



## 2012 Legislative Session Sentencing Update Utah Sentencing Commission

Bill #	Title	Sponsor	USC Position	Description	Penalty Changes	Increased Fine or Fees	Anticipated Prison Admissions	Anticipated Fiscal Impact
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### House Bills

HB 10	Department of Corrections Amendments	Rep. Hutchings	SUP	Amends the statute regarding the emergency release of inmates at the Utah State Prison as a result of excess population. Provides definitions for "maximum capacity," "operational capacity," and "emergency release capacity." Creates a distinction between male and female prison populations for the purposes of emergency release procedures.				
HB 12	Corrections Education Amendments	Rep. Wright	SUP	Removes responsibility from the Board of Regents for the education of persons in the custody of the Department of Corrections, but provides that the State Office of Education and the Utah Department of Corrections collaborate with them regarding the preparation and implementation of a recidivism reduction plan.				
HB 13	Offender Registry Review	Rep. Draxler	SUP	This bill is intended to create a process for an offender required to register with the Department of Corrections as a sex or kidnap offender for the offenses of Unlawful Sexual Activity With a Minor, or Unlawful Sexual Activity With a 16 or 17 year old to petition the court for removal from the registry. (Part of this bill may be negated by an error in the coordinating clause.)				\$50,000

HB 14	Civil Commitment Amendments	Rep. Daw		Adds the definition of "harmful sexual conduct" as a type of conduct that would constitute a "substantial danger" under the civil commitment statute. The amendment means that an individual who, due to a mental illness, is a serious risk to engage in harmful sexual conduct may be subject to civil commitment.					\$100,000
1 <sup>st</sup> Sub HB 17	Sex Offender Registry Chapter	Rep. Draxler	SUP	Restructures and moves the statutes regarding the Sex and Kidnap offender registry to its own chapter, title 77 of the Utah Code. This bill is intended to create a process for an offender required to register with the Department of Corrections as a sex or kidnap offender for the offenses of Kidnaping and Unlawful Detention to petition the court for removal from the registry.					
1 <sup>st</sup> Sub HB 18	Kidnapping Offender Amendments	Rep. Cox	SUP	Amends the time frames during which the use of certain fireworks is legal and changes the penalty for violating those time frames from a class B misdemeanor to an infraction.	<b>Reduced from a class B misdemeanor to an infraction</b>				\$2,100
HB 33	Fireworks Amendments	Rep. Dunningan		Clarifies that the court may only order competency proceedings upon a finding that there is a bona fide doubt regarding the defendant's competency. The bill clarifies that evaluators must consider symptoms of false or exaggerated behaviors related to the questions of competency. Additionally, the bill emphasizes that an additional examiner is not required when the findings of the original examiners are in conflict.					
HB 38	Competency to Stand Trial Amendments	Rep. McCliff	SUP	Amends the definition of "fringe gambling" so that it does not include promotional activity that is "clearly ancillary" to the purpose of the underlying business.					
HB 40	Gambling Amendments	Rep. Ipson	N/P	Creates a one-step sentencing enhancement for an offender who commits theft at a retail location after receiving notice that they have been trespassing from the location.	<b>New class A misdemeanor</b> <b>New 3<sup>rd</sup> degree felony</b>				\$20,500 (not funded)
2 <sup>nd</sup> Sub HB 44	Theft Amendments	Rep. Ray	SUP						
HB 47	Reporting Abuse of a Vulnerable Adult	Rep. Moss	SUP	Removes conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly engage in conduct that would be a violation of the statute, from the definition of "emotional or psychological abuse."					

1 <sup>st</sup> Sub HB 52	Notorious Criminal Activity Amendments	Rep. Webb	S/C	Clarifies definitions in the Profits From Crime Memorabilia Act to allow the state to receive any profits derived from criminal activity. Dictates that those profits be paid to the victim of the crime, if restitution is owed, or to the Crime Victims Reparations Fund.				
HB 86	Posting of Trespass	Rep. Mathis	N/P	Amends the definition of "properly posted" in relation to what is a class B misdemeanor for the taking of wildlife on private land if the person has notice not to enter or remain on the land.				
1 <sup>st</sup> Sub HB 92	Boating Revisions	Rep. Greenwood	SUP	Requires that the operator of a vessel who has reason to believe that they have been involved in an accident resulting in property damage, injury or death of a person shall stop the vessel and remain at the scene until the operator fulfills certain requirements. A violation of this section is subject to a \$750 fine and a class A misdemeanor, or a 3 <sup>rd</sup> degree felony if the death of a person is involved.	New class B Misdemeanor New class A misdemeanor new 3 <sup>rd</sup> degree felony	New \$750 fine		
1 <sup>st</sup> Sub HB 96	Prohibition of Sale or Use of Certain Software Programs	Rep. Arent	SUP	Prohibits the sale, possession, purchase, installation, or use of any automated sales suppression device or phantom ware. A violation of this section is a 3 <sup>rd</sup> degree felony for a first offense and a 2 <sup>nd</sup> degree felony for any second or subsequent offense. Additionally, a violation is subject to a fine not to exceed twice the amount of the taxes that would otherwise have been due but for the violation of these provisions.	New 3 <sup>rd</sup> degree felony new 2 <sup>nd</sup> degree felony	New fine up to twice the taxes that would have been due but for the violation of the section		
HB 97	Racketeering Amendment	Rep. Seelig	SUP	Adds the offenses of human trafficking, human smuggling, and aggravated human trafficking to the list of offenses that can be enhanced when charged under the pattern of unlawful activity offense.	New 2 <sup>nd</sup> degree felony			
HB 103	Theft by Deception Amendment	Rep. Oda	SUP	Amends the theft by deception statute to clarify that the deception and the deprivation do not need to occur at the same time to meet the elements of the statute.				
HB 108	Internet Gambling	Rep. Sandstrom	N/P	Adds a class A misdemeanor offense to the gambling statute for a person who intentionally provides or offers to provide any form of internet or online gambling to any person in the State of Utah.	New class A misdemeanor			

<p><b>HB 117</b></p>	<p><b>Firearm Modifications</b></p>	<p>Rep. Ivory</p>		<p>Changes the definition of "sawed-off" rifle to "short barrel" and allows the legal concealed carry of legally owned short barrel rifles.</p>				
<p><b>1<sup>st</sup> Sub HB 159</b></p>	<p><b>Unlawful Detention Amendments</b></p>	<p>Rep. Wilcox</p>	<p>N/P</p>	<p>Creates the offense of unlawful detention of a minor when a person who is at least four or more years older than the victim coerces or influences a minor who is 14 or 15 years of age to stay with the person without the consent of the minor's parent or guardian, for an unreasonable amount of time, in a situation that does not constitute kidnapping.</p>	<p><b>New class B misdemeanor</b></p>			
<p><b>4<sup>th</sup> Sub HB 175</b></p>	<p><b>Second Hand Item Transactions</b></p>	<p>Rep. Seelig</p>		<p>Specifies that it is a class B misdemeanor for a pawn or secondhand business to sell or pawn property if they know or have reason to know that the property is unclaimed personal property as defined. Makes it a class B misdemeanor for a pawnbroker to fail to comply with the requirements of the central database. Makes it a class B misdemeanor for a pawnbroker to fail to maintain the required records regarding transactions. Makes it a class B misdemeanor for a pawnbroker to fail to hold property for the required period of time. Specifies that a pawnbroker may not purchase or accept property from an individual under the age of 18 or who appears to be under the influence of alcohol or a controlled substance.</p>	<p><b>4 new class B misdemeanors</b></p>			
<p><b>3<sup>rd</sup> Sub HB 187</b></p>	<p><b>Agricultural Operation Interference</b></p>	<p>Rep. Mathis</p>	<p>N/P</p>	<p>Provides that a person is guilty of agricultural operation interference as a class A misdemeanor if the person records an image of, or sound from, an agricultural operation by leaving a recording device on the property without permission. A person is guilty of a class B misdemeanor if the person records an image or sound by obtaining access under false pretenses, applies for employment with the intent to make the recording, or while knowingly trespassing on the property.</p>	<p><b>New class A misdemeanor New class B misdemeanors</b></p>			
<p><b>2<sup>nd</sup> Sub HB 194</b></p>	<p><b>Involuntary Feeding and Hydration of Inmates</b></p>	<p>Rep. Brown</p>	<p>S/C</p>	<p>Creates a process for a correctional facility to petition the court for an order to administer food or fluids to a prisoner by involuntary means. The statute requires the court to hold a hearing within two business days of receiving a petition from a correctional facility and provides that the prisoner has the right to attend the</p>				

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				hearing, testify before the court, present evidence, and cross examine witnesses. It requires that the involuntary feeding or hydration be conducted under medical supervision and in a reasonable manner.				
<b>HB 246</b>	<b>County Correctional Facilities Funding Amendments</b>	Rep. Noel	N/P	Alters the method for calculating the reimbursement rate for county jails that house inmates as a condition of felony probation to an average number of days over the previous five years instead of the actual number of incarceration days for the previous year. Specifies that the county clerk shall remove a voter's name from the official register if the clerk receives notice that the voter has been convicted of any felony or misdemeanor that prohibits voting and the voter's right to vote has not been restored.				
<b>1<sup>st</sup> Sub HB 253</b>	<b>Voter Registration Amendments</b>	Rep. Powell						
<b>1<sup>st</sup> Sub HB 254</b>	<b>Controlled Substances Amendments</b>	Rep. Froerer	SUP	Amends the definition of controlled substance analog, adds benzy/piperazine to Schedule I and adds AM-2201, RCS-4, JWH-210, and JWH- 203 to the list of listed controlled substances.	<b>New</b> 1 <sup>st</sup> degree felony 4 new 2 <sup>nd</sup> degree felonies 4 new 3 <sup>rd</sup> degree felonies 3 new class B misdemeanors			\$203,200
<b>1<sup>st</sup> Sub HB 257</b>	<b>Controlled Substance Database Amendments</b>	Rep. Daw		Creates a new 3 <sup>rd</sup> degree felony for intentionally or knowingly releasing information obtained from any state or federal prescription monitoring program by means of the Utah controlled substance database and a new 3 <sup>rd</sup> degree felony for obtaining or attempting to obtain information from any state or federal prescription monitoring program through the Utah controlled substances data base through misrepresentation or fraud.	2 New 3 <sup>rd</sup> degree felonies			
<b>HB 276</b>	<b>Aiding Sexual Solicitation</b>	Rep. Ray	N/P	Amends the aiding sexual solicitation statute to include activity that enables the aiding of prostitution.	<b>New</b> class B misdemeanor New Class A misdemeanor			

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HB 277	Graffiti Paraphernalia	Rep. Nielson	SUP	Amends the definition of graffiti to include "etching." The statute defines etching as defacing, damaging, or destroying hard surfaces by the use of a chemical action.	New class B misdemeanor New Class A misdemeanor New 3 <sup>rd</sup> degree felony New 2 <sup>nd</sup> degree felony			
HB 282	Criminal Offense Amendments	Rep. Ray	S/C	Restructures the criminal code so that the offenses of lewdness, sexual battery, and public urination are each in a separate section. Additionally, the bill specifies that a plea in abeyance for lewdness or sexual battery is the equivalent of a conviction for the purposes of enhancement or registration on the sex and kidnap offender registry.				
HB 289	Reauthorization of Corrections Education Programs	Rep. Watkins	SUP	Modifies the repeal date for certain education programs for persons in the custody of the Department of Corrections.				
HB 297	Highway Barricade Amendments	Rep. Perry	SUP	Makes it a class B misdemeanor for a person to willfully fail to observe any temporary or permanent highway barricade, warning light, sign, cone, or other object, or to obey a flagman.	New class B misdemeanor			
HB 311	Electronic Meetings for Charter School	Rep. Daw	N/P	Makes it a class B misdemeanor for a person to falsely identify themselves when participating in an electronic meeting in violation of the statute.	New class B misdemeanor			
HB 317	Traffic Safety Amendments	Rep. Ipson		Clarifies the provisions regarding the requirement for a classroom driver safety course and the suspension of license for a violation of the requirements regarding approaching emergency vehicles, including that a person who fails to attend the required course will have their license suspended for 90 days and the Driver License Division shall reinstate the person's license as soon as they receive proof of attendance of the course.				
HB 326	Serious Youth Offender Amendments	Rep. Ray	SUP	Corrects a discrepancy with a statutory reference created when the aggravated assault was previously amended.				

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HB 346	<b>Amendments Regarding Competency to Stand Trial</b>	Rep. Christensen	SUP	Modifies the hearing procedure for determining if a defendant is competent to stand trial to provide for the courts consideration of the totality of the circumstances, including the testimony of lay witnesses.				\$10,400 (not included in total)
1 <sup>st</sup> Sub HB 393	<b>Juvenile Competency Amendments</b>	Rep. McIff	SUP	Creates a process for the evaluation and determination of competency to stand trial in juvenile court delinquency cases.				\$308,700 (not included in total)
1 <sup>st</sup> Sub HB 395	<b>Firearms Amendments</b>	Rep. Sandstrom	N/P	Removes the requirement for BCI to suspend concealed firearm permit upon receiving notice that the permit holder has been charged with a crime of violence in another state. Adds aliens illegally or unlawfully in the United States to the list of Category I restricted persons. Creates an affirmative defense for the transfer of a firearm or other dangerous weapon by restricted person to a non-restricted person within 10 days of the person becoming a restricted person and creates penalties for the violation of the provisions created.	2 <sup>nd</sup> new degree felonies 3 <sup>rd</sup> new degree felonies 2 <sup>nd</sup> new class A misdemeanors			
HB 442	<b>County Correctional Funding Amendments</b>	Rep. Noel	N/P	Increases the rate at which the state reimburses counties for housing state inmates and providing treatment programs to 79% of the final state daily incarceration rate, and 73% to facilities that do not provide treatment programs.				\$1,404,600
HB 494	<b>Campaign Finance Amendments</b>	Rep. Barlow	N/P	Makes it a class B misdemeanor for a political action committee or political issues committee to fail to file a report before municipal general elections.	2 <sup>nd</sup> new class B misdemeanors	\$583		
1 <sup>st</sup> Sub HB 510	<b>Indigent Defense Act Amendments</b>	Rep. Hughes	S/C	Requires defense service providers in indigent defense cases to provide all legal defense services as a package. Creates procedures for the court to follow when a defendant hires private counsel, and extends terms of certain members of the Indigent Defense Fund Board.				
HB 505	<b>Agricultural Code Amendments</b>	Rep. Galvez	N/P	Makes it a class B misdemeanor for a person in control of a swine to allow the swine to run at large.	New class B misdemeanor New class C misdemeanor			

## Senate Bills

Bill #	Title	Sponsor	USC Position	Description	Penalty Changes	Increased Fine or Fees	Anticipated Prison Admissions	Anticipated Fiscal Impact
SB 13	Medical Examiner Amendments	Sen. Christensen	SUP	Requires the state medical examiner to assume custody of a body when the death is the result of a highway accident.				
SB 20	Petitions by Candidates or Political Parties	Sen. Knudson	SUP	Creates a new class A misdemeanor for violations related to signing or verifying a certificate of nomination by an unaffiliated candidate and a political party registration petition.	2 new class A misdemeanors			
SB 33	Trespassing on State Lands	Sen. Dayton	N/P	Makes it a class B misdemeanor for a person to camp on sovereign lands for more than 15 days at the same or a nearby location, for a person to return to camp at the same location on sovereign lands before a 15 day waiting period has passed, or for a person to anchor or beach a vessel for longer than 72 hours at the same location.	4 new class B misdemeanors			
5 <sup>th</sup> Sub SB 41	Regulation of Tanning Facilities	Sen. Jones	N/P	Amends restrictions regarding the use of tanning facilities by person under 18 years of age. And creates a class C misdemeanor for failure to comply with those restrictions.	New class C misdemeanor			
SB 50	Motor Vehicle Impoundment Amendments	Sen. Waddoups	SUP	Allows law enforcement to seize and impound a vehicle if the driver is arrested or cited for driving without a license when the license was suspended, denied, or revoked for any impaired driving offense.		\$330		
SB 98	Amendments to Prohibition on Using a Handheld Wireless Communication Device While Operating a Vehicle	Sen. Hillyard	SUP	Clarifies definitions regarding text messaging or using a hand held communication device while driving. Specifies that prohibited conduct includes composing messages while driving, whether or not the message is sent, composing and sending emails, sending data or reading text, or manipulating an application from the device. Also clarifies that the statute does not prohibit making or receiving phone calls, or using GPS or navigation services.	4 new class C misdemeanors			

<p><b>SB 144</b></p>	<p><b>Immigration Consultants</b></p>	<p>Sen. Robles</p>	<p>SUP</p>	<p>Enacts the Immigration Consultants Registration Act. The act defines terms and outlines procedures regulating the industry of immigration consultants. A violation of the Act, including making a false or misleading statement to an immigration client, make a guarantee or promise, unless the guarantee or promise is in writing, suggest that the immigration consultant can or will obtain a special favor from or has special influence with U.S. Immigration Services, or any other government agency, or charge a fee to refer the client to another person for services, is a class A misdemeanor and subject to a fine of up to \$10,000.</p>	<p><b>New class A misdemeanor</b></p>	<p>\$10,000</p>		
<p><b>2<sup>nd</sup> Sub SB 153</b></p>	<p><b>Procurement Amendments</b></p>	<p>Sen. Niederhauser</p>	<p>OPP</p>	<p>Creates a new offense of offering a gratuity for an interested person to give, offer, or promise anything of value to a procurement officer that is seeking to obtain a procurement, or to any person on behalf of the procurement officer.</p> <p>Creates a new offense of accepting or requesting a gratuity for any procurement officer or public employee or official to offer or receive anything of value to a person interested in the procurement of an item, real property, or insurance.</p> <p>The penalties for these offenses are 2<sup>nd</sup> degree felonies if the value of the offering is more than \$1,000, third degree felonies if the value of the offering is between \$250 and \$1,000, class A misdemeanors if the value of the offering is between \$100 and \$250, and class B misdemeanors if the value of the offering is less than \$100. A person is not guilty of the offense if the value of the offering is less than \$10, or if the total of the gifts or offering in a year is less than \$50 and the gift was not given with the intent to induce a person to make a procurement decision.</p> <p>Additionally, it creates a new offense for artificially dividing a purchase. A violation of this offense is a 2<sup>nd</sup> degree felony if the total of the divided procurement is \$1,000,000 or more, a 3<sup>rd</sup> degree felony if the total</p>	<p><b>3 new 2<sup>nd</sup> degree felonies</b>  <b>3 new 3<sup>rd</sup> degree felonies</b>  <b>3 new class A misdemeanors</b>  <b>3 new class B misdemeanors</b></p>			

				value of the divided procurement is more than \$250,000 but less than \$1,000,000, a class A misdemeanor if the total value of the divided procurement is more than \$100,000 but less than \$250,000, or a class B misdemeanor if the total value of the divided procurement is less than \$100,000.				
				The statute also specifies that any public employee who violates these provisions shall be dismissed from employment or removed from office				
SB 154	Judiciary Amendments	Sen. Hillyard	SUP	Includes court commissioners in the definition of at-risk government employee and exempts mediation conducted by a judge as part of their official duties related to case from the requirements of the mediation statute.				
1 <sup>st</sup> Sub SB 182	Expungement of Drug Offenses	Sen. Stephenson	SUP	Creates a committee within the Utah Substance Abuse Advisory Council to study issues related to the expungement of drug related offenses. Requires that the Committee report to the Judiciary, Law Enforcement and Criminal Justice Committee no later than November 30, 2012.				
1 <sup>st</sup> Sub SB 191	Accountability for School Attendance	Sen. Stevenson	N/P	Allows a law enforcement officer acting as a school resource officer to issue notices of compulsory education violation, notices of truancy, and habitual truancy notices.				
SB 199	Motor Vehicle Selling and Tinting Requirements	Sen. Urquhart	N/P	Requires a new owner of a transferred vehicle, vessel, or outboard motor to obtain a certificate of title.	New class B misdemeanor			
SB 200	Justice Court Amendments	Sen. Hillyard	SUP	In addition to technical amendments and rule changes, enacts uniform fees for filings in justice courts.				
SB 201	Expungement Amendments	Sen. Bramble	N/P	Allows most traffic offenses to be expunged without limit. Amends the conditions for which a person may qualify for a certificate of eligibility for an expungement. Provides that traffic offenses are not included in determining if a person is eligible for certificates of eligibility for expungement.				
SB 205	Records Access Discovery Amendments	Sen. Bramble	SUP	Permits a state or local prosecutor to provide information from the controlled substance database to a criminal defense attorney upon request as part of discovery and permits a criminal justice agency to				

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				provide information from a criminal background check to a defense attorney as part of discovery.				
1 <sup>st</sup> Sub SB 214	Justice Court Process Amendments	Sen. Bramble	N/P	Provides that a sentence imposed by a justice court shall be stayed if upon the filing of proper notice of appeal for a trial de novo in district court.				
SB 234	Criminal Procedure Amendments	Sen. Hillyard	SUP	Amends the sex and kidnap offender registry statute to make provisions for juveniles adjudicated in another state and required to register in that state as part of a nonpublic registry. Also amends the statute to clarify that juveniles convicted in this state are required to register only if they are committed to secure care and required to remain in state custody for that offense until 30 days before their 21 <sup>st</sup> birthday.				
1 <sup>st</sup> Sub SB 235	Clarification of Stalking Injunctions and Protective Orders	Sen. Weiler		Allows the court to consider and make orders addressing parental visitation and custody rights when entering a stalking injunction or a protective order.				
SB 236	GPS Tracking Authority	Sen. Weiler	SUP	Repeals the current code provision that regulates the law enforcement use of a mobile tracking device.				
SB 242	Fleeing a Conservation Officer Amendments	Sen. Thatcher	SUP	Repeals the statute regarding the fleeing from a conservation officer, which is a class A misdemeanor and a required of fine of not less than \$250 and no less than 60 days in jail in order to avoid any conflict with the statutes regarding fleeing from a peace officer which is a 3 <sup>rd</sup> degree felony when the fleeing occurs in a vehicle.	Increases a class A misdemeanor to a 3 <sup>rd</sup> degree felony			
1 <sup>st</sup> Sub SB 243	Repeal of Illegal Drug Stamp Tax Act	Sen. Thatcher	SUP	Repeals the requirements and criminal penalties related to the illegal drug stamp tax act.	Removes a 3 <sup>rd</sup> degree felony			
1 <sup>st</sup> Sub SB 260	Automobile Salvage Amendments	Sen. Urquhart		Makes it a class B misdemeanor to sell a nonrepairable vehicle without first obtaining a nonrepairable certificate.	New class B misdemeanor			

2012 Totals *									
New 1 <sup>st</sup> Degree Felonies	New 2 <sup>nd</sup> Degree Felonies	New 3 <sup>rd</sup> Degree Felonies	New Class A Misdemeanors	New Class B Misdemeanors	New Class C Misdemeanors	New Infractions	New Fines or Fees	Anticipated Prison Admissions per year	Anticipated Fiscal Impact <sup>a</sup>
1	12	16	13	24	6	1	4		\$1,780,400
<b>2011 Totals</b>									
	10	4	2	11	1			7.3	\$6,663,850
<b>2010 Totals</b>									
1	3	4	6	14	4		4		\$918,000
<b>2009 Totals</b>									
	1	7	9	10	4	2	0	1	\$301,700
<b>2008 Totals</b>									
1	3	11	6	2			0	15	\$360,000
<b>2007 Totals</b>									
1 (Capital)	1	2	3	4	1		0	9	\$216,000

\* New Crime totals include penalties increased or decreased from a previously existing penalty.  
<sup>a</sup> The anticipated fiscal impact predicts costs to state agencies in only the fiscal year indicated and does not include ongoing costs or the costs to county or local governments.  
 ° Information regarding new fines or fees to offenders was not tracked in these years.