses arising out a single criminal episode if:
 127 (a) the offenses are within the jurisdiction of a single court;
 128 (b) venue for the offenses is proper in a single court under Section 76-1-202; and
 129 [(b)] (c) the offenses are known to the prosecuting attorney at the time the defendant is
 130 arraigned on the first information or indictment.~~
- 131 (3)(a) A defendant may be convicted of an offense included in the offense charged but
 132 may not be convicted of both the offense charged and the included offense.

133 (b) An offense is ~~[sø]~~included in the offense charged when:
 134 ~~[(a)]~~ (i) ~~[it]~~ the offense is established by proof of the same or less than all of the facts
 135 required to establish the commission of the offense charged; ~~[or]~~
 136 ~~[(b)]~~ (ii) ~~[it]~~ the offense constitutes an attempt, solicitation, conspiracy, or form of
 137 preparation to commit the offense charged or an offense otherwise included
 138 therein; or
 139 ~~[(c)]~~ (iii) ~~[it]~~ the offense is specifically designated by a statute as a lesser included
 140 offense.

141 (4) The court shall not be obligated to charge the jury with respect to an included offense
 142 unless there is a rational basis for a verdict acquitting the defendant of the offense
 143 charged and convicting the defendant of the included offense.

144 (5) If the district court on motion after verdict or judgment, or an appellate court on appeal
 145 or certiorari, ~~[shall determine]~~ determines that there is insufficient evidence to support a
 146 conviction for the offense charged but that there is sufficient evidence to support a
 147 conviction for an included offense and the trier of fact necessarily found every fact
 148 required for conviction of that included offense, the verdict or judgment of conviction
 149 may be set aside or reversed and a judgment of conviction entered for the included
 150 offense, without necessity of a new trial, if such relief is sought by the defendant.

151 Section 3. Section **76-2-409** is amended to read:

152 **76-2-409 . Battered person mitigation.**

153 (1) As used in this section:

154 (a) "Abuse" means the same as that term is defined in Section 78B-7-102.

155 ~~[(b) "Cohabitant" means:]~~

156 ~~[(i) the same as that term is defined in Section 78B-7-102; or]~~

157 ~~[(ii) the relationship of a minor and a natural parent, an adoptive parent, a stepparent,~~
 158 ~~or an individual living with the minor's natural parent as if a stepparent to the~~
 159 ~~minor.]~~

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

161 (ii) "Cohabitant" includes, notwithstanding the definition in Section 78B-7-102, an
 162 individual who is:

163 (A) a minor when the minor's parent or stepparent, or an individual living with the
 164 minor's parent as if a stepparent to the minor, committed the criminal offense;

165 or

166 (B) a parent or stepparent of a minor, or an individual living with a parent of a

167 minor as if a stepparent to the minor, when the minor committed the criminal
168 offense.

169 (c) "Minor" means an individual who is younger than 18 years old.

170 (d) "Parent" means an individual with an established parent-child relationship as
171 described in Section 81-5-201.

172 (2)(a) An individual is entitled to battered person mitigation if:

173 (i) the individual committed a criminal offense that was not legally justified;

174 (ii) the individual committed the criminal offense against a cohabitant who
175 demonstrated a pattern of abuse against the individual or another cohabitant of the
176 individual; and

177 (iii) the individual reasonably believed that the criminal offense was necessary to end
178 the pattern of abuse.

179 (b) A reasonable belief under Subsection (2)(a) is determined from the viewpoint of a
180 reasonable person in the individual's circumstances, as the individual's circumstances
181 are perceived by the individual.

182 (3) An individual claiming mitigation under Subsection (2)(a) has the burden of proving, by
183 clear and convincing evidence, each element that would entitle the individual to
184 mitigation under Subsection (2)(a).

185 (4) Mitigation under Subsection (2)(a) results in a one-step reduction of the level of offense
186 of which the individual is convicted.

187 (5)(a) If the trier of fact is a jury, an individual is not entitled to mitigation under
188 Subsection (2)(a) unless the jury:

189 (i) finds the individual proved, in accordance with Subsection (3), that the individual
190 is entitled to mitigation by unanimous vote; and

191 (ii) returns a special verdict for the reduced charge at the same time the jury returns
192 the general verdict.

193 (b) A nonunanimous vote by the jury on the question of mitigation under Subsection
194 (2)(a) does not result in a hung jury.

195 (6) An individual intending to claim mitigation under Subsection (2)(a) at the individual's
196 trial shall give notice of the individual's intent to claim mitigation under Subsection
197 (2)(a) to the prosecuting agency at least 30 days before the individual's trial.

198 Section 4. Section **77-20-102** is amended to read:

199 **77-20-102 . Definitions.**

200 As used in this chapter:

- 201 (1) "Bail" means pretrial release.
- 202 (2) "Bail bond" means the same as that term is defined in Section 31A-35-102.
- 203 (3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.
- 204 (4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.
- 205 (5) "County jail official" means a county sheriff or the county sheriff's designee.
- 206 (6) "Domestic violence offense" means the same as that term is defined in Section 77-36-1.
- 207 [~~(6)~~] (7) "Exonerate" means to release and discharge a surety, or a surety's bail bond
- 208 producer, from liability for a bail bond.
- 209 [~~(7)~~] (8) "Financial condition" means any monetary condition that is imposed to secure an
- 210 individual's pretrial release.
- 211 [~~(8)~~] (9) "Forfeiture" means:
- 212 (a) to divest an individual or surety from a right to the repayment of monetary bail; or
- 213 (b) to enforce a pledge of assets or real or personal property from an individual or surety
- 214 used to secure an individual's pretrial release.
- 215 [~~(9)~~] (10) "Magistrate" means the same as that term is defined in Section 77-1-3.
- 216 [~~(10)~~] (11)(a) "Material change in circumstances" includes:
- 217 (i) a preliminary examination in which relevant evidence is presented that:
- 218 (A) is material to the factors or considerations provided in Section 77-20-201; and
- 219 (B) was not known to the court at the time the pretrial status order was issued;
- 220 (ii) an unreasonable delay in prosecution that is not attributable to the defendant;
- 221 (iii) a material change in the risk that an individual poses to a victim, a witness, or the
- 222 public if released due to the passage of time or any other relevant factor;
- 223 (iv) a material change in the conditions of release or the services that are reasonably
- 224 available to the defendant if released;
- 225 (v) a willful or repeated failure by the defendant to appear at required court
- 226 appearances; or
- 227 (vi) any other material change related to the defendant's risk of flight or danger to any
- 228 other individual or to the community if released.
- 229 (b) "Material change in circumstances" does not include any fact or consideration that is
- 230 known at the time that the pretrial status order is issued.
- 231 [~~(11)~~] (12) "Monetary bail" means a financial condition.
- 232 [~~(12)~~] (13) "No bail hold" means an order with the restrictions described in Subsection [
- 233 ~~(18)(e)~~] (19)(c).
- 234 [~~(13)~~] (14) "Own recognizance" means the release of an individual without any condition of

- 235 release other than the individual's promise to:
- 236 (a) appear for all required court proceedings; and
- 237 (b) not commit any criminal offense.
- 238 ~~[(14)]~~ (15) "Pretrial detention hearing" means a hearing described in Section 77-20-206.
- 239 ~~[(15)]~~ (16) "Pretrial release" means the release of an individual from law enforcement
- 240 custody during the time the individual awaits trial or other resolution of criminal charges.
- 241 ~~[(16)]~~ (17) "Pretrial risk assessment" means an objective, research-based, validated
- 242 assessment tool that measures an individual's risk of flight and risk of anticipated
- 243 criminal conduct while on pretrial release.
- 244 ~~[(17)]~~ (18) "Pretrial services program" means a program that is established to:
- 245 (a) gather information on individuals booked into a jail facility;
- 246 (b) conduct pretrial risk assessments; and
- 247 (c) supervise individuals granted pretrial release.
- 248 ~~[(18)]~~ (19) "Pretrial status order" means an order issued by a magistrate or judge that:
- 249 (a) releases the individual on the individual's own recognizance while the individual
- 250 awaits trial or other resolution of criminal charges;
- 251 (b) sets the terms and conditions of the individual's pretrial release while the individual
- 252 awaits trial or other resolution of criminal charges; or
- 253 (c) denies pretrial release and orders that the individual be detained while the individual
- 254 awaits trial or other resolution of criminal charges.
- 255 ~~[(19)]~~ (20) "Principal" means the same as that term is defined in Section 31A-35-102.
- 256 ~~[(20)]~~ (21) "Surety" means a surety insurer or a bail bond agency.
- 257 ~~[(21)]~~ (22) "Surety insurer" means the same as that term is defined in Section 31A-35-102.
- 258 ~~[(22)]~~ (23) "Temporary pretrial status order" means an order issued by a magistrate that:
- 259 (a) releases the individual on the individual's own recognizance until a pretrial status
- 260 order is issued;
- 261 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status
- 262 order is issued; or
- 263 (c) denies pretrial release and orders that the individual be detained until a pretrial status
- 264 order is issued.
- 265 ~~[(23)]~~ (24) "Unsecured bond" means an individual's promise to pay a financial condition if
- 266 the individual fails to appear for any required court appearance.
- 267 Section 5. Section **77-20-201** is amended to read:
- 268 **77-20-201 . Right to bail -- Capital felony.**

- 269 (1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail
270 as a matter of right, except if the individual is charged with:
- 271 (a) a capital felony when there is substantial evidence to support the charge;
- 272 (b) a felony committed while on parole or on probation for a felony conviction, or while
273 free on bail awaiting trial on a previous felony charge, when there is substantial
274 evidence to support the current felony charge;
- 275 (c) a felony when there is substantial evidence to support the charge and the court finds,
276 by clear and convincing evidence, that:
- 277 (i) the individual would constitute a substantial danger to any other individual or to
278 the community after considering available conditions of release that the court may
279 impose if the individual is released on bail; or
- 280 (ii) the individual is likely to flee the jurisdiction of the court if the individual is
281 released on bail;
- 282 (d) a felony when there is substantial evidence to support the charge and the court finds,
283 by clear and convincing evidence, that the individual violated a material condition of
284 release while previously on bail;
- 285 (e) a domestic violence offense if:
- 286 (i) there is substantial evidence to support the charge; and
- 287 (ii) the court finds, by clear and convincing evidence, that the individual would
288 constitute a substantial danger to an alleged victim of the domestic violence
289 offense after considering available conditions of release that the court may impose
290 if the individual is released on bail;
- 291 (f) a domestic violence offense that is a class A misdemeanor or felony offense if:
- 292 (i) there is substantial evidence to support the charge; and
- 293 (ii) the court finds, by clear and convincing evidence, that the domestic violence
294 offense is committed while:
- 295 (A) the individual is on parole or probation for a conviction of a domestic violence
296 offense; or
- 297 (B) the individual is on pretrial release on a previous charge for a domestic
298 violence offense;
- 299 [(f)] (g) the offense of driving under the influence or driving with a measurable
300 controlled substance in the body if:
- 301 (i) the offense results in death or serious bodily injury to an individual;
- 302 (ii) there is substantial evidence to support the charge; and

- 303 (iii) the court finds, by clear and convincing evidence, that the individual would
 304 constitute a substantial danger to the community after considering available
 305 conditions of release that the court may impose if the individual is released on
 306 bail;
- 307 [~~(g)~~] (h) a felony violation of Section 76-9-101 if:
- 308 (i) there is substantial evidence to support the charge; and
- 309 (ii) the court finds, by clear and convincing evidence, that the individual is not likely
 310 to appear for a subsequent court appearance; or
- 311 [~~(h)~~] (i) except as provided in Subsection (4), the offense of driving under the influence
 312 or driving with a measurable controlled substance in the body:
- 313 (i) if committed while on parole or on probation for a driving under the influence or
 314 driving with a measurable controlled substance in the body conviction; or
- 315 (ii) while the individual is out of custody awaiting trial on a previous driving under
 316 the influence or driving with a measurable controlled substance in the body
 317 charge, when the court finds there is substantial evidence to support the current
 318 charge.
- 319 (2) Notwithstanding any other provision of this section, there is a rebuttable presumption
 320 that an individual is a substantial danger to the community under Subsection [~~(1)(f)(iii)~~]
 321 (1)(g)(iii):
- 322 (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or
 323 greater if the individual is arrested for, or charged with, the offense of driving under
 324 the influence and the offense resulted in death or serious bodily injury to an
 325 individual; or
- 326 (b) if the individual has a measurable amount of controlled substance in the individual's
 327 body, the individual is arrested for, or charged with, the offense of driving with a
 328 measurable controlled substance in the body and the offense resulted in death or
 329 serious bodily injury to an individual.
- 330 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section
 331 76-5-202, aggravated murder, is a capital felony unless:
- 332 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or
- 333 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting
 334 attorney has not filed a notice to seek the death penalty.
- 335 (4) For purposes of Subsection [~~(1)(h)~~] (1)(i), there is a rebuttable presumption that an
 336 individual would not constitute a substantial danger to any other person or the

337 community if:

338 (a) the court orders the [person] individual to participate in an inpatient drug and alcohol
339 treatment program; or

340 (b) the court orders the [person] individual to participate in home confinement through
341 the use of electronic monitoring as described in Section 41-6a-506.

342 (5) For purposes of a determination under Subsection (1)(c)(ii), there is a rebuttable
343 presumption that an individual is at risk of fleeing the jurisdiction if the individual is not
344 lawfully present in the United States.

345 Section 6. Section **77-20-204** is amended to read:

346 **77-20-204 . County jail authority to release an individual from jail on monetary**
347 **bail.**

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

350 (a) Section 23A-4-501 or 23A-4-502;

351 (b) Section 23A-5-311;

352 (c) Section 23A-5-313;

353 (d) Title 76, Chapter 6, Part 4, Theft;

354 (e) Title 76, Chapter 6, Part 5, Fraud;

355 (f) Title 76, Chapter 6, Part 6, Retail Theft;

356 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

357 (h) Title 76, Chapter 6, Part 8, Library Theft;

358 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

359 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

360 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

361 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

362 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

363 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

364 (o) Title 76, Chapter 7, Offenses Against the Family;

365 (p) Title 76, Chapter 7a, Abortion Prohibition;

366 (q) Title 76, Chapter 12, Part 2, Electronic Communication Abuse;

367 (r) Title 76, Chapter 12, Part 3, Privacy Offenses;

368 (s) Title 76, Chapter 13, Offenses Involving Cruelty to Animals; or

369 (t) Title 76, Chapter 17, Part 3, Offenses Concerning Pyramid Schemes.

370 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial

- 371 condition for an individual if:
- 372 (a)(i) the individual is ineligible to be released on the individual's own recognizance
373 under Section 77-20-203;
- 374 (ii) the individual is arrested for, or charged with:
- 375 (A) a misdemeanor offense under state law, excluding a misdemeanor offense:
376 (I) for [~~domestic violence~~] a domestic violence offense, as defined in Section
377 77-36-1; or
378 (II) for driving under the influence under Title 41, Chapter [6] 6a, Part 5,
379 Driving Under the Influence and Reckless Driving, or Section 76-5-102.1; or
380 (B) a violation of a city or county ordinance that is classified as a class B or C
381 misdemeanor offense;
- 382 (iii) the individual agrees in writing to appear for any future criminal proceedings
383 related to the arrest; and
- 384 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 385 (b)(i) the individual is arrested for, or charged with, an eligible felony offense;
386 (ii) the individual is not on pretrial release for a separate criminal offense;
387 (iii) the individual is not on probation or parole;
388 (iv) the primary risk posed by the individual is the risk of failure to appear;
389 (v) the individual agrees in writing to appear for any future criminal proceedings
390 related to the arrest; and
- 391 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 392 (3) A county jail official may not fix a financial condition at a monetary amount that
393 exceeds:
- 394 (a) \$5,000 for an eligible felony offense;
395 (b) \$1,950 for a class A misdemeanor offense;
396 (c) \$680 for a class B misdemeanor offense;
397 (d) \$340 for a class C misdemeanor offense;
398 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
399 misdemeanor; or
400 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
401 misdemeanor.
- 402 (4) If an individual is arrested for more than one offense, and the county jail official fixes a
403 financial condition for release:
- 404 (a) the county jail official shall fix the financial condition at a single monetary amount;

- 405 and
- 406 (b) the single monetary amount may not exceed the monetary amount under Subsection
- 407 (3) for the highest level of offense for which the individual is arrested.
- 408 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual
- 409 posts a financial condition fixed by a county jail official in accordance with this section.
- 410 (6) If a county jail official fixes a financial condition for an individual, law enforcement
- 411 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
- 412 Criminal Procedure after the county jail official fixes the financial condition.
- 413 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
- 414 Rules of Criminal Procedure:
- 415 (a) a county jail official may not fix or modify a financial condition for an individual;
- 416 and
- 417 (b) if a county jail official fixed a financial condition for the individual before the
- 418 magistrate's review, the individual may no longer be released on the financial
- 419 condition.
- 420 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
- 421 individual by the Department of Corrections as described in Section 64-14-205.
- 422 (9) This section does not prohibit a court and a county from entering into an agreement
- 423 regarding release, except that any such agreement shall apply only to an individual who
- 424 meets the criteria in an agreement as those criteria existed as of January 1, 2025.

425 Section 7. Section **77-36-1** is amended to read:

426 **77-36-1 . Definitions for chapter.**

427 As used in this chapter:

- 428 (1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- 429 (2) "Dangerous weapon" means the same as that term is defined in Section 76-1-101.5.
- 430 ~~[(2)]~~ (3) "Department" means the Department of Public Safety.
- 431 ~~[(3)]~~ (4) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter
- 432 4, Part 4, Divorce.
- 433 ~~[(4)(a) "Domestic violence" or "domestic violence offense" means any criminal offense~~
- 434 ~~involving violence or physical harm or threat of violence or physical harm, or any~~
- 435 ~~attempt, conspiracy, or solicitation to commit a criminal offense involving violence~~
- 436 ~~or physical harm, when committed by one cohabitant against another.]~~
- 437 ~~[(b) "Domestic violence" or "domestic violence offense" includes the commission of or~~
- 438 ~~attempt to commit, any of the following offenses by one cohabitant against another:]~~

- 439 [(i) aggravated assault under Section 76-5-103;]
440 [(ii) aggravated cruelty to an animal under Section 76-13-203, with the intent to
441 harass or threaten the other cohabitant;]
442 [(iii) assault under Section 76-5-102;]
443 [(iv) criminal homicide under Section 76-5-201;]
444 [(v) harassment under Section 76-5-106;]
445 [(vi) electronic communication harassment under Sections 76-12-202, 76-12-203,
446 and 76-12-204;]
447 [(vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections
448 76-5-301, 76-5-301.1, and 76-5-302;]
449 [(viii) mayhem under Section 76-5-105;]
450 [(ix) propelling a bodily substance or material, as described in Section 76-5-102.9;]
451 [(x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and sexual
452 exploitation of a minor and aggravated sexual exploitation of a minor, as
453 described in Sections 76-5b-201 and 76-5b-201.1;]
454 [(xi) stalking under Section 76-5-106.5;]
455 [(xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;]
456 [(xiii) violation of a protective order or ex parte protective order under Section
457 76-5-108;]
458 [(xiv) an offense against property under Title 76, Chapter 6, Part 1, Property
459 Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title
460 76, Chapter 6, Part 3, Robbery;]
461 [(xv) disorderly conduct under Section 76-9-102, if a conviction or adjudication of
462 disorderly conduct is the result of a plea agreement in which the perpetrator was
463 originally charged with a domestic violence offense otherwise described in this
464 Subsection (4), except that a conviction or adjudication of disorderly conduct as a
465 domestic violence offense, in the manner described in this Subsection (4)(b)(xv),
466 does not constitute a misdemeanor crime of domestic violence under 18 U.S.C.
467 Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;]
468 [(xvi) child abuse under Section 76-5-114;]
469 [(xvii) threatening violence under Section 76-5-107;]
470 [(xviii) tampering with a witness under Section 76-8-508;]
471 [(xix) retaliation against a witness, victim, or informant under Section 76-8-508.3;]
472 [(xx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]

- 473 ~~[(xxi) unlawful distribution of an intimate image under Section 76-5b-203;]~~
 474 ~~[(xxii) unlawful distribution of a counterfeit intimate image under Section 76-5b-205;]~~
 475 ~~[(xxiii) threatening with or using a dangerous weapon in a fight or quarrel under~~
 476 ~~Section 76-11-207;]~~
 477 ~~[(xxiv) possession of a dangerous weapon with criminal intent under Section~~
 478 ~~76-11-208;]~~
 479 ~~[(xxv) improper discharging of a dangerous weapon under Section 76-11-209;]~~
 480 ~~[(xxvi) voyeurism under Section 76-12-306;]~~
 481 ~~[(xxvii) recorded or photographed voyeurism under Section 76-12-307;]~~
 482 ~~[(xxviii) distribution of images obtained through voyeurism under Section 76-12-308;]~~
 483 ~~[(xxix) damage to or interruption of a communication device under Section 76-6-108;~~
 484 ~~or]~~
 485 ~~[(xxx) an offense under Subsection 78B-7-806(1).]~~
 486 ~~[(e) "Domestic violence" or "domestic violence offense" does not include:]~~
 487 ~~[(i) enticing a minor under Section 76-5-417;]~~
 488 ~~[(ii) lewdness under in Section 76-5-419; or]~~
 489 ~~[(iii) lewdness involving a child under Section 76-5-420.]~~
 490 (5)(a) "Domestic violence offense" or "domestic violence" means:
 491 (i) an offense involving violence or physical harm, or a threat of violence or physical
 492 harm committed by one cohabitant against another cohabitant; or
 493 (ii) an attempt, a conspiracy, or a solicitation to commit an offense involving violence
 494 or physical harm committed by one cohabitant against another cohabitant.
 495 (b) "Domestic violence offense" includes the commission of, or an attempt to commit,
 496 an offense by one cohabitant against another cohabitant that is:
 497 (i) a felony or misdemeanor offense described in:
 498 (A) Section 76-5-102, assault;
 499 (B) Section 76-5-102.9, propelling a bodily substance or material;
 500 (C) Section 76-5-103, aggravated assault;
 501 (D) Section 76-5-105, mayhem;
 502 (E) Section 76-5-106, harassment;
 503 (F) Section 76-5-106.5, stalking;
 504 (G) Section 76-5-107, threat of violence;
 505 (H) Section 76-5-108, violation of a protective order;
 506 (I) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

- 507 (J) Section 76-5-114, commission of domestic violence in the presence of a child;
508 (K) Section 76-5-201, criminal homicide;
509 (L) Section 76-5-301, kidnapping;
510 (M) Section 76-5-302, aggravated kidnapping;
511 (N) Section 76-5-308, human trafficking for labor;
512 (O) Section 76-5-308.1, human trafficking for sexual exploitation;
513 (P) Section 76-5-310, aggravated human trafficking;
514 (Q) Section 76-5-311, human trafficking of a vulnerable adult;
515 (R) Title 76, Chapter 5, Part 4, Sexual Offenses;
516 (S) Section 76-5b-203, distribution of an intimate image;
517 (T) Section 76-5b-205, unlawful distribution of a counterfeit intimate image;
518 (U) Title 76, Chapter 6, Part 1, Property Destruction;
519 (V) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
520 (W) Title 76, Chapter 6, Part 3, Robbery;
521 (X) Section 76-8-508, tampering with a witness;
522 (Y) Section 76-8-508.3, retaliation against a witness, victim, or informant;
523 (Z) Section 76-8-508.7, receiving or soliciting a bribe as a witness;
524 (AA) Section 76-9-102, disorderly conduct, if a conviction or adjudication of
525 disorderly conduct is the result of a plea agreement in which the actor was
526 originally charged with an offense otherwise described in this Subsection (5),
527 except that a conviction or adjudication of disorderly conduct as a domestic
528 violence offense, in the manner described in this Subsection (5)(b)(i)(AA),
529 does not constitute a misdemeanor crime of domestic violence under 18 U.S.C.
530 Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et
531 seq.;
532 (BB) Section 76-11-207, threatening with or using a dangerous weapon in a fight
533 or quarrel;
534 (CC) Section 76-11-208, possession of a deadly weapon with criminal intent;
535 (DD) Section 76-12-202, electronic communication harassment;
536 (EE) Title 76, Chapter 12, Part 3, Privacy Offenses;
537 (FF) Section 76-13-203, aggravated cruelty to an animal, if the intent is to harass
538 or threaten the cohabitant;
539 (GG) Section 76-11-209, improper discharging of a dangerous weapon; or
540 (HH) Subsection 78B-7-806(1), for a violation of a jail release court order or jail

- 541 release agreement; or
- 542 (ii) a felony or class A misdemeanor offense described in:
- 543 (A) Section 76-5-111, abuse of a vulnerable adult;
- 544 (B) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult; or
- 545 (C) Section 76-5-111.4, financial exploitation of a vulnerable adult.
- 546 (c) "Domestic violence offense" does not include the commission of, or an attempt to
- 547 commit, an offense by one cohabitant against another cohabitant that is:
- 548 (i) a felony or misdemeanor offense described in:
- 549 (A) Section 76-5-417, enticing a minor;
- 550 (B) Section 76-5-419, lewdness; or
- 551 (C) Section 76-5-420, lewdness involving a child; or
- 552 (ii) a class B or class C misdemeanor offense that is:
- 553 (A) Section 76-5-111, abuse of a vulnerable adult;
- 554 (B) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult; or
- 555 (C) Section 76-5-111.4, financial exploitation of a vulnerable adult.
- 556 ~~[(5)]~~ (6) "Jail release agreement" means the same as that term is defined in Section
- 557 78B-7-801.
- 558 ~~[(6)]~~ (7) "Jail release court order" means the same as that term is defined in Section
- 559 78B-7-801.
- 560 ~~[(7)]~~ (8) "Marital status" means married and living together, divorced, separated, or not
- 561 married.
- 562 ~~[(8)]~~ (9) "Married and living together" means a couple whose marriage was solemnized
- 563 under Section 81-2-305 or 81-2-407 and who are living in the same residence.
- 564 ~~[(9)]~~ (10) "Not married" means any living arrangement other than married and living
- 565 together, divorced, or separated.
- 566 ~~[(10)]~~ (11) "Protective order" includes an order issued under Subsection 78B-7-804(3).
- 567 ~~[(11)]~~ (12) "Pretrial protective order" means a written order:
- 568 (a) specifying and limiting the contact ~~[a person]~~ an individual who has been charged
- 569 with a domestic violence offense may have with an alleged victim or other specified
- 570 individuals; and
- 571 (b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803,
- 572 pending trial in the criminal case.
- 573 (13) "Protective order" includes an order issued under Subsection 78B-7-804(3).
- 574 ~~[(12)]~~ (14) "Sentencing protective order" means a written order of the court as part of

575 sentencing in a domestic violence case that limits the contact an individual who is
 576 convicted or adjudicated of a domestic violence offense may have with a victim or other
 577 specified individuals under Section 78B-7-804.

578 [(13)] (15) "Separated" means a couple who have had their marriage solemnized under
 579 Section 81-2-305 or 81-2-407 and who are not living in the same residence.

580 (16) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

581 [(14)] (17) "Victim" means a cohabitant who has been subjected to domestic violence.

582 Section 8. Section **77-36-2.2** is amended to read:

583 **77-36-2.2 . Powers and duties of law enforcement officers to arrest -- Reports of**
 584 **domestic violence cases -- Reports of parties' marital status.**

585 (1) The primary duty of law enforcement officers responding to a domestic violence call is
 586 to protect the victim and enforce the law.

587 (2)(a) In addition to the arrest powers described in Section 77-7-2, when a peace officer
 588 responds to a domestic violence call and has probable cause to believe that an act of
 589 domestic violence has been committed, the peace officer shall arrest without a
 590 warrant or shall issue a citation to any person that the peace officer has probable
 591 cause to believe has committed an act of domestic violence.

592 (b)[(†)] If the peace officer has probable cause to believe that there will be continued
 593 violence against the alleged victim, or if there is evidence that the perpetrator has
 594 either recently caused serious bodily injury or used a dangerous weapon in the
 595 domestic violence offense, the officer shall arrest and take the alleged perpetrator
 596 into custody, and may not utilize the option of issuing a citation under this section.

597 [~~(ii) For purposes of Subsection (2)(b)(i), "serious bodily injury" and "dangerous~~
 598 ~~weapon" mean the same as those terms are defined in Section 76-1-101.5.]~~

599 (c) If a peace officer does not immediately exercise arrest powers or initiate criminal
 600 proceedings by citation or otherwise, the officer shall notify the victim of the right to
 601 initiate a criminal proceeding and of the importance of preserving evidence, in
 602 accordance with the requirements of Section 77-36-2.1.

603 (3)(a) If a law enforcement officer receives complaints of domestic violence from two or
 604 more opposing persons, the officer shall evaluate each complaint separately to
 605 determine who the predominant aggressor was.

606 (b) If the officer determines that one person was the predominant [~~physical~~]aggressor,
 607 the officer need not arrest the other person alleged to have committed domestic
 608 violence.

- 609 (c) In determining who the predominant aggressor was, the officer shall consider:
- 610 [~~(a)~~] (i) any prior complaints of domestic violence;
- 611 [~~(b)~~] (ii) the relative severity of injuries inflicted on each person;
- 612 [~~(c)~~] (iii) the likelihood of future injury to each of the parties; and
- 613 [~~(d)~~] (iv) whether one of the parties acted in self defense.
- 614 (4) A law enforcement officer may not threaten, suggest, or otherwise indicate the possible
- 615 arrest of all parties in order to discourage any party's request for intervention by law
- 616 enforcement.
- 617 (5)(a) A law enforcement officer who does not make an arrest after investigating a
- 618 complaint of domestic violence, or who arrests two or more parties, shall submit a
- 619 detailed, written report specifying the grounds for not arresting any party or for
- 620 arresting both parties.
- 621 (b) A law enforcement officer who does not make an arrest shall notify the victim of the
- 622 right to initiate a criminal proceeding and of the importance of preserving evidence.
- 623 (6)(a) A law enforcement officer responding to a complaint of domestic violence shall
- 624 prepare an incident report that includes:
- 625 (i) the officer's disposition of the case; and
- 626 (ii) the results of any lethality assessment completed in accordance with Section
- 627 77-36-2.1.
- 628 (b) From January 1, 2009, until December 31, 2013, any law enforcement officer
- 629 employed by a city of the first or second class responding to a complaint of domestic
- 630 violence shall also report, either as a part of an incident report or on a separate form,
- 631 the following information:
- 632 (i) marital status of each of the parties involved;
- 633 (ii) social, familial, or legal relationship of the suspect to the victim; and
- 634 (iii) whether or not an arrest was made.
- 635 (c) The information obtained in Subsection (6)(b):
- 636 (i) shall be reported monthly to the department;
- 637 (ii) shall be reported as numerical data that contains no personal identifiers; and
- 638 (iii) is a public record as defined in Section 63G-2-103.
- 639 (d) The incident report shall be made available to the victim, upon request, at no cost.
- 640 (e) The law enforcement agency shall forward a copy of the incident report to the
- 641 appropriate prosecuting attorney within five days after the complaint of domestic
- 642 violence occurred.

643 (7) The department shall compile the information described in Subsections (6)(b) and (c)
 644 into a report and present that report to the Law Enforcement and Criminal Justice
 645 Interim Committee during the 2013 interim, no later than May 31, 2013.

646 (8) Each law enforcement agency shall, as soon as practicable, make a written record and
 647 maintain records of all incidents of domestic violence reported to it, and shall be
 648 identified by a law enforcement agency code for domestic violence.

649 Section 9. Section **78B-7-102** is amended to read:

650 **78B-7-102 . Definitions for chapter.**

651 As used in this chapter:

652 (1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly
 653 causing or attempting to cause another individual physical harm or intentionally or
 654 knowingly placing another individual in reasonable fear of imminent physical harm.

655 (2) "Affinity" means the same as that term is defined in Section 76-1-101.5.

656 (3) "Canadian domestic violence protection order" means the same as that term is defined in
 657 Section 78B-7-1201.

658 (4) "Child" means an individual who is younger than 18 years old.

659 (5) "Civil protective order" means an order issued, subsequent to a hearing on the petition,
 660 of which the petitioner and respondent have been given notice, under:

661 (a) Part 2, Child Protective Orders;

662 (b) Part 4, Dating Violence Protective Orders;

663 (c) Part 5, Sexual Violence Protective Orders;

664 (d) Part 6, Cohabitant Abuse Protective Orders; or

665 (e) Part 11, Workplace Violence Protective Orders.

666 (6) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil
 667 Stalking Injunctions.

668 (7)(a) "Cohabitant" means~~[an emancipated individual under Section 15-2-1 or an~~
 669 ~~individual who is 16 years old or older who]~~ :

670 (i) an individual who is emancipated under Section 15-2-1, or an individual who is 16
 671 years old or older, when the individual:

672 [(i)] (A) is or was a spouse of the other party;

673 [(ii)] (B) is or was living as if a spouse of the other party;

674 [(iii)] (C) is related by blood or marriage to the other party as the individual's parent[
 675 ~~, grandparent, sibling, or any other individual related to the individual]~~ or

676 grandparent;

- 677 (D) is related by consanguinity or affinity to the second degree to the other party;
 678 [(iv)] (E) has or had one or more children in common with the other party;
 679 [(v)] (F) is the biological parent of the other party's unborn minor child;
 680 [(vi)] (G) resides or has resided in the same residence as the other party; or
 681 [(vii)] (H) is or was in a consensual sexual relationship with the other party[-]; or
 682 (i) an individual who is 18 years old or older and is the sibling, stepsibling, or foster
 683 sibling of the other party.
- 684 (b) "Cohabitant" does not include:
- 685 (i) an individual who is a parent, stepparent, or foster parent of the other party when
 686 the other party is a child; or
- 687 (ii) a child when the other party is:
- 688 (A) the child's parent, stepparent, or foster parent; or
 689 (B) younger than 18 years old and is the child's sibling, stepsibling, or foster
 690 sibling.
- 691 ~~[(b) "Cohabitant" does not include:]~~
- 692 ~~[(i) the relationship of natural parent, adoptive parent, or step-parent to a minor child;~~
 693 ~~or]~~
- 694 ~~[(ii) the relationship between natural, adoptive, step, or foster siblings who are under~~
 695 ~~18 years old.]~~
- 696 (8) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.
- 697 (9) "Criminal protective order" means an order issued under Part 8, Criminal Protective
 698 Orders.
- 699 (10) "Criminal stalking injunction" means a stalking injunction issued under Part 9,
 700 Criminal Stalking Injunctions.
- 701 (11) "Court clerk" means a district court clerk.
- 702 (12)(a) "Dating partner" means an individual who:
- 703 (i)(A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7,
 704 Emancipation; or
- 705 (B) is 18 years old or older; and
- 706 (ii) is, or has been, in a dating relationship with the other party.
- 707 (b) "Dating partner" does not include an intimate partner.
- 708 (13)(a) "Dating relationship" means a social relationship of a romantic or intimate
 709 nature, or a relationship which has romance or intimacy as a goal by one or both
 710 parties, regardless of whether the relationship involves sexual intimacy.

- 711 (b) "Dating relationship" does not include casual fraternization in a business,
712 educational, or social context.
- 713 (c) In determining, based on a totality of the circumstances, whether a dating
714 relationship exists:
- 715 (i) all relevant factors shall be considered, including:
- 716 (A) whether the parties developed interpersonal bonding above a mere casual
717 fraternization;
- 718 (B) the length of the parties' relationship;
- 719 (C) the nature and the frequency of the parties' interactions, including
720 communications indicating that the parties intended to begin a dating
721 relationship;
- 722 (D) the ongoing expectations of the parties, individual or jointly, with respect to
723 the relationship;
- 724 (E) whether, by statement or conduct, the parties demonstrated an affirmation of
725 their relationship to others; and
- 726 (F) whether other reasons exist that support or detract from a finding that a dating
727 relationship exists; and
- 728 (ii) it is not necessary that all, or a particular number, of the factors described in
729 Subsection (13)(c)(i) are found to support the existence of a dating relationship.
- 730 (14) "Dating violence" means:
- 731 (a) a criminal offense involving violence or physical harm, or threat of violence or
732 physical harm, when committed by an individual against a dating partner; or
- 733 (b) an attempt, a conspiracy, or a solicitation by an individual to commit a criminal
734 offense involving violence or physical harm against a dating partner of the individual.
- 735 (15) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 736 (16) "Ex parte civil protective order" means an order issued without notice to the
737 respondent under:
- 738 (a) Part 2, Child Protective Orders;
- 739 (b) Part 4, Dating Violence Protective Orders;
- 740 (c) Part 5, Sexual Violence Protective Orders;
- 741 (d) Part 6, Cohabitant Abuse Protective Orders; or
- 742 (e) Part 11, Workplace Violence Protective Orders.
- 743 (17) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to
744 the respondent under Part 7, Civil Stalking Injunctions.

- 745 (18) "Foreign protection order" means:
- 746 (a) the same as that term is defined in Section 78B-7-302; or
- 747 (b) a Canadian domestic violence protection order.
- 748 (19) "Household animal" means an animal that is tamed and kept as a pet.
- 749 (20) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.
- 750 (21) "Law enforcement unit" or "law enforcement agency" means any public agency having
- 751 general police power and charged with making arrests in connection with enforcement
- 752 of the criminal statutes and ordinances of this state or any political subdivision.
- 753 (22) "Minor child" means the same as that term is defined in Section 81-1-101.
- 754 (23) "Parent" means the same as that term is defined in Section 81-1-101.
- 755 ~~[(23)]~~ (24) "Peace officer" means ~~[those individuals specified]~~ an individual described in
- 756 Title 53, Chapter 13, Peace Officer Classifications.
- 757 ~~[(24)]~~ (25) "Qualifying domestic violence offense" means the same as that term is defined in
- 758 Section 77-36-1.1.
- 759 ~~[(25)]~~ (26) "Respondent" means the individual against whom enforcement of a protective
- 760 order is sought.
- 761 ~~[(26)]~~ (27) "Stalking" means the same as that term is defined in Section 76-5-106.5.
- 762 Section 10. Section **78B-7-801** is amended to read:
- 763 **78B-7-801 . Definitions.**
- 764 As used in this part:
- 765 (1)(a) "Jail release agreement" means a written agreement that is entered into by an
- 766 individual who is arrested or issued a citation, regardless of whether the individual is
- 767 booked into jail:
- 768 (i) under which the arrested or cited individual agrees to not engage in any of the
- 769 following:
- 770 (A) telephoning, contacting, or otherwise communicating with the alleged victim,
- 771 directly or indirectly;
- 772 (B) threatening or harassing the alleged victim; or
- 773 (C) knowingly entering onto the premises of the alleged victim's residence or on
- 774 premises temporarily occupied by the alleged victim, unless, after a law
- 775 enforcement officer or the law enforcement officer's employing agency notifies
- 776 or attempts to notify the alleged victim, the individual enters the premises
- 777 while accompanied by a law enforcement officer for the purpose of retrieving
- 778 the individual's personal belongings; and

- 779 (ii) that specifies other conditions of release from jail or arrest.
- 780 (b) "Jail release agreement" includes a written agreement that includes the conditions
781 described in Section (1)(a) entered into by a minor who is taken into custody or
782 placed in detention or a shelter facility under Section 80-6-201.
- 783 (2) "Jail release court order" means a written court order that:
- 784 (a) orders an arrested or cited individual not to engage in any of the following:
- 785 (i) telephoning, contacting, or otherwise communicating with the alleged victim,
786 directly or indirectly;
- 787 (ii) threatening or harassing the alleged victim; or
- 788 (iii) knowingly entering onto the premises of the alleged victim's residence or on
789 premises temporarily occupied by the alleged victim, unless, after a law
790 enforcement officer or the law enforcement officer's employing agency notifies or
791 attempts to notify the alleged victim, the individual enters the premises while
792 accompanied by a law enforcement officer for the purpose of retrieving the
793 individual's personal belongings; and
- 794 (b) specifies other conditions of release from jail.
- 795 (3) "Minor" means the same as that term is defined in Section 80-1-102.
- 796 (4) "Offense against a child or vulnerable adult" means the commission or attempted
797 commission of an offense described in:
- 798 (a) Section 76-5-109, child abuse;
- 799 (b) Section 76-5-109.2, aggravated child abuse;
- 800 (c) Section 76-5-109.3, child abandonment;
- 801 (d) Section 76-5-109.4, child torture;
- 802 (e) Section 76-5-110, abuse or neglect of a child with a disability;
- 803 (f) Section 76-5-111, abuse of a vulnerable adult;
- 804 (g) Section 76-5-111.2, aggravated abuse of a vulnerable adult;
- 805 (h) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;
- 806 (i) Section 76-5-111.4, financial exploitation of a vulnerable adult;
- 807 (j) Section 76-5-114, commission of domestic violence in the presence of a child; or
- 808 (k) Section 76-5-418, sexual battery.
- 809 (5)(a) "Qualifying offense" means:
- 810 (i) domestic violence;
- 811 (ii) an offense against a child or vulnerable adult;[-or]
- 812 (iii) an offense that is the commission or attempted commission of an offense

813 described in Section 76-5-418, sexual battery, or Title 76, Chapter 5, Part 4,
814 Sexual Offenses[-] ; or

815 (iv) an offense that is stalking as described in Section 76-5-106.5.

816 (b) "Qualifying offense" does not include an offense described in:

817 (i) Section 76-5-417, enticing a minor;

818 (ii) Section 76-5-419, lewdness; or

819 (iii) Section 76-5-420, lewdness involving a child.

820 Section 11. Section **78B-7-802** is amended to read:

821 **78B-7-802 . Conditions for release after arrest for domestic violence and other**
822 **offenses -- Jail release agreements -- Jail release court orders.**

823 (1) Upon arrest or issuance of a citation for[-] a qualifying offense [-]and before the
824 individual is released under Section 77-20-204 or 77-20-205, the individual may not
825 telephone, contact, or otherwise communicate with the alleged victim, directly or
826 indirectly.

827 (2)(a) After [-]an individual is arrested or issued a citation for a qualifying offense, the
828 individual [-]may not be released before:

829 (i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or

830 (ii) the individual signs a jail release agreement.

831 (b) If an arrested individual is booked into jail, the arresting officer shall ensure that the
832 information presented to the magistrate includes whether the alleged victim has made
833 a waiver described in Subsection (5)(a).

834 (c) If the magistrate determines there is probable cause to support the charge or charges
835 of one or more qualifying offenses[-], the magistrate shall issue a temporary pretrial
836 status order, as defined in Section 77-20-102, in accordance with Section 77-20-205.

837 (d) The magistrate may not release an individual arrested for a qualifying offense unless
838 the magistrate issues a jail release court order or the arrested individual signs a jail
839 release agreement.

840 (e) A jail release agreement or jail release court order may not prohibit an individual
841 who is arrested or cited for an offense for the commission of domestic violence in the
842 presence of a child, as described in Section 76-5-114, from telephoning, contacting,
843 or otherwise communicating with a child if:

844 (i) the individual is the parent or guardian of the child; and

845 (ii) the alleged victim of the offense is not the child or the parent or guardian of the
846 child.

- 847 (3)(a) If an individual charged with [-]a qualifying offense [-]fails to either schedule an
848 initial appearance or to appear at the time scheduled by the magistrate within 96
849 hours after the time of arrest, the individual shall comply with the release conditions
850 of a jail release agreement or jail release court order until the individual makes an
851 initial appearance.
- 852 (b) If the [~~prosecutor~~] prosecuting attorney has not filed charges against an individual
853 who was arrested for a qualifying offense and who appears in court at the time
854 scheduled by the magistrate under Subsection (2), or by the court under Subsection
855 (3)(b)(ii), the court:
- 856 (i) may, upon the motion of the [~~prosecutor~~] prosecuting attorney and after allowing
857 the individual an opportunity to be heard on the motion, extend the release
858 conditions described in the jail release court order or the jail release agreement by
859 no more than three court days; and
- 860 (ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the
861 arrested individual to appear at a time scheduled before the end of the granted
862 extension.
- 863 (c)(i) If the [~~prosecutor~~] prosecuting attorney determines that there is insufficient
864 evidence to file charges before an initial appearance scheduled under Subsection
865 (3)(a), the [~~prosecutor~~] prosecuting attorney shall transmit a notice of declination
866 to either the magistrate who signed the jail release court order or, if the releasing
867 agency obtains a jail release agreement from the released arrestee, to the statewide
868 domestic violence network described in Section 78B-7-113.
- 869 (ii) A [~~prosecutor's~~] prosecuting attorney's notice of declination transmitted under this
870 Subsection (3)(c) is considered a motion to dismiss a jail release court order and a
871 notice of expiration of a jail release agreement.
- 872 (4) Except as provided in Subsections (3) and (11) or otherwise ordered by a court, a jail
873 release agreement or jail release court order expires at midnight after the earlier of:
- 874 (a) the arrested or cited individual's initial scheduled court appearance described in
875 Subsection (3)(a);
- 876 (b) the day on which the [~~prosecutor~~] prosecuting attorney transmits the notice of the
877 declination under Subsection (3)(c); or
- 878 (c) 30 days after the day on which the individual is arrested or issued a citation.
- 879 (5)(a)(i) After an individual is arrested or issued a citation for a qualifying offense, an
880 alleged victim who is not a [~~minor~~] child may waive in writing any condition of a

- 881 jail release agreement by:
- 882 (A) appearing in person to the law enforcement agency that arrested the individual
883 or issued the citation to the individual for the qualifying offense;
- 884 (B) appearing in person to the jail or correctional facility that released the arrested
885 individual from custody; or
- 886 (C) appearing in person to the clerk at the court of the jurisdiction where the
887 charges are filed.
- 888 (ii) An alleged victim who is not a ~~[minor]~~ child may waive in writing the release
889 conditions prohibiting:
- 890 (A) telephoning, contacting, or otherwise communicating with the alleged victim,
891 directly or indirectly; or
- 892 (B) knowingly entering on the premises of the alleged victim's residence or on
893 premises temporarily occupied by the alleged victim.
- 894 ~~[(iii) Except as provided in Subsection (5)(a)(iv), a parent or guardian may waive any
895 condition of a jail release agreement on behalf of an alleged victim who is a minor
896 in the manner described in Subsections (5)(a)(i) and (ii).]~~
- 897 (iii) If the alleged victim is a child, and except as provided in Subsection (5)(a)(iv) or
898 (v), the child's parent or guardian may waive any condition of a jail release
899 agreement on behalf of the child in the manner described in Subsections (5)(a)(i)
900 and (ii).
- 901 (iv) A child's parent or guardian may not waive any condition of a jail release
902 agreement on behalf of the child if the parent or guardian is the individual who is
903 arrested or issued a citation for a qualifying offense.
- 904 ~~[(iv)]~~ (v) A child's parent or guardian may not, without the approval of the court,
905 waive the release conditions described in Subsection (5)(a)(ii) on behalf of [an
906 alleged victim who is a minor, if the alleged victim who is a minor] the child if the
907 child:
- 908 (A) allegedly suffers bodily injury as a result of the qualifying offense;
- 909 (B) summons or attempts to summon emergency aid for the qualifying offense; or
- 910 (C) after the time at which the qualifying offense is allegedly committed and
911 before the time at which the arrested or cited individual signs the jail release
912 agreement, discloses to a law enforcement officer that the arrested or cited
913 individual threatened the ~~[alleged victim who is a minor]~~ child with bodily
914 injury.

915 ~~[(v)]~~ (vi) Upon waiver, the release conditions described in Subsection (5)(a)(ii) do not
916 apply to the arrested or cited individual.

917 (b) A court or magistrate may modify a jail release agreement or a jail release court
918 order in writing or on the record, and only for good cause shown.

919 (6)(a) When an individual is arrested or issued a citation and subsequently released in
920 accordance with Subsection (2), the releasing agency shall:

921 (i) notify the arresting law enforcement agency of the release, conditions of release,
922 and any available information concerning the location of the alleged victim;

923 (ii) make a reasonable effort to notify the alleged victim of the release; and

924 (iii) before releasing the individual who is arrested or issued a citation, give the
925 arrested or cited individual a copy of the jail release agreement or the jail release
926 court order.

927 (b)(i) When an individual arrested or issued a citation for domestic violence is
928 released under this section based on a jail release agreement, the releasing agency
929 shall transmit that information to the statewide domestic violence network
930 described in Section 78B-7-113.

931 (ii) When an individual arrested or issued a citation for domestic violence[-] is
932 released under this section based upon a jail release court order or if a jail release
933 agreement is modified under Subsection (5)(b), the court shall transmit that order
934 to the statewide domestic violence network described in Section 78B-7-113.

935 (c) This Subsection (6) does not create or increase liability of a law enforcement officer
936 or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

937 (7) An individual who is arrested for a qualifying offense that is a [-]felony and released
938 in accordance with this section may subsequently be held without bail if there is
939 substantial evidence to support a new felony charge against the individual.

940 (8) At the time an arrest is made or a citation is issued for[-] a qualifying offense[-], the
941 arresting officer shall provide the alleged victim with written notice containing:

942 (a) the release conditions described in this section, and notice that the alleged perpetrator
943 will not be released, before appearing before the court with jurisdiction over the
944 offense for which the alleged perpetrator was arrested, unless:

945 (i) the alleged perpetrator enters into a jail release agreement to comply with the
946 release conditions; or

947 (ii) the magistrate issues a jail release order that specifies the release conditions;

948 (b) notification of the penalties for violation of any jail release agreement or jail release

- 949 court order;
- 950 (c) the address of the appropriate court in the district or county in which the alleged
951 victim resides;
- 952 (d) the availability and effect of any waiver of the release conditions; and
- 953 (e) information regarding the availability of and procedures for obtaining civil and
954 criminal protective orders with or without the assistance of an attorney.
- 955 (9) At the time an arrest is made or a citation is issued for [-]a qualifying offense[-], the
956 arresting officer shall provide the alleged perpetrator with written notice containing:
- 957 (a) notification that the alleged perpetrator may not contact the alleged victim before
958 being released, including telephoning, contacting, or otherwise communicating with
959 the alleged victim, directly or indirectly;
- 960 (b) the release conditions described in this section and notice that the alleged perpetrator
961 will not be released, before appearing before the court with jurisdiction over the
962 offense for which the alleged perpetrator was arrested, unless:
- 963 (i) the alleged perpetrator enters into a jail release agreement to comply with the
964 release conditions; or
- 965 (ii) the magistrate issues a jail release court order;
- 966 (c) notification of the penalties for violation of any jail release agreement or jail release
967 court order; and
- 968 (d) notification that the alleged perpetrator is to personally appear in court on the next
969 day the court is open for business after the day of the arrest.
- 970 (10)(a) A pretrial or sentencing protective order issued under this part supersedes a jail
971 release agreement or jail release court order.
- 972 (b) If a court dismisses the charges for the qualifying offense that gave rise to a jail
973 release agreement or jail release court order, the court shall dismiss the jail release
974 agreement or jail release court order.
- 975 (11)(a) This section does not apply if the individual arrested for the qualifying offense is
976 a minor who is under 18 years old, unless the qualifying offense is domestic violence.
- 977 (b) A jail release agreement signed by, or a jail release court order issued against, a
978 minor expires on the earlier of:
- 979 (i) the day of the minor's initial court appearance described in Subsection (3)(a);
- 980 (ii) the day on which the [~~prosecutor~~] prosecuting attorney transmits the notice of
981 declination under Subsection (3)(c);
- 982 (iii) 30 days after the day on which the minor is arrested or issued a citation; or

983 (iv) the day on which the juvenile court terminates jurisdiction.

984 Section 12. **Effective Date.**

985 This bill takes effect on May 6, 2026.