

SHERIFF RELEASE AMENDMENTS

2021 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill allows a sheriff or bail commissioner to release an individual from a county jail.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a county sheriff or county bail commissioner to release an individual from a county jail on the individual's own recognizance under certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-22-5.5, as last amended by Laws of Utah 2014, Chapter 120

17-32-1, as last amended by Laws of Utah 2015, Chapter 99

ENACTS:

77-20-3.2, Utah Code Annotated 1953



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

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

30 **17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity**
31 **of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding**
32 **release.**

33 (1) (a) Except as provided in Subsection (4), a county sheriff shall determine:

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

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

37 and

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

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

41 (2) Except as provided in Subsection (4), each county sheriff shall:

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

44 and

45 (b) upon a jail facility reaching [~~its~~] the jail facility's maximum operating capacity:

46 (i) transfer prisoners to another appropriate facility:

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

48 (B) available to the sheriff by contract;

49 (ii) release prisoners:

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

52 (B) to another alternative incarceration program developed by the sheriff; or

53 (iii) admit prisoners in accordance with law and a uniform admissions policy imposed
54 equally upon all entities using the county jail.

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

58 (b) The sheriff shall make these records available upon request to the Department of

59 Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

60 (4) This section may not be construed to authorize a sheriff to modify provisions of a
61 contract with the Department of Corrections to house in a county jail [~~persons~~] an individual
62 sentenced to the Department of Corrections.

63 (5) Regardless of whether a jail facility has reached the jail facility's maximum
64 operating capacity under Subsection (2), a sheriff may release an individual from a jail facility
65 in accordance with Section 77-20-3.2.

66 Section 2. Section 17-32-1 is amended to read:

67 **17-32-1. Powers and duties of bail commissioners.**

68 (1) The county executive, with the advice and consent of the county legislative body,
69 may appoint one or more responsible and discreet members of the sheriff's department of the
70 county as a bail commissioner.

71 (2) A bail commissioner may:

72 (a) receive bail for [~~persons~~] an individual arrested in the county for a felony; [~~and~~]

73 (b) fix and receive bail for [~~persons~~] an individual arrested in the county for a
74 misdemeanor under the laws of the state, or for a violation of any of the county ordinances in
75 accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail
76 for county ordinances not contained in the schedule[-]; and

77 (c) authorize the release of an individual from a jail facility on the individual's own
78 recognizance in accordance with Section 77-20-3.2.

79 (3) [~~Any person~~] An individual who has been ordered by a magistrate, judge, or bail
80 commissioner to give bail may deposit the amount with the bail commissioner:

81 (a) in money, by cash, certified or cashier's check, personal check with check guarantee
82 card, money order, or credit card, if the bail commissioner has chosen to establish any of those
83 options; or

84 (b) by a bond issued by a licensed bail bond surety.

85 (4) Any money or bond collected by a bail commissioner shall be delivered to the
86 appropriate court within three days of receipt of the money or bond.

87 (5) The court may review the amount of bail ordered by a bail commissioner and may
88 modify the amount of bail required for good cause.

89 Section 3. Section 77-20-3.2 is enacted to read:

90 77-20-3.2. Sheriff and bail commissioner's authority to release an individual from
 91 jail.

92 (1) As used in this section:

93 (a) "County bail commissioner" means a bail commissioner appointed in accordance
 94 with Section 17-32-1.

95 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

95a ~~Ĥ→~~ (c) "Violent felony" means the same as that term is defined in Subsection
 95b 76-3-203.5(1)(c)(i). ←Ĥ

96 (2) A county sheriff or a county bail commissioner may release an individual from a
 97 jail facility on the individual's own recognizance if:

98 (a) the individual was arrested without a warrant;

99 (b) the individual was not arrested for ~~Ĥ→~~ : ←Ĥ

99a ~~Ĥ→~~ (i) ←Ĥ a ~~Ĥ→~~ violent ←Ĥ felony ~~Ĥ→~~ ; ~~[or]~~ ←Ĥ

99b ~~Ĥ→~~ (ii) ←Ĥ a qualifying offense;

99c ~~Ĥ→~~ (iii) the offense of driving under the influence or driving with a measurable
 99d controlled substance in the body if the offense results in death or serious bodily injury to an
 99e individual; or

99f (iv) an offense described in Subsection 76-9-101(4); ←Ĥ

100 (c) ~~Ĥ→~~ [the arresting agency] law enforcement ←Ĥ has not submitted a probable cause
 100a statement to a court or
 101 magistrate;

102 (d) the individual agrees in writing to appear for pending criminal charges; and

103 (e) the individual qualifies for release under the written policy described in Subsection

104 (3) for the county.

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

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

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

110 (i) criminal history;

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

112 (iii) current employment;

113 (iv) residency;

114 (v) ties to the community;

- 115 (vi) an offense for which the individual was arrested;
- 116 (vii) any potential criminal charges that have not yet been filed;
- 117 (viii) the individual's health condition;
- 118 (ix) any potential risks to a victim, a witness, or the public; and
- 119 (x) any other similar factor a sheriff determines is relevant.

119a **H→ (4) Nothing in this section prohibits a district court and a county from entering**
119b **into an agreement regarding release.** ←H

120 Section 4. **Effective date.**

121 If approved by two-thirds of all the members elected to each house, this bill takes effect
122 upon approval by the governor, or the day following the constitutional time limit of Utah
123 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
124 the date of veto override.