

Bail reform repeal passes Utah Legislature just months after kicking in

Reforms were meant to stop kicking defendants locked up before trial simply because they couldn't afford bail. Prosecutors say the new system has worked.



to the governor's desk, with several state senators on Wednesday signing off on the proposal despite their reservations.

State legislators have spent weeks [wrestling over whether to repeal or modify the 2020 law that sought to](#) overhaul Utah's wealth-based system for jailing or freeing people ahead of their trial. Now, they're moving forward with a hybrid approach that retains some aspects of last year's law, scraps others and — proponents say — sets the state up to continue improving the law in the months to come.

Critics, on the other hand, say the bill is a mess.

"It's now a repeal bill that doesn't repeal. It's a fix-it bill that doesn't fix," Sen. Todd Weiler said in a lengthy, point-by-point speech against the bill, [HB220](#). "It creates more confusion than it resolves."

The legislation ultimately passed the Senate by a 20-8 vote and gained a final stamp of approval from the House on Wednesday. It will head now to Gov. Spencer Cox, who will decide whether to sign it.

The reforms last year aimed to keep relatively low-risk defendants from sitting behind bars for weeks or months awaiting trial because they're poor, while rich people simply post bail and walk free. The overhaul package, [HB206](#), did that by replacing this bail-centric model with one that relies on risk factors when deciding whether to detain or release a person.



reforms and start the bail conversation over again.

But Schultz, R-Hooper, on Tuesday offered up a revised version of the legislation that included additional language, some of it [borrowed from a competing bill designed](#) to strengthen HB206 while holding onto its core reforms.

Sen. Kirk Cullimore, who presented HB220 in the Senate, said the latest version had support from police groups, the Utah Association of Criminal Defense Lawyers and the libertarian Libertas Institute.

“There is a commitment from all the stakeholders after this session to work on this,” the Draper Republican said, “to hopefully find something that has broader consensus.”

But Weiler, an attorney by profession, argued that the legislation would create more problems than it would solve. It would delete a provision from HB206 that requires judges to release people under the “least restrictive” conditions necessary to protect safety and the integrity of the legal process, and he predicted that change would “result in more people who are presumed innocent having too-restrictive pretrial conditions imposed, including being incarcerated because they can’t pay bail.”

The new bill creates rules for pretrial detention hearings but then strikes out the HB206 language that required these court hearings in the first place, he said, adding that this was one of “many internal inconsistencies” with the latest version.

And he argued that the bill would create problems by prohibiting a justice court judge



Cummins, who's also a full-time attorney, said that's not true and that under HB220

“judges will be able to hold the most dangerous people by clear and convincing evidence without bail.”

Sen. Jake Anderegg indicated it was difficult to parse through the contradicting arguments made by “dueling attorneys.” He also noted that prosecutors in Davis, Utah and Salt Lake counties — who handle a majority of the state’s criminal cases — have said HB206 is working to keep dangerous offenders off the streets without unfairly jailing low-risk defendants.

At the same time, he said, critics of last year’s reforms contend that the new system is succeeding along the Wasatch Front because these counties have more robust pretrial release programs. They’re not doing as well in rural counties with fewer resources, he said.

Ultimately, he decided to vote for HB220, in part because of its support from sheriffs.

“I am torn. My heart is telling me that [HB206], even though it’s not perfect, is more just,” Anderegg, R-Lehi, said. “But I am also torn with the aspects of what is happening with a lot of the sheriffs throughout the state.”

Sen. Curt Bramble, R-Provo, also said he’d been conflicted about the vote but that a phone conversation with the Utah County sheriff convinced him that HB220 would be the first step in bringing together criminal justice representatives in coming months to continue refining the state’s pretrial system.

UTAH COUNTY SHERIFF CONVINCED SEN. BRAMBLE TO VOTE FOR HB220





“We can come up with a consensus bill that solves the problems that we’re aware of without going back to an indefensible starting point, without losing the ability to hold those dangerous people,” the West Valley City Republican said. “We cannot in good conscience vote for this bill and claim we’re doing it for public safety when this bill does the exact opposite.”

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