

INCREASE IN SURCHARGE ON FINES

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: _____

LONG TITLE

General Description:

This bill increases the surcharges on fines and penalties to provide grants for increased law enforcement presence in areas around group homes.

Highlighted Provisions:

This bill:

- ▶ increases the surcharges on criminal fines and penalties from 85% to 90% and 35% to 40%;
 - ▶ creates a Law Enforcement Services Account for the increased amounts;
 - ▶ requires that the Commission on Criminal and Juvenile Justice administer the account;
 - ▶ requires that the account be used for increased enforcement around group homes;
- and
- ▶ allows law enforcement agencies to apply for grants to accomplish the purpose of the account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **51-9-401**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and
29 amended by Laws of Utah 2008, Chapter 382

30 **51-9-402**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and
31 amended by Laws of Utah 2008, Chapter 382

32 ENACTS:

33 **51-9-412**, Utah Code Annotated 1953



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

36 Section 1. Section **51-9-401** is amended to read:

37 **51-9-401. Surcharge -- Application and exemptions.**

38 (1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures
39 imposed by the courts.

40 (b) The surcharge shall be:

41 (i) [~~85%~~] 90% upon conviction of a:

42 (A) felony;

43 (B) class A misdemeanor;

44 (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless
45 Driving; or

46 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including
47 violation of comparable county or municipal ordinances; or

48 (ii) [~~35%~~] 40% upon conviction of any other offense, including violation of county or
49 municipal ordinances not subject to the [~~85%~~] 90% surcharge.

50 (2) The surcharge may not be imposed:

51 (a) upon nonmoving traffic violations;

52 (b) upon court orders when the offender is ordered to perform compensatory service
53 work in lieu of paying a fine; and

54 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment
55 of a case under Section 78A-6-602.

56 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to
57 all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if
58 committed by an adult.

59 (b) However, the surcharge does not include amounts assessed or collected separately
60 by juvenile courts for the Juvenile Restitution Account, which is independent of this part and
61 does not affect the imposition or collection of the surcharge.

62 (4) The surcharge under this section shall be imposed in addition to the fine charged
63 for a civil or criminal offense, and no reduction may be made in the fine charged due to the
64 surcharge imposition.

65 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be
66 authorized and managed by this part rather than attached to particular offenses.

67 Section 2. Section **51-9-402** is amended to read:

68 **51-9-402. Division of collected monies retained by state treasurer and local**
69 **governmental collecting entity -- Purpose of surcharge -- Allocation of collections --**
70 **Financial information.**

71 (1) The amount of the surcharge imposed under this part by courts of record shall be
72 collected before any fine and deposited with the state treasurer.

73 (2) The amount of the surcharge and the amount of criminal fines, penalties, and
74 forfeitures imposed under this part by courts not of record shall be collected concurrently.

75 (a) As monies are collected on criminal fines, penalties, and forfeitures subject to the
76 [~~85%~~] 90% surcharge, the monies shall be divided pro rata so that the local governmental
77 collecting entity retains [~~54%~~] 53% of the collected monies and the state retains [~~46%~~] 47% of
78 the collected monies.

79 (b) As monies are collected on criminal fines, penalties, and forfeitures subject to the
80 [~~35%~~] 40% surcharge, the monies shall be divided pro rata so that the local governmental
81 collecting entity retains [~~74%~~] 72% of the collected monies and the state retains [~~26%~~] 28% of
82 the collected monies.

83 (c) The court shall deposit with the state treasurer the surcharge portion of all monies
84 as they are collected.

85 (3) Courts of record, courts not of record, and administrative traffic proceedings shall
86 collect financial information to determine:

87 (a) the total number of cases in which:

88 (i) a final judgment has been rendered;

89 (ii) surcharges and fines are paid by partial or installment payment; and

90 (iii) the judgment is fulfilled by an alternative method upon the court's order; and
91 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state
92 and county or municipality, including:

- 93 (i) waived surcharges;
- 94 (ii) uncollected surcharges; and
- 95 (iii) collected surcharges.

96 (4) The courts of record, courts not of record, and administrative traffic proceedings
97 shall report all collected financial information monthly to the Administrative Office of the
98 Courts. The collected information shall be categorized by cases subject to the [~~85%~~] 90% and
99 [~~35%~~] 40% surcharge.

100 (5) The purpose of the surcharge is to finance the trust funds and support accounts as
101 provided in this part.

102 (6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for
103 the purposes described in Sections 51-9-403 through 51-9-411.

104 (b) Allocations shall be made on a fiscal year basis.

105 (7) The provisions of this section and Section 51-9-401 may not impact the distribution
106 and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13,
107 78A-5-110, and 78A-7-120.

108 Section 3. Section **51-9-412** is enacted to read:

109 **51-9-412. Law Enforcement Services Account -- Funding -- Uses.**

110 (1) As used in this section:

111 (a) "Account" means the Law Enforcement Services Account.

112 (b) "Commission" means the Commission on Criminal and Juvenile Justice created in
113 Section 63M-7-201.

114 (c) "Law enforcement agency" means a local law enforcement agency.

115 (2) There is created a restricted account within the General Fund known as the "Law
116 Enforcement Services Account."

117 (3) (a) The Division of Finance shall allocate the first 4% of the collected surcharge
118 under Section 51-9-401 and the first 10% of the collected surcharge under Section 51-9-402 to
119 the account, to be appropriated by the Legislature.

120 (b) Money in the account shall be appropriated to the commission for grants to law

121 enforcement agencies providing services directly relating to the areas around group homes.

122 (c) The state treasurer shall invest monies in the account according to Title 51, Chapter
123 7, State Money Management Act.

124 (d) The Division of Finance shall deposit interest or other earnings derived from
125 investment of account monies into the General Fund.

126 (4) The commission shall, upon application, allocate grants of funds from the account
127 to local law enforcement agencies for increased enforcement in areas around group homes.

128 (5) A law enforcement agency may use funds granted under this section only for the
129 purposes stated by the commission in the grant.

130 (6) The commission may retain up to 2% of the amount appropriated to cover the costs
131 of administering the fund.

132 (7) For each fiscal year, any law enforcement agency that receives a grant from the
133 commission under this section shall prepare, and file with the commission and the state auditor,
134 a report in a form specified by the commission. The report shall include the following
135 regarding each grant:

136 (a) the agency's name;

137 (b) the amount of the grant;

138 (c) the date of the grant;

139 (d) how the grant was used; and

140 (e) a statement signed by both the agency's or political subdivision's executive officer
141 or designee and by the agency's legal counsel that all grant funds were used for law
142 enforcement operations approved by the commission and that relate to reducing criminal
143 activity in areas around group homes.

144 (8) The commission shall report in writing to the legislative Law Enforcement and
145 Criminal Justice Interim Committee annually regarding the grants allocated under this section,
146 including the amounts and uses of the grants.

Legislative Review Note
as of 2-25-10 6:16 PM

Office of Legislative Research and General Counsel