

**VOLUNTARY BEHAVIORAL AND COGNITIVE
SELF-IMPROVEMENT PILOT PROGRAM**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: _____

LONG TITLE

General Description:

This bill requires the Department of Corrections to establish a voluntary behavioral and cognitive self-improvement pilot program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Corrections to establish a voluntary behavioral and cognitive self-improvement pilot program designed to reduce recidivism;
- ▶ describes the requirements for the cognitive behavioral modification pilot program;
- ▶ provides for a parole hearing for an offender who successfully completes the pilot program and serves a certain percentage of the offender's original sentence;
- ▶ requires the Department of Corrections to report on the pilot program annually to the Law Enforcement and Criminal Justice Interim Committee;
- ▶ establishes a sunset date for the pilot program; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **64-13-14**, as last amended by Laws of Utah 2007, Chapter 306

31 **77-27-5**, as last amended by Laws of Utah 2019, Chapter 148

32 **77-27-7**, as last amended by Laws of Utah 2018, Chapter 334

33 ENACTS:

34 **63I-1-264**, Utah Code Annotated 1953

35 **64-13g-101**, Utah Code Annotated 1953

36 **64-13g-102**, Utah Code Annotated 1953

37 **64-13g-103**, Utah Code Annotated 1953

38 **64-13g-104**, Utah Code Annotated 1953

39 **64-13g-105**, Utah Code Annotated 1953

40 **64-13g-106**, Utah Code Annotated 1953

41 **64-13g-107**, Utah Code Annotated 1953



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

44 Section 1. Section **63I-1-264** is enacted to read:

45 **63I-1-264. Repeal dates, Title 64.**

46 Title 64, Chapter 13g, Voluntary Behavioral and Cognitive Self-improvement Pilot

47 Program, is repealed on July 1, 2029.

48 Section 2. Section **64-13-14** is amended to read:

49 **64-13-14. Secure correctional facilities.**

50 (1) The department shall maintain and operate secure correctional facilities for the
51 incarceration of offenders.

52 (2) For each compound of secure correctional facilities, as established by the executive
53 director, wardens shall be appointed as the chief administrative officers by the executive
54 director.

55 (3) [~~The~~] Except as provided in Section **64-13g-105**, the department may transfer
56 offenders from one correctional facility to another and may, with the consent of the sheriff,
57 transfer any offender to a county jail.

58 Section 3. Section **64-13g-101** is enacted to read:

CHAPTER 13g. VOLUNTARY BEHAVIORAL AND COGNITIVE
SELF-IMPROVEMENT PILOT PROGRAM

64-13g-101. Title.

This chapter is known as "Voluntary Behavioral and Cognitive Self-improvement Pilot Program."

Section 4. Section **64-13g-102** is enacted to read:

64-13g-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

(2) "Committee" means the Law Enforcement and Criminal Justice Interim Committee.

(3) "Correctional facility" means the same as that term is defined in Section 64-13-1.

(4) "Department" means the Department of Corrections created in Section 64-13-2.

(5) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(6) "Executive director" means the executive director of the department appointed under Section 64-13-3.

(7) "Offender" means an individual who has been convicted of a crime and who is in the custody of, and under the jurisdiction of, the department.

(8) "Pilot program" means the Voluntary Behavioral and Cognitive Self-improvement Pilot Program described in Section 64-13g-103.

(9) "Program director" means the individual, described in Subsection 64-13g-103(5)(b), who administers the pilot program.

Section 5. Section **64-13g-103** is enacted to read:

64-13g-103. Voluntary Behavioral and Cognitive Self-improvement Pilot Program.

(1) In accordance with the requirements of this chapter, the department shall establish the Voluntary Behavioral and Cognitive Self-improvement Pilot Program.

(2) The pilot program shall begin on January 1, 2022, and end on July 1, 2029.

(3) (a) The pilot program shall be a tiered-based progressive program designed to reduce recidivism and administered in accordance with the provisions of this chapter.

90 (b) The pilot program shall:

91 (i) incorporate all critical evidence-based behavioral, cognitive, and career-readiness
92 learning elements of the historical Success Through Responsibility, Integrity, Values and Effort
93 program that, in the department's opinion, will further the purposes of the pilot program; and

94 (ii) include additional education, life skills, cognitive change, and job skills elements
95 that, in the department's opinion, will assist participants with modifying cognitive processes
96 and behaviors that tend to lead to incarceration.

97 (4) Except for an offender who has been sentenced to a term of life without the
98 possibility of parole or an offender who has received a sentence of death:

99 (a) an offender shall be afforded a hearing to establish a date of release or a date of
100 rehearing as soon as reasonably possible after the offender:

101 (i) successfully completes all tiers of the pilot program; and

102 (ii) serves at least 65% of the offender's original sentence; and

103 (b) at the hearing held pursuant to Subsection (4)(a), the board may consider the fact
104 that the offender has successfully completed all tiers of the pilot program and served at least
105 65% of the offender's original sentence as mitigating circumstances under Subsection
106 77-27-9(1)(b).

107 (5) (a) The department shall administer the pilot program and may make rules in
108 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the
109 pilot program in accordance with the provisions of this chapter.

110 (b) The executive director, or the executive director's designee if the designee
111 possesses expertise in correctional programming, shall:

112 (i) direct the administration of the pilot program;

113 (ii) regularly visit each correctional facility where the pilot program is conducted to
114 personally assess the quality of instruction and program implementation and, for each visit,
115 document findings and opportunities for improvement; and

116 (iii) consult at least annually with cognitive and career-readiness staff experts from the
117 Utah system of higher education and the State Board of Education to evaluate the cognitive and
118 career-readiness opportunities provided under the pilot program.

119 (6) (a) The warden of a correctional facility where the pilot program is conducted shall
120 accommodate all elements of the pilot program at the direction of the program director,

121 including the staffing policies described in Section 64-13g-106.

122 (b) (i) If the warden of a correctional facility where the pilot program is conducted
123 reasonably believes that accommodation of an element of the pilot program would pose a
124 safety risk or threaten the security of the correctional facility, the warden may request an
125 accommodation from the program director.

126 (ii) If the warden and the program director cannot reach an agreement on an
127 accommodation requested under Subsection (6)(b)(i), the executive director shall make the
128 final decision on whether to grant the accommodation.

129 Section 6. Section **64-13g-104** is enacted to read:

130 **64-13g-104. Participation in pilot program.**

131 (1) Participation in the pilot program shall be entirely voluntary and no offender may
132 be compelled to participate or to continue to participate in the pilot program at any time.

133 (2) The department shall develop screening criteria for offenders who volunteer to
134 participate in the pilot program.

135 Section 7. Section **64-13g-105** is enacted to read:

136 **64-13g-105. Facility.**

137 (1) (a) The pilot program shall initially be conducted at the Central Utah Correctional
138 Facility in Gunnison.

139 (b) Upon completion of construction of the new Utah State Correctional Facility in Salt
140 Lake City, the pilot program may be transferred or expanded to the new Utah State
141 Correctional Facility provided that offenders participating in the pilot program are housed in
142 accordance with this section.

143 (2) (a) Offenders who volunteer for and are accepted into the pilot program shall be
144 housed separately from offenders who are not participating in the pilot program, in housing
145 units that are dedicated to the pilot program.

146 (b) Within housing units dedicated to the pilot program, offenders participating in the
147 pilot program shall be housed together with other offenders who are in the same tier of the pilot
148 program.

149 (3) (a) Except as described in Subsection (3)(b), an offender who is actively
150 participating in the pilot program may not be transferred to any other correctional facility.

151 (b) If the pilot program is transferred or expanded to the new Utah State Correctional

152 Facility under Subsection (1)(b), an offender who is participating in the pilot program may be
153 transferred from the Central Utah Correctional Facility to the Utah State Correctional Facility if
154 the offender continues to be housed in a housing unit that is dedicated to the pilot program and
155 with other offenders who are in the same tier of the pilot program.

156 (c) An offender who voluntarily withdraws from or is dismissed from the pilot program
157 for any reason before the offender completes all of the pilot program tiers shall be immediately
158 transferred out of the housing units dedicated to the pilot program and may be transferred to
159 another correctional facility.

160 Section 8. Section **64-13g-106** is enacted to read:

161 **64-13g-106. Staffing.**

162 (1) (a) Where possible, the department shall use qualified offender volunteers to fill
163 mentor and staff positions for the pilot program.

164 (b) The department shall develop screening criteria for each mentor and staff position
165 within the pilot program, provided that no offender may be precluded from filling a mentor or
166 staff position in the pilot program based solely on the length or nature of the offender's
167 sentence.

168 (2) If there are not enough qualified offender volunteers to fill all necessary mentor and
169 staff positions within the pilot program, the department may hire qualified employees or utilize
170 qualified non-offender volunteers to fill those positions.

171 Section 9. Section **64-13g-107** is enacted to read:

172 **64-13g-107. Reporting.**

173 (1) Beginning in the 2022 interim, the department shall provide annual reports to the
174 committee regarding the status of the pilot program.

175 (2) The department's annual reports to the committee shall include:

176 (a) the number of offenders who are participating in the pilot program, by tier;

177 (b) the number of offenders who have successfully completed the pilot program;

178 (c) the number of offenders who have volunteered and are waiting to be admitted into
179 the pilot program;

180 (d) the effect of the pilot program on reducing recidivism;

181 (e) a list of all behavioral, cognitive, and career-readiness opportunities being offered
182 to offenders in the pilot program, the number of offenders participating in each opportunity,

183 and the number of offenders who have successfully completed each opportunity;

184 (f) a summary of the findings and opportunities for improvement documented under
185 Subsection 64-13g-103(5)(b)(ii); and

186 (g) any other information that may be specifically requested by the Law Enforcement
187 and Criminal Justice Interim Committee.

188 (3) The department shall provide a final report to the committee on or before August 1,
189 2028, which shall include, in addition to the requirements in Subsection (2), an analysis of the
190 issues described in Subsections 63I-1-103(3)(a) through (g) as applied to the pilot program.

191 Section 10. Section 77-27-5 is amended to read:

192 **77-27-5. Board of Pardons and Parole authority.**

193 (1) (a) The Board of Pardons and Parole shall determine by majority decision when and
194 under what conditions any convictions, except for treason or impeachment, may be pardoned or
195 commuted, subject to this chapter and other laws of the state.

196 (b) The Board of Pardons and Parole shall determine by majority decision when and
197 under what conditions, subject to this chapter and other laws of the state, individuals
198 committed to serve sentences at penal or correctional facilities that are under the jurisdiction of
199 the Department of Corrections, except treason or impeachment convictions or as otherwise
200 limited by law, may be released upon parole, ordered to pay restitution, or have their fines,
201 forfeitures, or restitution remitted, or their sentences terminated.

202 (c) The board may sit together or in panels to conduct hearings. The chair shall appoint
203 members to the panels in any combination and in accordance with rules made in accordance
204 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board. The chair may
205 participate on any panel and when doing so is chair of the panel. The chair of the board may
206 designate the chair for any other panel.

207 (d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole,
208 pardon, or commutation granted or sentence terminated, except after a full hearing before the
209 board or the board's appointed examiner in open session. Any action taken under this
210 subsection other than by a majority of the board shall be affirmed by a majority of the board.

211 (e) A commutation or pardon may be granted only after a full hearing before the board.

212 (f) The board may determine restitution as provided in Section 77-27-6 and Subsection
213 77-38a-302(5)(d)(iii)(A).

214 (2) (a) In the case of any hearings, timely prior notice of the time and location of the
215 hearing shall be given to the offender.

216 (b) The county or district attorney's office responsible for prosecution of the case, the
217 sentencing court, and law enforcement officials responsible for the defendant's arrest and
218 conviction shall be notified of any board hearings through the board's website.

219 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
220 notified of original hearings and any hearing after that if notification is requested and current
221 contact information has been provided to the board.

222 (d) Notice to the victim or the victim's representative shall include information
223 provided in Section 77-27-9.5, and any related rules made by the board under that section. This
224 information shall be provided in terms that are reasonable for the lay person to understand.

225 (3) Decisions of the board in cases involving paroles, pardons, commutations or
226 terminations of sentence, restitution, or remission of fines or forfeitures are final and are not
227 subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a
228 civil judgment, including restitution as provided in Section 77-27-6.

229 (4) This chapter may not be construed as a denial of or limitation of the governor's
230 power to grant respite or reprieves in all cases of convictions for offenses against the state,
231 except treason or conviction on impeachment. However, respites or reprieves may not extend
232 beyond the next session of the Board of Pardons and Parole and the board, at that session, shall
233 continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the
234 offense as provided. In the case of conviction for treason, the governor may suspend execution
235 of the sentence until the case is reported to the Legislature at its next session. The Legislature
236 shall then either pardon or commute the sentence, or direct its execution.

237 (5) In determining when, where, and under what conditions an offender serving a
238 sentence may be paroled, pardoned, have restitution ordered, or have the offender's fines or
239 forfeitures remitted, or the offender's sentence commuted or terminated, the board shall:

240 (a) consider whether the offender has made or is prepared to make restitution as
241 ascertained in accordance with the standards and procedures of Section 77-38a-302, as a
242 condition of any parole, pardon, remission of fines or forfeitures, or commutation or
243 termination of sentence; and

244 (b) develop and use a list of criteria for making determinations under this Subsection

245 (5), which shall include, when applicable, consideration of an offender's successful completion
246 of the pilot program described in Title 64, Chapter 13g, Voluntary Behavioral and Cognitive
247 Self-improvement Pilot Program.

248 (6) In determining whether parole may be terminated, the board shall consider:

249 (a) the offense committed by the parolee; and

250 (b) the parole period as provided in Section 76-3-202, and in accordance with Section
251 77-27-13.

252 (7) For offenders placed on parole after December 31, 2018, the board shall terminate
253 parole in accordance with the supervision length guidelines established by the Utah Sentencing
254 Commission under Section 63M-7-404, to the extent the guidelines are consistent with the
255 requirements of the law.

256 Section 11. Section 77-27-7 is amended to read:

257 **77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists --**
258 **Mental competency.**

259 (1) (a) The Board of Pardons and Parole shall determine within six months after the
260 date of an offender's commitment to the custody of the Department of Corrections, for serving
261 a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the
262 offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and
263 shall promptly notify the offender of the date.

264 (b) Pursuant to Subsection 64-13g-103(4), an offender may be entitled to a hearing
265 earlier than the date determined under Subsection (1)(a).

266 (2) Before reaching a final decision to release any offender under this chapter, the chair
267 shall cause the offender to appear before the board, its panel, or any appointed hearing officer,
268 who shall personally interview the offender to consider the offender's fitness for release and
269 verify as far as possible information furnished from other sources. Any offender may waive a
270 personal appearance before the board. Any offender outside of the state shall, if ordered by the
271 board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in
272 which the offender is housed in lieu of an appearance before the board. The offender shall be
273 promptly notified in writing of the board's decision.

274 (3) (a) In the case of an offender convicted of violating or attempting to violate any of
275 the provisions of Section 76-5-301.1, Subsection 76-5-302(1)(b)(vi), Section 76-5-402,

276 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, or 76-5-405,
277 the chair may appoint one or more alienists who shall examine the offender within six months
278 prior to a hearing at which an original parole date is granted on any offense listed in this
279 Subsection (3).

280 (b) The alienists shall report in writing the results of the examination to the board prior
281 to the hearing. The report of the appointed alienists shall specifically address the question of
282 the offender's current mental condition and attitudes as they relate to any danger the offender
283 may pose to children or others if the offender is released on parole.

284 (4) A parolee may petition the board for termination of lifetime parole as provided in
285 Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or
286 convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(1)(b)(vi), Section
287 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, or 76-5-405,
288 and released on parole before January 1, 2019.

289 (5) In any case where an offender's mental competency is questioned by the board, the
290 chair may appoint one or more alienists to examine the offender and report in writing to the
291 board, specifically addressing the issue of competency.

292 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
293 board shall make rules governing:

- 294 (a) the hearing process;
- 295 (b) alienist examination; and
- 296 (c) parolee petitions for termination of parole.