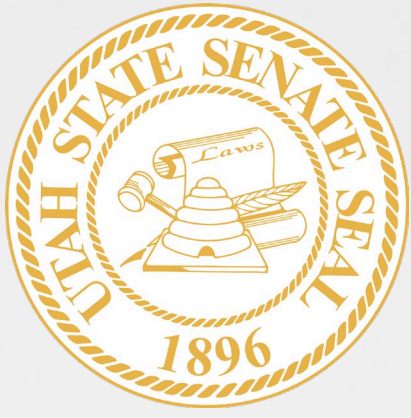


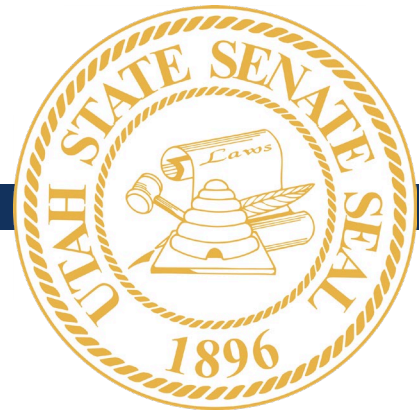
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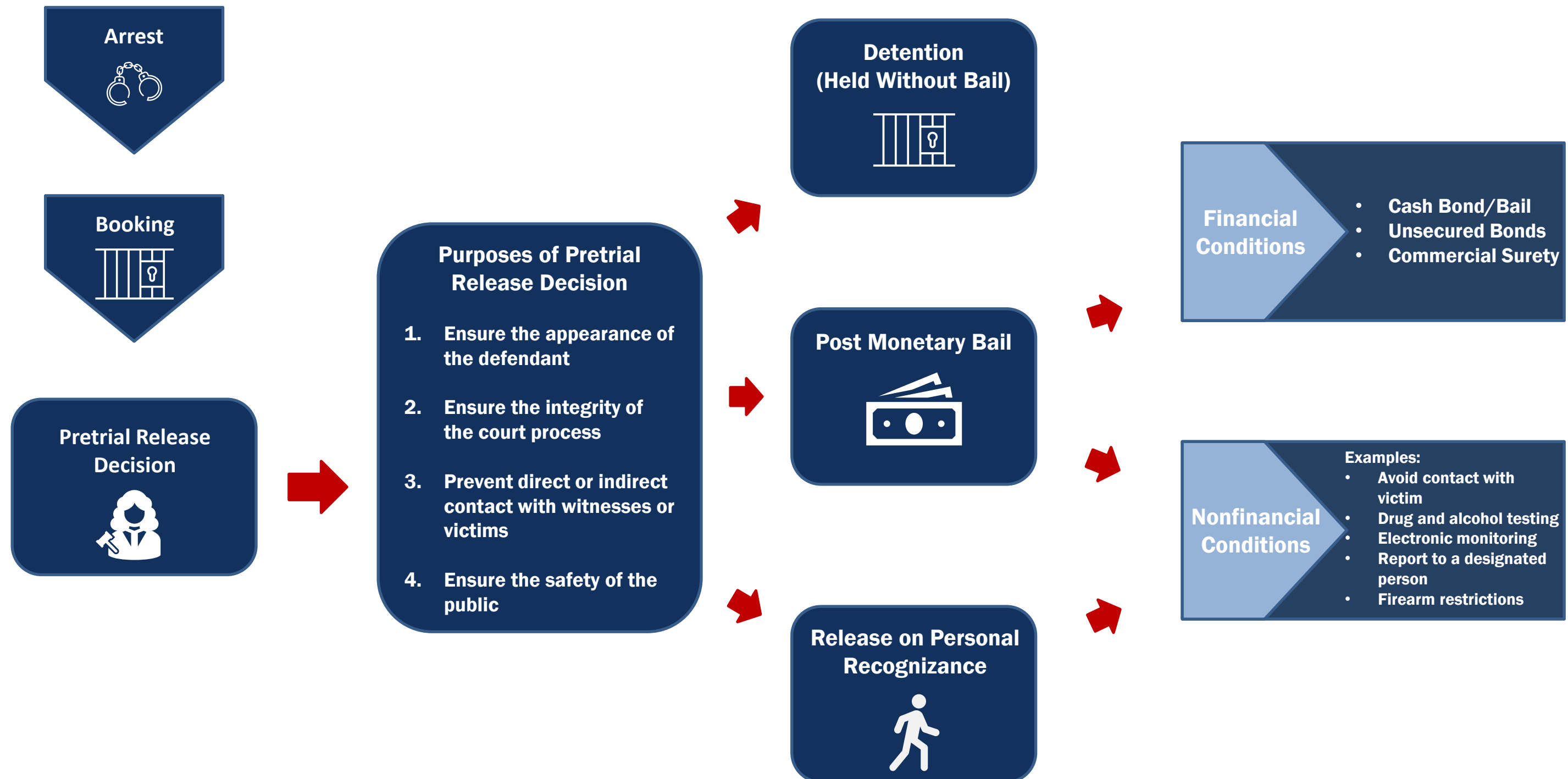
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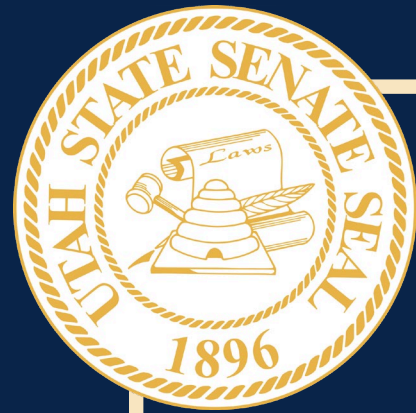
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# Pretrial Release in Utah





# History of Pretrial Process in Utah

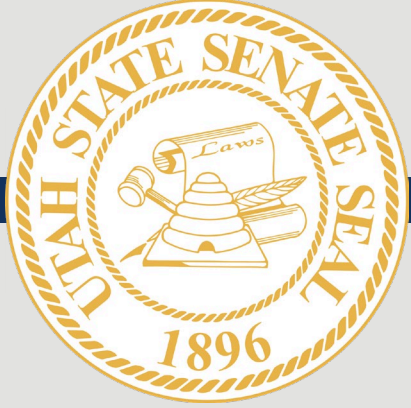


## 2015 Report from the Utah Courts

In November 2015, a committee composed of members from Utah's Legislative, Executive, and Judicial Branches released a report on pretrial release and supervision practices in Utah.

The report identified problems with Utah's pretrial release laws, including:

- Use of a fixed monetary bail schedule that sets amounts based on the level of the charged offense instead of individualized pretrial release decisions.
- Lack of information needed to make pretrial release decisions.
- Differing customs and practices across Utah that prevent uniform application of pretrial release laws.

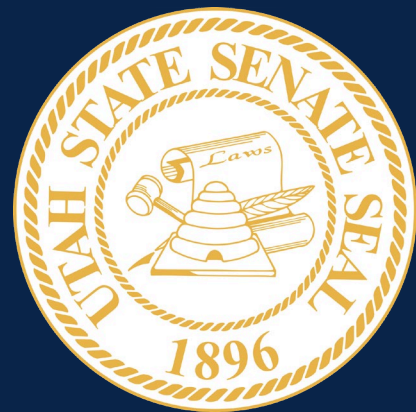


## 2017 Legislative Audit

In 2017, the Utah Legislative Auditor General conducted an audit of the monetary bail system in Utah that was narrower in scope than the 2015 report, but recognized that Utah's pretrial system faced problems.

The audit concluded:

- Cash bail resulted in higher appearance rates than surety bonds.
- Pretrial release decisions need to be evidence-based and account for risk.
- Improvements are needed to the surety bond forfeiture process.



# Pretrial Legislation



## H.B. 206 *Bail and Pretrial Release Amendments*

During the 2020 General Session, the Utah Legislature passed H.B. 206, which made significant changes to the pretrial system in Utah, such as:

- Requiring judges to set least restrictive conditions that would reasonably ensure the defendant's appearance and public safety.
- Creating a presumption of releasing an individual on their own recognizance.
- Listing non-financial conditions that a court could impose.
- Requiring the court to consider the individual's ability to pay a certain amount if a financial condition was necessary.

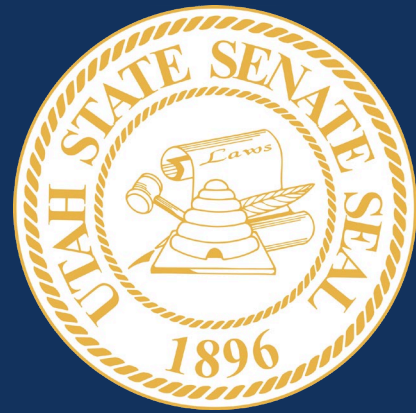




## Partial Repeal of H.B. 206

During the 2021 General Session, the Utah Legislature repealed many of the provisions of H.B. 206, including:

- Removing the presumption of release on an individual's own recognizance.
- Removing the requirement that a person be released under the least restrictive, reasonably available conditions.
- Removing the non-financial conditions of release.
- Removing the requirement that a court take into consideration an individual's ability to pay a monetary bail amount.



# Pretrial Reform Post- implementation of H.B. 206

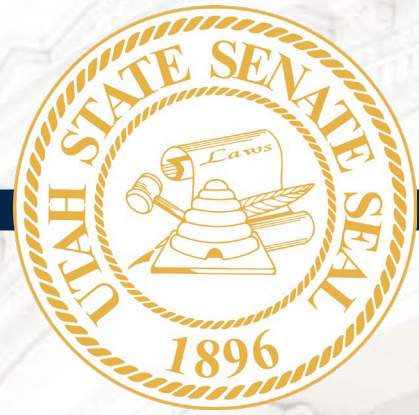


## Bail Reform Working Group

- After the 2021 General Session, the Legislature formed a working group that consisted of legislators and stakeholders, such as prosecutors, defense attorneys, and judges.
- The working group studied pretrial release and supervision issues in Utah and resulted in legislation during two special sessions:

**2021 First Special Session:** The Legislature passed H.B. 1006 to allow jails to release individuals on pretrial release.

**2021 Second Special Session:** The Legislature passed H.B. 2003 to address the larger issues with pretrial release in Utah.



## First Special Session Legislation: H.B. 1006 *Sheriff Release Amendments*

H.B. 1006 required a county sheriff to create a written policy about releasing an individual on their own recognizance.

An individual could be released on recognizance if:

- the individual was arrested without a warrant.
- the individual was not arrested for certain offenses.
- law enforcement had not submitted a probable cause statement.
- the individual agrees in writing to appear for the charges.
- the individual qualifies for release under the sheriff's written policy.



## Second Special Session Legislation: H.B. 2003 *Pretrial Amendments*

During the 2021 Second Special Session, the Legislature passed H.B. 2003 to address the larger issues with pretrial release in Utah.

Significant changes in H.B. 2003 included:

- Requiring jails to collect and submit the pretrial information to judges at the same time as the probable cause statement.
- Allowing a bail commissioner to release an individual on a financial condition if the individual is charged with a misdemeanor or certain third-degree felonies, among other requirements.
- Requiring an individual to submit an affidavit of indigency if the individual seeks the appointment of a public defender.
- Creating a pretrial detention hearing when a prosecutor moves for the individual to be held in detention before trial or resolution of charges.

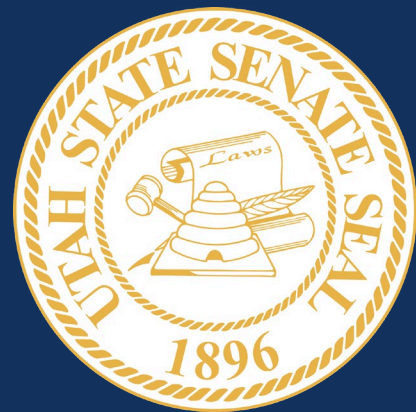


## Second Special Session Legislation: H.B. 2003 *Pretrial Amendments*

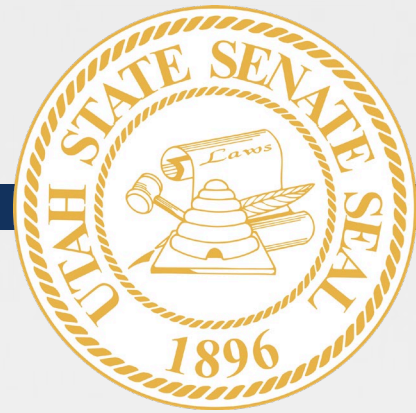
During the 2021 Second Special Session, the Legislature passed H.B. 2003 to address the larger issues with pretrial release in Utah.

Significant changes in H.B. 2003 included (continued):

- Providing the requirements for seeking to modify a pretrial order.
- Requiring the judge/magistrate to impose only conditions of release that are reasonably available and necessary to ensure the individual will appear in court, the safety of the public and witnesses/victims, and that the individual will not obstruct the criminal justice process.
- Requiring a judge/magistrate to consider an individual's ability to pay if imposing a financial condition.



# Latest Pretrial Efforts

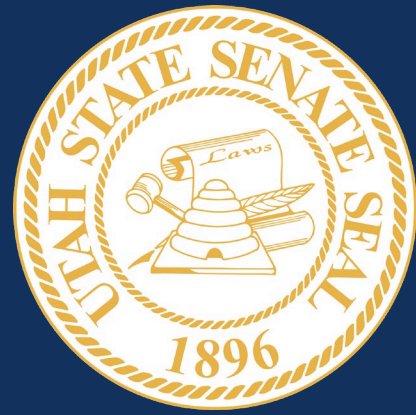


## H.B. 317 *Pretrial Release Modifications*

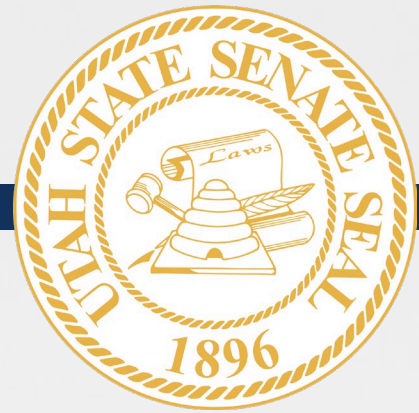
In the 2023 General Session, the Legislature passed H.B. 317 that made further revisions to pretrial release statutes, including:

- Repealing bail commissioners and moving their authority to county sheriffs.
- Clarifying that a judge/magistrate could not base a determination about pretrial release solely on the seriousness or type of offense that the individual was arrested for or charged with, unless the offense is a capital felony.
- Allowing a defendant to modify a pretrial order if a financial condition was imposed and the defendant was unable to pay within 7 days.
- Requiring the court to consider imposing a bail bond as a condition of release if it would increase the likelihood of the defendant's appearance and the defendant had previously failed to appear under nonfinancial conditions.
- Granting an individual a right to an expedited appeal of a pretrial order if the individual is detained.





# Takeaways from Utah's Pretrial Revision Process



## Takeaways

Across these various bills, Utah's pretrial reforms can be summarized as having:

1. Reduced reliance on cash bail, with monetary conditions based on ability to pay.
2. Privileged consideration of risk, not offense type, in pretrial release decisions.
3. Increased collection and use of information for individualized risk assessment.
4. Allowed defendants to modify/appeal pretrial orders under certain circumstances.