

**DEPARTMENT OF CORRECTIONS -
TRACKING AND REIMBURSEMENT OF
INDIVIDUAL PRISONER COSTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions in the Criminal Code and the State Institutions Code to require offenders who receive medical, dental, and postsecondary educational services, while in prison, to reimburse the state for the costs of the services received.

Highlighted Provisions:

This bill:

- ▶ modifies uncodified intent language passed in 2008 regarding financial obligations of inmates;
- ▶ requires an inmate participating in postsecondary education through the Department of Corrections to pay to the institution providing the education the costs of reasonable tuition;
- ▶ requires a defendant, unless otherwise ordered by the court, to pay restitution to the state or county for medical and dental expenses incurred before and after sentencing if:
 - the defendant is convicted of criminal activity that results in incarceration in a state correctional facility or a county correctional facility through a contract with the Department of Corrections; and
 - reimbursement does not duplicate the reimbursement provided under Section



28 64-13-30.

29 ▶ limits postsecondary education services to an inmate who is lawfully present in the
30 United States;

31 ▶ provides that the department or institution providing the medical, dental, or
32 educational services may defer an offender's payment but must turn over any unpaid
33 debt to the Office of State Debt Collection when the offender is released from
34 parole; and

35 ▶ provides that the court may use existing criteria to reduce or exempt a recipient
36 inmate from the debt but must enter the reason for its order on the record.

37 **Monies Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 None

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **64-13-30**, as last amended by Laws of Utah 2002, Chapter 140

44 **76-3-201**, as last amended by Laws of Utah 2008, Chapter 151

45 ENACTS:

46 **64-13-30.5**, Utah Code Annotated 1953

47 **Uncodified Material Affected:**

48 AMENDS UNCODIFIED MATERIAL:

49 **Laws of Utah 2008, Chapter 63, Uncodified Section 1**



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

52 Section 1. Section **64-13-30** is amended to read:

53 **64-13-30. Expenses incurred by offenders -- Payment to department or county**
54 **jail.**

55 (1) (a) The department shall establish and collect from [offenders] each offender on
56 work release programs the reasonable costs of the offender's maintenance, transportation, and
57 incidental expenses incurred by the department on behalf of the [offenders] offender.

58 (b) Priority shall be given to restitution and family support obligations.

59 (c) The offender's reimbursement to the department for the cost of obtaining the
60 offender's DNA specimen, under Section 53-10-404 is the next priority after Subsection (1)(b).

61 (2) The department, under its rules, may advance funds to any offender as necessary to
62 establish the offender in a work release program.

63 (3) (a) The department or county jail may require an inmate to make a reasonable
64 ~~[copayment]~~ payment for medical and dental services provided by the department or county
65 jail.

66 (b) An inmate may not be denied medical treatment if ~~[he]~~ the inmate is unable to pay
67 ~~[the copayment]~~ for the treatment because of inadequate financial resources.

68 Section 2. Section **64-13-30.5** is enacted to read:

69 **64-13-30.5. Payment by inmate for postsecondary educational expenses incurred**
70 **by offenders.**

71 (1) (a) In addition to the expenses described in Section 64-13-30, a participating inmate
72 shall pay to the institution of higher education tuition for the costs of postsecondary education
73 received while in the custody of the department.

74 (b) If an inmate desires to participate in postsecondary education but is unable to pay
75 all the costs of the education because of inadequate financial resources, the department may
76 delay payment until the recipient is able to pay for the service.

77 (2) Only inmates lawfully present in the United States may participate in the
78 postsecondary educational program offered through the department.

79 (3) The department or the institution providing medical, dental, or postsecondary
80 education services shall turn over to the Office of State Debt Collection any debt under this
81 section and Sections 64-13-30 and 64-13-33 that is unpaid at the time the offender is released
82 from parole.

83 (4) The offender may request a court hearing on whether the debt payment required
84 under this section should be reduced or that the offender be exempted from the debt. In
85 considering the offender's request, the court shall consider the criteria under Subsections
86 77-38a-302(5)(c)(i) through (iv) and shall enter the reason for its order on the record.

87 Section 3. Section **76-3-201** is amended to read:

88 **76-3-201. Definitions -- Sentences or combination of sentences allowed -- Civil**
89 **penalties -- Hearing.**

90 (1) As used in this section:

91 (a) "Conviction" includes a:

92 (i) judgment of guilt; and

93 (ii) plea of guilty.

94 (b) "Criminal activities" means any offense of which the defendant is convicted or any
95 other criminal conduct for which the defendant admits responsibility to the sentencing court
96 with or without an admission of committing the criminal conduct.

97 (c) "Pecuniary damages" means all special damages, but not general damages, which a
98 person could recover against the defendant in a civil action arising out of the facts or events
99 constituting the defendant's criminal activities and includes the money equivalent of property
100 taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical
101 expenses.

102 (d) "Restitution" means full, partial, or nominal payment for pecuniary damages to a
103 victim, and payment for expenses to a governmental entity for extradition or transportation and
104 as further defined in Title 77, Chapter 38a, Crime Victims Restitution Act.

105 (e) (i) "Victim" means any person who the court determines has suffered pecuniary
106 damages as a result of the defendant's criminal activities.

107 (ii) "Victim" does not include any coparticipant in the defendant's criminal activities.

108 (2) Within the limits prescribed by this chapter, a court may sentence a person
109 convicted of an offense to any one of the following sentences or combination of them:

110 (a) to pay a fine;

111 (b) to removal or disqualification from public or private office;

112 (c) to probation unless otherwise specifically provided by law;

113 (d) to imprisonment;

114 (e) on or after April 27, 1992, to life in prison without parole; or

115 (f) to death.

116 (3) (a) This chapter does not deprive a court of authority conferred by law to:

117 (i) forfeit property;

118 (ii) dissolve a corporation;

119 (iii) suspend or cancel a license;

120 (iv) permit removal of a person from office;

121 (v) cite for contempt; or
122 (vi) impose any other civil penalty.
123 (b) A civil penalty may be included in a sentence.
124 (4) (a) When a person is convicted of criminal activity that has resulted in pecuniary
125 damages, in addition to any other sentence it may impose, the court shall order that the
126 defendant make restitution to the victims, or for conduct for which the defendant has agreed to
127 make restitution as part of a plea agreement.
128 (b) In determining whether restitution is appropriate, the court shall follow the criteria
129 and procedures as provided in Title 77, Chapter 38a, Crime Victims Restitution Act.
130 (5) (a) In addition to any other sentence the court may impose, the court shall order the
131 defendant to pay restitution of governmental transportation expenses if the defendant was:
132 (i) transported pursuant to court order from one county to another within the state at
133 governmental expense to resolve pending criminal charges;
134 (ii) charged with a felony or a class A, B, or C misdemeanor; and
135 (iii) convicted of a crime.
136 (b) The court may not order the defendant to pay restitution of governmental
137 transportation expenses if any of the following apply:
138 (i) the defendant is charged with an infraction or on a subsequent failure to appear a
139 warrant is issued for an infraction; or
140 (ii) the defendant was not transported pursuant to a court order.
141 (c) (i) Restitution of governmental transportation expenses under Subsection (5)(a)(i)
142 shall be calculated according to the following schedule:
143 (A) \$75 for up to 100 miles a defendant is transported;
144 (B) \$125 for 100 up to 200 miles a defendant is transported; and
145 (C) \$250 for 200 miles or more a defendant is transported.
146 (ii) The schedule of restitution under Subsection (5)(c)(i) applies to each defendant
147 transported regardless of the number of defendants actually transported in a single trip.
148 (d) If a defendant has been extradited to this state under Title 77, Chapter 30,
149 Extradition, to resolve pending criminal charges and is convicted of criminal activity in the
150 county to which he has been returned, the court may, in addition to any other sentence it may
151 impose, order that the defendant make restitution for costs expended by any governmental

152 entity for the extradition.

153 (6) (a) In addition to any other sentence the court may impose, and unless otherwise
154 ordered by the court pursuant to Subsection (6)(c), the defendant shall pay restitution to the
155 county for the cost of incarceration in the county correctional facility before and after
156 sentencing if:

157 (i) the defendant is convicted of criminal activity that results in incarceration in the
158 county correctional facility; and

159 (ii) (A) the defendant is not a state prisoner housed in a county correctional facility
160 through a contract with the Department of Corrections; or

161 (B) the reimbursement does not duplicate the reimbursement provided under Section
162 64-13e-104 if the defendant is a state probationary inmate, as defined in Section 64-13e-102, or
163 a state parole inmate, as defined in Section 64-13e-102.

164 (b) (i) The costs of incarceration under Subsection (6)(a) are the amount determined by
165 the county correctional facility, but may not exceed the daily inmate incarceration costs and
166 medical and transportation costs for the county correctional facility.

167 (ii) The costs of incarceration under Subsection (6)(a) do not include expenses incurred
168 by the county correctional facility in providing reasonable accommodation for an inmate
169 qualifying as an individual with a disability as defined and covered by the federal Americans
170 with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213, including medical and mental
171 health treatment for the inmate's disability.

172 (c) In determining whether to order that the restitution required under this Subsection
173 (6) be reduced or that the defendant be exempted from the restitution, the court shall consider
174 the criteria under Subsections 77-38a-302(5)(c)(i) through (iv) and shall enter the reason for its
175 order on the record.

176 (d) If on appeal the defendant is found not guilty of the criminal activity under
177 Subsection (6)(a)(i) and that finding is final as defined in Section 76-1-304, the county shall
178 reimburse the defendant for restitution the defendant paid for costs of incarceration under
179 Subsection (6)(a).

180 (7) (a) In addition to any other sentence the court may impose, and unless otherwise
181 ordered by the court pursuant to Subsection (7)(b), the defendant shall pay restitution to the
182 state for medical and dental expenses incurred before and after sentencing if:

183 (i) the defendant is convicted of criminal activity that results in incarceration in a state
184 correctional facility or in a county correctional facility through a contract with the Department
185 of Corrections; and

186 (ii) the reimbursement does not duplicate the reimbursement provided under Section
187 64-13-30.

188 (b) In determining whether the restitution required under this Subsection (7) be reduced
189 or that the defendant be exempted from the restitution, the court shall consider the criteria
190 under Subsections 77-38a-302(5)(c)(i) through (iv) and shall enter the reason for its order on
191 the record.

192 Section 4. **Laws of Utah 2008, Chapter 63, Uncodified Section 1** is amended to read:

193 Section 1. **Appropriation.**

194 (1) As an ongoing appropriation subject to future budget constraints, there is
195 appropriated from the Education Fund for fiscal year 2008-09, \$150,000 to the State Board of
196 Regents.

197 (2) It is the intent of the Legislature that the appropriation described under Subsection
198 (1) shall be distributed by the State Board of Regents to institutions of higher education that
199 provide inmate postsecondary education under the supervision of the Utah Department of
200 Corrections to:

201 (a) stabilize the funding of existing postsecondary education programs;

202 (b) primarily reimburse the personnel costs of providing the inmate postsecondary
203 education; and

204 (c) purchase necessary equipment and supplies for the inmate postsecondary education.

205 (3) It is the intent of the Legislature that the institutions of higher education that
206 provide inmate postsecondary education:

207 (a) shall require participating inmates to pay [~~affordable tuition to help~~] reasonable
208 tuition for the costs of the education received to offset the state costs of providing the
209 education; and

210 (b) may only offer the education to an inmate who has a legal presence in the United
211 States.

212 (4) The appropriation described under Subsection (1) is nonlapsing.

Legislative Review Note
as of 8-13-08 1:36 PM

Office of Legislative Research and General Counsel

Fiscal Note**H.B. 100 - Department of Corrections - Tracking and Reimbursement of
Individual Prisoner Costs**

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. State agencies that provide services outlined in the bill may see an increase in revenue.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses. Local governments that provide services to offenders may see an increase in revenue. Offenders who receive services will be required to pay.
