

OFFENDER SUPERVISION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill amends provisions relating to the preparation of a presentence investigation report.

Highlighted Provisions:

This bill:

- ▶ removes provisions requiring a POST certified Department of Corrections employee to provide investigative services;
- ▶ provides that a Department of Corrections employee who is trained to prepare a presentence investigation report may prepare a report for the courts, the department, or the Board of Pardons and Parole; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

64-13-20, as last amended by Laws of Utah 2009, Chapter 81

64-13-21, as last amended by Laws of Utah 2018, Chapter 334

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

Section 1. Section **64-13-20** is amended to read:

30 **64-13-20. Investigative services -- Presentence investigation reports.**

31 (1) The department shall:

32 (a) provide investigative services and prepare reports to:

33 (i) assist the courts in sentencing;

34 (ii) assist the Board of Pardons and Parole in its decision-making responsibilities
35 regarding offenders;

36 (iii) assist the department in managing offenders; and

37 (iv) assure the professional and accountable management of the department;

38 (b) establish standards for providing investigative services based on available
39 resources, giving priority to felony cases; and

40 (c) employ staff for the purpose of conducting:

41 (i) thorough presentence investigations of the social, physical, and mental conditions
42 and backgrounds of offenders; and

43 (ii) examinations when required by the court or the Board of Pardons and Parole.

44 (2) The department may provide recommendations concerning appropriate measures to
45 be taken regarding offenders.

46 (3) (a) An employee of the department who is trained to prepare a presentence
47 investigation report may prepare a presentence investigation report for the courts, the
48 department, or the Board of Pardons and Parole.

49 ~~[(a)]~~ (b) The presentence investigation reports prepared by the department are protected
50 as defined in Section 63G-2-305 and after sentencing may not be released except by express
51 court order or by ~~[rules]~~ rule made by the ~~[Department of Corrections]~~ department in
52 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

53 ~~[(b)]~~ (c) The reports are intended only for use by:

54 (i) the ~~[court]~~ courts in the sentencing process;

55 (ii) the Board of Pardons and Parole in its ~~[decisionmaking]~~ decision-making
56 responsibilities; and

57 (iii) the department in the supervision, confinement, and treatment of the offender.

58 (4) [~~Presentence investigation reports~~] A presentence investigation report shall be
59 made available upon request to [~~other correctional programs~~] another correctional program
60 within the state if the offender who is the subject of the report has been committed or is being
61 evaluated for commitment to the facility for treatment as a condition of probation or parole.

62 (5) (a) The presentence investigation reports shall include a victim impact statement in
63 all felony cases and in misdemeanor cases if the [~~defendant~~] offender caused bodily harm or
64 death to the victim.

65 (b) Victim impact statements shall:

66 (i) identify the victim of the offense;

67 (ii) itemize any economic loss suffered by the victim as a result of the offense;

68 (iii) identify any physical, mental, or emotional injuries suffered by the victim as a
69 result of the offense, and the seriousness and permanence;

70 (iv) describe any change in the victim's personal welfare or familial relationships as a
71 result of the offense;

72 (v) identify any request for mental health services initiated by the victim or the victim's
73 family as a result of the offense; and

74 (vi) contain any other information related to the impact of the offense upon the victim
75 or the victim's family that the court requires.

76 (6) If the victim is deceased[;], under a mental, physical, or legal disability[;], or
77 otherwise unable to provide the information required under this section, the information may
78 be obtained from the personal representative, guardian, or family members, as necessary.

79 (7) The department shall employ staff necessary to pursue investigations of complaints
80 from the public, staff, or offenders regarding the management of corrections programs.

81 Section 2. Section **64-13-21** is amended to read:

82 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
83 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
84 **fee.**

85 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced

86 offenders placed in the community on probation by the courts, on parole by the Board of
87 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate
88 Compact for the Supervision of Parolees and Probationers.

89 (b) The department shall establish standards for the supervision of offenders in
90 accordance with sentencing guidelines and supervision length guidelines, including the
91 graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority,
92 based on available resources, to felony offenders and offenders sentenced pursuant to
93 Subsection 58-37-8(2)(b)(ii).

94 (2) The department shall apply graduated sanctions established by the Utah Sentencing
95 Commission to facilitate a prompt and appropriate response to an individual's violation of the
96 terms of probation or parole, including:

97 (a) sanctions to be used in response to a violation of the terms of probation or parole;
98 and

99 (b) requesting approval from the court or Board of Pardons and Parole to impose a
100 sanction for an individual's violation of the terms of probation or parole, for a period of
101 incarceration of not more than three consecutive days and not more than a total of five days
102 within a period of 30 days.

103 (3) The department shall implement a program of graduated incentives as established
104 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate
105 response to an offender's:

106 (a) compliance with the terms of probation or parole; or

107 (b) positive conduct that exceeds those terms.

108 (4) (a) The department shall, in collaboration with the Commission on Criminal and
109 Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and
110 procedures for the collection of information, including cost savings related to recidivism
111 reduction and the reduction in the number of inmates, related to the use of the graduated
112 sanctions and incentives, and offenders' outcomes.

113 (b) The collected information shall be provided to the Commission on Criminal and

114 Juvenile Justice not less frequently than annually on or before August 31.

115 (5) Employees of the department who are POST certified as law enforcement officers
116 or correctional officers and who are designated as parole and probation officers by the
117 executive director have the following duties:

118 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
119 with the conditions of the parole or probation agreement;

120 (b) investigating or apprehending any offender who has escaped from the custody of
121 the department or absconded from supervision;

122 ~~[(c) providing investigative services for the courts, the department, or the Board of
123 Pardons and Parole;]~~

124 ~~[(d)]~~ (c) supervising any offender during transportation; or

125 ~~[(e)]~~ (d) collecting DNA specimens when the specimens are required under Section
126 53-10-404.

127 (6) (a) A monthly supervision fee of \$30 shall be collected from each offender on
128 probation or parole. The fee may be suspended or waived by the department upon a showing
129 by the offender that imposition would create a substantial hardship or if the offender owes
130 restitution to a victim.

131 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
132 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the
133 supervision fee and the circumstances under which an offender may request a hearing.

134 (ii) In determining whether the imposition of the supervision fee would constitute a
135 substantial hardship, the department shall consider the financial resources of the offender and
136 the burden that the fee would impose, with regard to the offender's other obligations.

137 (7) (a) For offenders placed on probation under Section 77-18-1 or parole under
138 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the
139 department shall establish a program allowing an offender to earn credits for the offender's
140 compliance with the terms of the offender's probation or parole, which shall be applied to
141 reducing the period of probation or parole as provided in this Subsection (7).

142 (b) The program shall provide that an offender earns a reduction credit of 30 days from
143 the offender's period of probation or parole for each month the offender completes without any
144 violation of the terms of the offender's probation or parole agreement, including the case action
145 plan.

146 (c) The department shall maintain a record of credits earned by an offender under this
147 Subsection (7) and shall request from the court or the Board of Pardons and Parole the
148 termination of probation or parole not fewer than 30 days prior to the termination date that
149 reflects the credits earned under this Subsection (7).

150 (d) This Subsection (7) does not prohibit the department from requesting a termination
151 date earlier than the termination date established by earned credits under Subsection (7)(c).

152 (e) The court or the Board of Pardons and Parole shall terminate an offender's
153 probation or parole upon completion of the period of probation or parole accrued by time
154 served and credits earned under this Subsection (7) unless the court or the Board of Pardons
155 and Parole finds that termination would interrupt the completion of a necessary treatment
156 program, in which case the termination of probation or parole shall occur when the treatment
157 program is completed.

158 (f) The department shall report annually to the Commission on Criminal and Juvenile
159 Justice on or before August 31:

160 (i) the number of offenders who have earned probation or parole credits under this
161 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the
162 offenders on probation or parole during that time that this number represents;

163 (ii) the average number of credits earned by those offenders who earned credits;

164 (iii) the number of offenders who earned credits by county of residence while on
165 probation or parole;

166 (iv) the cost savings associated with sentencing reform programs and practices; and

167 (v) a description of how the savings will be invested in treatment and

168 early-intervention programs and practices at the county and state levels.