

**JUSTICE REINVESTMENT AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Val K. Potter**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill establishes the daily compensation rate for treatment beds in county facilities offering alternative treatment programs.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends the definition of "treatment program" to include alternative treatment programs related to vocational training or cognitive behavioral therapy;
- ▶ establishes the daily compensation rate to be paid to a county for treatment beds dedicated to state inmates receiving alternative treatment in a county facility; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**64-13e-102**, as last amended by Laws of Utah 2011, Chapter 93

**64-13e-103**, as last amended by Laws of Utah 2017, Chapter 302

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

Section 1. Section **64-13e-102** is amended to read:

30 **64-13e-102. Definitions.**

31 As used in this chapter:

32 (1) "Actual state daily incarceration rate" means the daily incarceration rate that reflects  
33 the actual expenses of the department, including:

34 (a) executive overhead;

35 (b) administrative overhead;

36 (c) transportation overhead;

37 (d) division overhead;

38 (e) motor pool expenses;

39 (f) medical expenses;

40 (g) mental health expenses;

41 (h) dental expenses;

42 (i) straight line capital depreciation, over a 40-year period, for prison facilities of the  
43 department; and

44 (j) expenses for treatment, including substance abuse treatment, alcohol abuse  
45 treatment, ~~and~~ sex offender treatment, and alternative treatment.

46 (2) "Alternative treatment" means:

47 (a) evidence-based cognitive behavioral therapy; or

48 (b) a certificate-based program provided by a Utah technical college, as defined in

49 Subsection 53B-26-102(8).

50 ~~[(2)]~~ (3) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created  
51 in Section 63M-7-201.

52 ~~[(3)]~~ (4) "Department" means the Department of Corrections.

53 ~~[(4)]~~ (5) "Division of Finance" means the Division of Finance, created in Section  
54 63A-3-101.

55 ~~[(5)]~~ (6) "Final state daily incarceration rate" means the average actual state daily  
56 incarceration rate, calculated, reviewed, and discussed under Section 64-13e-105, and approved  
57 by the Legislature under Subsection 64-13e-105(3).

58           ~~[(6)]~~ (7) "State inmate" means ~~[a person]~~ an individual, other than a state probationary  
59 inmate or state parole inmate, who is committed to the custody of the department.

60           ~~[(7)]~~ (8) "State parole inmate" means ~~[a person]~~ an individual who is:

61           (a) on parole, as defined in Section ~~77-27-1~~; and

62           (b) housed in a county jail for a reason related to the ~~[person's]~~ individual's parole.

63           ~~[(8)]~~ (9) "State probationary inmate" means a felony probationer sentenced to time in a  
64 county jail under Subsection ~~77-18-1~~(8).

65           ~~[(9)]~~ (10) "Treatment program" means:

66           (a) an alcohol treatment program;

67           (b) a substance abuse treatment program; ~~[or]~~

68           (c) a sex offender treatment program~~[-];~~ or

69           (d) an alternative treatment program.

70           Section 2. Section ~~64-13e-103~~ is amended to read:

71           **~~64-13e-103. Contracts for housing state inmates.~~**

72           (1) Subject to Subsection (6), the department may contract with a county to house state  
73 inmates in a county or other correctional facility.

74           (2) The department shall give preference for placement of state inmates, over private  
75 entities, to county correctional facility bed spaces for which the department has contracted  
76 under Subsection (1).

77           (3) (a) The compensation rate for housing state inmates pursuant to a contract  
78 described in Subsection (1) shall be:

79           (i) except as provided in Subsection (3)(a)(ii), 89% of the final state daily incarceration  
80 rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program ~~[to]~~  
81 for state inmates, if the treatment program is approved by the department under Subsection  
82 (3)(c); ~~[and]~~

83           (ii) 81% of the final state daily incarceration rate for beds in a county that, pursuant to  
84 the contract, are dedicated to an alternative treatment program for state inmates, if the  
85 alternative treatment program is approved by the department under Subsection (3)(c); and

86            [(it)] (iii) 73% of the final state daily incarceration rate for beds in a county other than  
87 the beds described in [~~Subsection~~] Subsections (3)(a)(i) and (ii).

88            (b) The department shall:

89            (i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
90 Rulemaking Act, that establish standards that a treatment program is required to meet before  
91 the treatment program is considered for approval for the purpose of a county receiving payment  
92 based on the rate described in Subsection (3)(a)(i) or (ii); and

93            (ii) determine on an annual basis, based on appropriations made by the Legislature for  
94 the contracts described in this section, whether to approve a treatment program that meets the  
95 standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment  
96 based on the rate described in Subsection (3)(a)(i) or (ii).

97            (c) The department may not approve a treatment program for the purpose of a county  
98 receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

99            (i) the program meets the standards established under Subsection (3)(b)(i);

100            (ii) the department determines that the Legislature has appropriated sufficient funds to:

101            (A) pay the county that provides the treatment program at the rate described in  
102 Subsection (3)(a)(i) or (ii); and

103            (B) pay each county that does not provide a treatment program an amount per state  
104 inmate that is not less than the amount per state inmate received for the preceding fiscal year by  
105 a county that did not provide a treatment program; and

106            (iii) the department determines that the treatment program is needed by the department  
107 at the location where the treatment program will be provided.

108            (4) Compensation to a county for state inmates incarcerated under this section shall be  
109 made by the department.

110            (5) Counties that contract with the department under Subsection (1) shall, on or before  
111 June 30 of each year, submit a report to the department that includes:

112            (a) the number of state inmates the county housed under this section; and

113            (b) the total number of state inmate days of incarceration that were provided by the

114 county.

115           (6) Except as provided under Subsection (7), the department may not enter into a  
116 contract described under Subsection (1), unless the Legislature has previously passed a joint  
117 resolution that includes the following information regarding the proposed contract:

- 118           (a) the approximate number of beds to be contracted;
- 119           (b) the final state daily incarceration rate;
- 120           (c) the approximate amount of the county's long-term debt; and
- 121           (d) the repayment time of the debt for the facility where the inmates are to be housed.

122           (7) The department may enter into a contract with a county government to house  
123 inmates without complying with the approval process described in Subsection (6) only if the  
124 county facility was under construction, or already in existence, on March 16, 2001.

125           (8) Any resolution passed by the Legislature under Subsection (6) does not bind or  
126 obligate the Legislature or the department regarding the proposed contract.