

**DEPORTATION OF ELIGIBLE  
UNDOCUMENTED IMMIGRANT PRISONERS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Glenn A. Donnelson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill enacts a provision in the Utah Criminal Code related to the incarceration of convicted felons who are illegally in the United States.

**Highlighted Provisions:**

This bill:

- ▶ provides that the Board of Pardons and Parole may release a prisoner who is illegally in the United States and has not completed the indeterminate sentence imposed by the court to the United States Immigration and Customs Enforcement for deportation;
- ▶ provides qualifying criteria for the release; and
- ▶ provides for revocation of the release if the prisoner returns illegally to the United States.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**64-13-38.5**, Utah Code Annotated 1953



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

Section 1. Section **64-13-38.5** is enacted to read:

**64-13-38.5. Release of prisoner with detainer -- Eligibility -- Revocation of release.**

(1) Notwithstanding any law to the contrary, the Board of Pardons and Parole, hereafter referred to in this section as "the board," may release a prisoner to the custody and control of the United States Immigration and Customs Enforcement for deportation if:

(a) the board receives an order of deportation from the United States Immigration and Customs Enforcement for a prisoner who is illegally in the United States;

(b) the prisoner has served at least a minimum amount of time of the sentence imposed by the court as determined by the board;

(c) the prisoner was convicted of a second or third degree felony;

(d) the prisoner was not convicted of an offense under Section 76-5-203, 76-5-205, 76-5-207, 76-5-208, or 76-5-209;

(e) the prisoner was not convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; and

(f) the prisoner was not sentenced under Section 76-3-203.5.

(2) (a) If a prisoner who is released to the United States Immigration and Customs Enforcement under Subsection (1) returns illegally to the United States, on notification from a federal or state law enforcement agency that the prisoner is in custody, the board shall revoke the prisoner's release.

(b) The prisoner is not eligible for parole or any other release from confinement until the remainder of the sentence of imprisonment is served as determined by the board.

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**Legislative Review Note**  
as of 2-13-08 4:24 PM

**Office of Legislative Research and General Counsel**