

1 **GOVERNMENT TRANSPORTATION COST AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephanie Pitcher**

5 House Sponsor: Ryan D. Wilcox

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to government transportation costs for individuals
10 charged with or convicted of a crime.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ clarifies the fees charged by a sheriff for government transportation of a prisoner to
14 a court proceeding in a civil action;
- 15 ▶ repeals provisions regarding government transportation costs that are ordered as part
16 of a criminal sentence;
- 17 ▶ amends the requirements for reporting transportation costs to the clerk of the court;
- 18 ▶ amends provisions related to costs ordered by a court as part of a criminal sentence;
- 19 and
- 20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **17-22-2.5**, as last amended by Laws of Utah 2018, Chapter 86

28 **17-50-319**, as last amended by Laws of Utah 2021, Chapter 260

29 **76-3-201**, as repealed and reenacted by Laws of Utah 2021, Chapter 260 and last

30 amended by Coordination Clause, Laws of Utah 2021, Chapter 261
31 77-7-5, as last amended by Laws of Utah 2022, Chapter 131
32 77-30-24, as last amended by Laws of Utah 2021, Chapter 260
33 77-32b-104, as renumbered and amended by Laws of Utah 2021, Chapter 260
34 78B-22-1002, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

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

37 Section 1. Section 17-22-2.5 is amended to read:

38 **17-22-2.5. Fees of sheriff.**

39 (1) (a) The legislative body of a county may set a fee for a service described in this
40 section and charged by the county sheriff:

41 (i) in an ordinance adopted under Section 17-53-223; and

42 (ii) in an amount reasonably related to, but not exceeding, the actual cost of providing
43 the service.

44 (b) If the legislative body of a county does not under Subsection (1)(a) set a fee
45 charged by the county sheriff, the sheriff shall charge a fee in accordance with Subsections (2)
46 through (7).

47 (2) Unless under Subsection (1) the legislative body of a county sets a fee amount for a
48 fee described in this Subsection (2), the sheriff shall charge the following fees:

49 (a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and
50 complaint, or garnishee execution, or other process by which an action or proceeding is
51 commenced, on each defendant, including copies when furnished by plaintiff, \$20;

52 (b) for taking or approving a bond or undertaking in any case in which he is authorized
53 to take or approve a bond or undertaking, including justification, \$5;

54 (c) for a copy of any writ, process or other paper when demanded or required by law,
55 for each folio, 50 cents;

56 (d) for serving an attachment on property, or levying an execution, or executing an
57 order of arrest or an order for the delivery of personal property, including copies when

58 furnished by plaintiff, \$50;

59 (e) for taking and keeping possession of and preserving property under attachment or
60 execution or other process, the amount the court orders to a maximum of \$15 per day;

61 (f) for advertising property for sale on execution, or any judgment, or order of sale,
62 exclusive of the cost of publication, \$15;

63 (g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive
64 of acknowledgment, \$15, to be paid by the grantee;

65 (h) for recording each deed, conveyance, or other instrument affecting real estate,
66 exclusive of the cost of recording, \$10, to be paid by the grantee;

67 (i) for serving a writ of possession or restitution, and putting any person entitled to
68 possession into possession of premises, and removing occupant, \$50;

69 (j) for holding each trial of right of property, to include all services in the matter,
70 except mileage, \$35;

71 (k) for conducting, postponing, or canceling a sale of property, \$15;

72 (l) for transporting a prisoner to and from prison to attend court proceedings in a civil
73 case, \$2.50 for each mile necessarily traveled, up to a maximum of 100 miles;

74 [~~(l) for taking a prisoner in civil cases from prison before a court or magistrate, for~~
75 ~~each mile necessarily traveled, in going only, to a maximum of 100 miles, \$2.50;]~~

76 [~~(m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a~~
77 ~~court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100~~
78 ~~miles, \$2.50;]~~

79 [~~(n)~~ (m) for receiving and paying over money on execution or other process, as
80 follows:

81 (i) if the amount collected does not exceed \$1,000, 2% of this amount, with a
82 minimum of \$1; and

83 (ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the
84 balance; and

85 [~~(o)~~ (n) for executing in duplicate a certificate of sale, exclusive of filing it, \$10.

86 (3) The fees allowed by Subsection (2)(f) for the levy of execution and for advertising
87 shall be collected from the judgment debtor as part of the execution in the same manner as the
88 sum directed to be made.

89 (4) When serving an attachment on property, an order of arrest, or an order for the
90 delivery of personal property, the sheriff may only collect traveling fees for the distance
91 actually traveled beyond the distance required to serve the summons if the attachment or those
92 orders:

93 (a) accompany the summons in the action; and

94 (b) may be executed at the time of the service of the summons.

95 (5) (a) (i) When traveling generally to serve notices, orders, process, or other papers,
96 the sheriff may receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each
97 mile necessarily traveled, in going only, computed from the courthouse for each person served,
98 to a maximum of 100 miles.

99 (ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may
100 receive, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily
101 traveled, in going only, computed from the post office where received for each person served,
102 to a maximum of 100 miles.

103 (b) The sheriff may only charge one mileage fee if any two or more papers are required
104 to be served in the same action or proceeding at the same time and at the same address.

105 (c) If it is necessary to make more than one trip to serve any notice, order, process, or
106 other paper, the sheriff may not collect more than two additional mileage charges.

107 (6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a
108 mental health facility, as defined in Section [62A-15-602](#), when the cost of transportation is
109 payable by private individuals, the sheriff may collect, except as otherwise provided under
110 Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, to a maximum of 100
111 miles.

112 (b) If the sheriff requires assistance to transport the person, the sheriff may also charge
113 the actual and necessary cost of that assistance.

114 (7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under
115 Section 53-10-404, the sheriff shall collect the fee of \$150 in accordance with Section
116 53-10-404.

117 (b) The fee amount described in Subsection (7)(a) may not be changed by a county
118 legislative body under Subsection (1).

119 Section 2. Section 17-50-319 is amended to read:

120 **17-50-319. County charges enumerated.**

121 (1) County charges are:

122 (a) charges incurred against the county by any law;

123 (b) the necessary expenses of the county attorney or district attorney incurred in
124 criminal cases arising in the county, and all other expenses necessarily incurred by the county
125 or district attorney in the prosecution of criminal cases, except jury and witness fees;

126 (c) the expenses of medical care as described in Section 17-22-8, and other expenses
127 necessarily incurred in the support of persons charged with or convicted of a criminal offense
128 and committed to the county jail, except as provided in Subsection (2);

129 (d) for a county not within the state district court administrative system, the sum
130 required by law to be paid jurors in civil cases;

131 (e) all charges and accounts for services rendered by any justice court judge for
132 services in the trial and examination of persons charged with a criminal offense not otherwise
133 provided for by law;

134 (f) the contingent expenses necessarily incurred for the use and benefit of the county;

135 (g) every other sum directed by law to be raised for any county purposes under the
136 direction of the county legislative body or declared a county charge;

137 (h) the fees of constables for services rendered in criminal cases;

138 (i) the necessary expenses of the sheriff and deputies incurred in civil and criminal
139 cases arising in the county, and all other expenses necessarily incurred by the sheriff and
140 deputies in performing the duties imposed upon them by law;

141 (j) the sums required by law to be paid by the county to jurors and witnesses serving at

142 inquests and in criminal cases in justice courts; and

143 (k) subject to Subsection (2), expenses incurred by a health care facility or provider in
144 providing medical services, treatment, hospitalization, or related transportation, at the request
145 of a county sheriff for:

146 (i) persons booked into a county jail on a charge of a criminal offense; or

147 (ii) persons convicted of a criminal offense and committed to a county jail.

148 (2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county
149 only to the extent that they exceed any private insurance in effect that covers the expenses
150 described in Subsections (1)(c) and (1)(k).

151 (b) The county may collect costs of medical care, treatment, hospitalization, and related
152 transportation provided to the person described in Subsection (1)(k) who has the resources or
153 the ability to pay, subject to the following priorities for payment:

154 (i) first priority shall be given to restitution; and

155 (ii) second priority shall be given to family support obligations.

156 (c) A county may seek reimbursement from a person described in Subsection (1)(k) for
157 expenses incurred by the county in behalf of the inmate for medical care, treatment,
158 hospitalization, or related transportation by:

159 (i) deducting the cost from the inmate's cash account on deposit with the detention
160 facility during the inmate's incarceration or during a subsequent incarceration if the subsequent
161 incarceration occurs within the same county and the incarceration is within 10 years of the date
162 of the expense in behalf of the inmate;

163 (ii) placing a lien for the amount of the expense against the inmate's personal property
164 held by the jail; and

165 (iii) adding the amount of expenses incurred to any other amount owed by the inmate
166 to the jail upon the inmate's release in accordance with Subsection [76-3-201(4)(d)]

167 76-3-201(4)(c).

168 (d) An inmate who receives medical care, treatment, hospitalization, or related
169 transportation shall cooperate with the jail facility seeking payment or reimbursement under

170 this section for the inmate's expenses.

171 (e) If there is no contract between a county jail and a health care facility or provider
172 that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k)
173 shall be commensurate with:

174 (i) for a health care facility, the current noncapitated state Medicaid rates; and

175 (ii) for a health care provider, 65% of the amount that would be paid to the health care
176 provider:

177 (A) under the Public Employees' Benefit and Insurance Program, created in Section
178 [49-20-103](#); and

179 (B) if the person receiving the medical service were a covered employee under the
180 Public Employees' Benefit and Insurance Program.

181 (f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the
182 request of an agency of the United States.

183 (g) A county that receives information from the Public Employees' Benefit and
184 Insurance Program to enable the county to calculate the amount to be paid to a health care
185 provider under Subsection (2)(e)(ii) shall keep that information confidential.

186 Section 3. Section **76-3-201** is amended to read:

187 **76-3-201. Sentences or combination of sentences allowed -- Restitution and other**
188 **costs -- Civil penalties.**

189 (1) As used in this section:

190 (a) (i) "Convicted" means:

191 (A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a
192 mental illness; or

193 (B) having received a judgment of guilty or a judgment of guilty with a mental illness.

194 (ii) "Convicted" does not include an adjudication of an offense under Section [80-6-701](#).

195 (b) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

196 (2) Within the limits provided by this chapter, a court may sentence an individual
197 convicted of an offense to any one of the following sentences, or combination of the following

198 sentences:

199 (a) to pay a fine;

200 (b) to removal or disqualification from public or private office;

201 (c) except as otherwise provided by law, to probation in accordance with Section

202 77-18-105;

203 (d) to imprisonment;

204 (e) on or after April 27, 1992, to life in prison without parole; or

205 (f) to death.

206 (3) (a) This chapter does not deprive a court of authority conferred by law:

207 (i) to forfeit property;

208 (ii) to dissolve a corporation;

209 (iii) to suspend or cancel a license;

210 (iv) to permit removal of an individual from office;

211 (v) to cite for contempt; or

212 (vi) to impose any other civil penalty.

213 (b) A court may include a civil penalty in a sentence.

214 (4) In addition to any other sentence that a sentencing court may impose, the court shall
215 order an individual to:

216 (a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution
217 Act;

218 ~~[(b) subject to Subsection (5) and Section 77-32b-104, pay the cost of any government
219 transportation if the individual was:]~~

220 ~~[(i) transported, in accordance with a court order, from one county to another county
221 within the state;]~~

222 ~~[(ii) charged with a felony or a misdemeanor; and]~~

223 ~~[(iii) convicted of an offense;]~~

224 ~~[(e)]~~ (b) subject to Section 77-32b-104, pay the cost expended by an appropriate
225 governmental entity under Section 77-30-24 for the extradition of the individual if the

226 individual:

227 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve
228 pending criminal charges; and

229 (ii) is convicted of an offense in the county for which the individual is returned;

230 ~~[(d)]~~ (c) subject to Subsection ~~[(6)]~~ (5) and Subsections 77-32b-104(2), (3), and (4),
231 pay the cost of medical care, treatment, hospitalization, and related transportation, as described
232 in Section 17-50-319, that is provided by a county to the individual while the individual is in a
233 county correctional facility before and after sentencing if:

234 (i) the individual is convicted of an offense that results in incarceration in the county
235 correctional facility; and

236 (ii) (A) the individual is not a state prisoner housed in the county correctional facility
237 through a contract with the Department of Corrections; or

238 (B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104
239 if the individual is a state probationary inmate or a state parole inmate; and

240 ~~[(e)]~~ (d) pay any other cost that the court determines is appropriate under Section
241 77-32b-104.

242 ~~[(5)(a) The court may not order an individual to pay the costs of government
243 transportation under Subsection (4)(b) if:]~~

244 ~~[(i) the individual is charged with an infraction or a warrant is issued for an infraction
245 on a subsequent failure to appear; or]~~

246 ~~[(ii) the individual was not transported in accordance with a court order.]~~

247 ~~[(b)(i) The cost of governmental transportation under Subsection (4)(b) shall be
248 calculated according to the following schedule:]~~

249 ~~[(A) \$100 for up to 100 miles that an individual is transported;]~~

250 ~~[(B) \$200 for 100 miles to 200 miles that an individual is transported; and]~~

251 ~~[(C) \$350 for 200 miles or more that an individual is transported.]~~

252 ~~[(ii) The schedule under Subsection (5)(b)(i) applies to each individual transported
253 regardless of the number of individuals transported in a single trip.]~~

254 [(6)] (5) The cost of medical care under Subsection [~~(4)(d)~~] (4)(c) does not include
255 expenses incurred by the county correctional facility in providing reasonable accommodation
256 for an inmate qualifying as an individual with a disability as defined and covered by the
257 Americans with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and
258 mental health treatment for the inmate's disability.

259 Section 4. Section 77-7-5 is amended to read:

260 **77-7-5. Issuance of summons or warrant -- Time and place arrests may be made**
261 **-- Contents of warrant or summons -- Responsibility for transporting prisoners.**

262 (1) As used in this section:

263 (a) "Daytime hours" means the hours after 6 a.m. and before 10 p.m.

264 (b) "Nighttime hours" means the hours after 10 p.m. and before 6 a.m.

265 (2) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance
266 of the accused only upon finding:

267 (a) probable cause to believe that the person to be arrested has committed a public
268 offense; and

269 (b) under the Utah Rules of Criminal Procedure, and this section that a warrant is
270 necessary to:

271 (i) prevent risk of injury to a person or property;

272 (ii) secure the appearance of the accused; or

273 (iii) protect the public safety and welfare of the community or an individual.

274 (3) If the offense charged is:

275 (a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

276 (b) a misdemeanor, the arrest upon a warrant may be made during nighttime hours only

277 if:

278 (i) the magistrate has endorsed authorization to do so on the warrant;

279 (ii) the person to be arrested is upon a public highway, in a public place, or in a place
280 open to or accessible to the public; or

281 (iii) the person to be arrested is encountered by a peace officer in the regular course of

282 that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for
283 arrest.

284 (4) (a) If the magistrate determines that the accused must appear in court, the
285 magistrate shall include in the arrest warrant the name of the law enforcement agency in the
286 county or municipality with jurisdiction over the offense charged.

287 (b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a)
288 is responsible for providing inter-county transportation of the defendant, if necessary, from the
289 arresting law enforcement agency to the court site.

290 (ii) The law enforcement agency named on the warrant may contract with another law
291 enforcement agency to have a defendant transported.

292 [~~(c) (i) The law enforcement agency identified by the magistrate under Subsection
293 (4)(a) as responsible for transporting the defendant shall provide to the court clerk of the court
294 in which the defendant is tried, an affidavit stating that the defendant was transported,
295 indicating the law enforcement agency responsible for the transportation, and stating the
296 number of miles the defendant was transported.]~~

297 [~~(ii) The court clerk shall:~~

298 [~~(A) account for a cost paid under Subsection 76-3-201(4)(b) for government
299 transportation; and]~~

300 [~~(B) dispense money collected by the court under Subsection (4)(c)(ii)(A) to the law
301 enforcement agency responsible for the transportation of a convicted defendant.]~~

302 (5) The law enforcement agency identified by the magistrate under Subsection (4)(a)
303 shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and
304 legal holidays if a warrant issued in accordance with this section is an extradition warrant.

305 (6) The law enforcement agency identified by the magistrate under Subsection (4)(a)
306 shall report any changes to the status of a warrant issued in accordance with this section to the
307 Bureau of Criminal Identification.

308 Section 5. Section 77-30-24 is amended to read:

309 **77-30-24. Payment of expenses -- Extradition costs.**

310 (1) (a) When the punishment of an offense is the confinement of the defendant in
 311 prison, the expenses shall be paid out of the state treasury on the certificate of the governor and
 312 warrant of the auditor.

313 (b) In all other cases, the expenses for confinement shall be paid out of the treasury of
 314 the county where the offense is alleged to have been committed.

315 (c) The expenses shall be the fees paid to the officers of the state on whose governor
 316 the requisition is made.

317 (2) If a defendant is returned to the state under this chapter and the defendant is
 318 convicted of, or pleads guilty or no contest to, the offense or to a lesser offense, the defendant
 319 may be required to pay the costs of extradition to the appropriate governmental entity as
 320 described in Subsection [~~76-3-201(4)(c)~~] 76-3-201(4)(b).

321 Section 6. Section **77-32b-104** is amended to read:

322 **77-32b-104. Costs -- What constitute costs -- Ability to pay.**

323 (1) Except for a cost described in Subsection 76-3-201(4), [~~costs shall be limited to~~] a
 324 court may order a defendant under Section 76-3-201 to pay costs for expenses incurred by the
 325 state or any political subdivision of the state for investigating, searching for, apprehending, and
 326 prosecuting the defendant, including:

327 (a) attorney fees of counsel assigned to represent the defendant;

328 (b) investigators' fees; or

329 (c) except for a monetary reward that is paid to a codefendant, an accomplice, or a
 330 bounty hunter, a monetary reward that is:

331 (i) offered to the public in exchange for information that would lead to the
 332 apprehension and conviction of the defendant; and

333 (ii) paid to a person who provided information that led to the apprehension and
 334 conviction of the defendant.

335 (2) A cost under Subsection (1) may not include:

336 (a) expenses inherent in providing a constitutionally guaranteed trial;

337 (b) expenditures in connection with the maintenance and operation of government

338 agencies that must be made by the public irrespective of specific violations of law; [or]

339 (c) attorney fees for prosecuting attorneys[-]; or

340 (d) expenses for government transportation to and from court proceedings related to the
341 prosecution of the offense for which the defendant is convicted.

342 (3) The court may not order a defendant to pay a cost, unless there is evidence that the
343 defendant is, or will be, able to pay the cost.

344 (4) In determining the amount of a cost that a defendant is ordered to pay, the court
345 shall take into account:

346 (a) the financial resources of the defendant;

347 (b) the nature of the burden that payment of the cost will impose; and

348 (c) that restitution is prioritized over any cost.

349 Section 7. Section **78B-22-1002** is amended to read:

350 **78B-22-1002. Recovery of costs for indigent defense services.**

351 (1) Except as provided in Subsection (2), a court shall order an individual to pay the
352 indigent defense system for the cost of indigent defense services in accordance with Subsection
353 [~~76-3-201(4)(c)~~] 76-3-201(4)(d) and Section 77-32b-104 if:

354 (a) the individual was provided indigent defense services by the indigent defense
355 system; and

356 (b) the indigent defense system provides financial documentation or proof to the court
357 that demonstrates that the individual is not indigent under Section 78B-22-202.

358 (2) This section does not apply to a minor, who is appointed an indigent defense
359 service provider, or the minor's parent or legal guardian.