

**LOCAL GOVERNMENT INDIGENT DEFENSE REQUIREMENT**

2018 GENERAL SESSION

STATE OF UTAH

---

---

**LONG TITLE****General Description:**

This bill requires local governments to include certain information in ordinances with criminal penalties that include any possibility of imprisonment.

**Highlighted Provisions:**

This bill:

- ▶ requires local governments to include information regarding indigent legal defense of an indigent individual in ordinances with criminal penalties that include any possibility of imprisonment; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-3-704**, as last amended by Laws of Utah 2010, Chapter 378

**17-53-223**, as last amended by Laws of Utah 2000, Chapter 323 and renumbered and amended by Laws of Utah 2000, Chapter 133

---

---

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

Section 1. Section **10-3-704** is amended to read:

**10-3-704. Form of ordinance.**

~~[Any] The governing body shall ensure that any ordinance [passed by] that the governing body[, after the effective date of this act, shall contain and be]~~ passes contains the following, in substantially the following order and form:

- (1) a number;
- (2) a title which indicates the nature of the subject matter of the ordinance;

- 33 (3) a preamble which states the need or reason for the ordinance;
- 34 (4) an ordaining clause which states "Be it ordained by the \_\_\_\_ (name of the  
35 governing body and municipality):";
- 36 (5) the body or subject of the ordinance;
- 37 (6) when applicable, a statement indicating the penalty for violation of the ordinance or  
38 a reference that the punishment is covered by an ordinance which prescribes the fines and  
39 terms of imprisonment for the violation of a municipal ordinance; or, the penalty may establish  
40 a classification of penalties and refer to such ordinance in which the penalty for such violation  
41 is established;
- 42 (7) when a penalty for a violation of the ordinance includes any possibility of  
43 imprisonment, a statement that the municipality is required, under Section 77-32-301, to  
44 provide for indigent legal defense, as those terms are defined in Section 77-32-201;
- 45 ~~[(7)]~~ (8) a statement indicating the effective date of the ordinance or the date when the  
46 ordinance shall become effective after publication or posting as required by this chapter;
- 47 ~~[(8)]~~ (9) a line for the signature of the mayor or acting mayor to sign the ordinance;
- 48 ~~[(9)]~~ (10) a place for the municipal recorder to attest the ordinance and fix the seal of  
49 the municipality; and
- 50 ~~[(10)]~~ (11) in municipalities where the mayor may disapprove an ordinance passed by  
51 the legislative body, ~~[the ordinance shall show, that it was passed]~~ a statement showing:
- 52 (a) if the mayor approves the ordinance, that the governing body passes the ordinance  
53 with the mayor's approval [or that];
- 54 (b) if the mayor [disapproved] disapproves the ordinance, that [it was passed] the  
55 governing body passes the ordinance over [his] the mayor's disapproval[-If]; or
- 56 (c) if the mayor neither approves[;] or disapproves [an] the ordinance, that the  
57 ordinance [shall show that it] became effective without the approval or disapproval of the  
58 mayor.

59 Section 2. Section **17-53-223** is amended to read:

60 **17-53-223. Ordinances -- Power to enact -- Penalty for violation.**

- 61 (1) A county legislative body may:
- 62 (a) pass all ordinances and rules and make all regulations, not repugnant to law,  
63 necessary for carrying into effect or discharging the powers and duties conferred by this title,

64 and as are necessary and proper to provide for the safety, and preserve the health, promote the  
65 prosperity, improve the morals, peace, and good order, comfort, and convenience of the county  
66 and its inhabitants, and for the protection of property in the county;

67 (b) enforce obedience to ordinances with fines or penalties as the county legislative  
68 body considers proper; and

69 (c) pass ordinances to control air pollution.

70 (2) (a) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the  
71 maximum fine for a class B misdemeanor under Section 76-3-301, imprisonment, or ~~by~~ both  
72 fine and imprisonment.

73 (b) When a penalty for a violation of an ordinance includes any possibility of  
74 imprisonment, the county legislative body shall include in the ordinance a statement that the  
75 county is required, under Section 77-32-301, to provide for indigent legal defense, as those  
76 terms are defined in Section 77-32-201.

77 (3) (a) Except as specifically authorized by statute, the county legislative body may not  
78 impose a civil penalty for the violation of a county traffic ordinance.

79 (b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles  
80 on a highway.

---

---

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**