

Defendant Access to Evidence Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses a criminal defendant's access to evidence in a county jail.

Highlighted Provisions:

This bill:

- requires the county sheriff to ensure that a jail inmate awaiting trial, sentencing, or disposition of criminal charges has:
 - a space to review discovery and other evidence or documents in the jail inmate's criminal case with the jail inmate's counsel; and
 - the means to access and review discovery and other evidence or documents in the jail inmate's criminal case;
- addresses how the jail inmate may access or review discovery, evidence, or other documents in jail;
- provides that a jail inmate's counsel has to ensure that certain discovery, evidence, or other documents are not left with the jail inmate at the jail; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-2, as last amended by Laws of Utah 2024, Chapter 21

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

Section 1. Section 17-22-2 is amended to read:

17-22-2 . Sheriff -- General duties -- Access to evidence, discovery, or other documents by jail inmate.

(1) The sheriff shall:

- (a) preserve the peace;
- (b) make all lawful arrests;
- (c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within [his] the sheriff's county, all courts of record, and court commissioner and referee sessions held within [his] the sheriff's county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;
- (d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;
- (e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail ~~[prisoners in his]~~ inmates in the sheriff's custody, or for the custody of jurors;
- (f) command the aid of as many inhabitants of the sheriff's county as the sheriff considers necessary in the execution of these duties;
- (g) take charge of and keep the county jail and the jail ~~[prisoners]~~ inmates;
- (h) receive and safely keep all persons committed to the sheriff's custody, file and preserve the commitments of those persons in custody, and record the name, age, place of birth, and description of each person committed;
- (i) release on the record all attachments of real property when the attachment the sheriff receives has been released or discharged;
- (j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;
- (k) serve all process and notices as prescribed by law;
- (l) if the sheriff makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if the sheriff fails to make service, certify the reason upon the process or notice, and return them without delay;
- (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public

- 62 land within ~~[his]~~ the sheriff's county;
- 63 (n) perform as required by any contracts between the county and private contractors for
64 management, maintenance, operation, and construction of county jails entered into
65 under the authority of Section 17-53-311;
- 66 (o) for the sheriff of a county of the second through sixth class that enters into an
67 interlocal agreement for law enforcement service under Title 11, Chapter 13,
68 Interlocal Cooperation Act, provide law enforcement service as provided in the
69 interlocal agreement;
- 70 (p) manage and direct search and rescue services in ~~[his]~~ the sheriff's county, including
71 emergency medical responders and other related incident response activities;
- 72 (q) obtain saliva DNA specimens as required under Section 53-10-404;
- 73 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
74 detention, or search of any person when the action is solely motivated by
75 considerations of race, color, ethnicity, age, or gender;
- 76 (s) as applicable, select a representative of law enforcement to serve as a member of a
77 child protection team, as defined in Section 80-1-102;
- 78 (t) appoint a county security chief in accordance with Section 53-22-103 and ensure the
79 county security chief fulfills the county security chief's duties;~~[-and]~~
- 80 (u) ensure that a jail inmate who is awaiting trial, sentencing, or disposition of criminal
81 charges has:
- 82 (i) a private and confidential space to review discovery and other evidence or
83 documents related to the jail inmate's criminal case with the jail inmate's counsel;
84 and
- 85 (ii) the means to access and review discovery and other evidence or documents
86 related to the jail inmate's criminal case, with or without the jail inmate's counsel,
87 including the means to access and review digital, audio, video, or other
88 technological evidence or documents; and
- 89 ~~[(u)]~~ (v) perform any other duties that are required by law.
- 90 (2)(a) Violation of Subsection (1)(j) is a class C misdemeanor.
- 91 (b) Violation of any other subsection under Subsection (1) is a class A misdemeanor.
- 92 (3)(a) As used in this Subsection (3):
- 93 (i) "Police interlocal entity" means the same as that term is defined in Sections
94 17-30-3 and 17-30a-102.
- 95 (ii) "Police special district" means the same as that term is defined in Section 17-30-3.

- (b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within its boundary a police special district or police interlocal entity, or both:
- (i) serves as the chief executive officer of each police special district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police special district or police interlocal entity, respectively; and
 - (ii) is subject to the direction of the police special district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police special district or police interlocal entity, respectively, and the sheriff.
- (c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202 (4), if a police interlocal entity or police special district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:
- (i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and
 - (ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.
- (4)(a) A jail inmate may access or review discovery, evidence, or other documents under Subsection (1)(u) with:
- (i) technology provided by the jail; or
 - (ii) technology, including a computer, that is approved by the jail and is provided by the jail inmate's counsel.
- (b) If a jail inmate's counsel leaves discovery, evidence, or other documents with the jail inmate at the jail, the jail inmate's counsel shall ensure that the discovery, evidence, or other documents does not include:
- (i) any visual depiction of an individual who is younger than 18 years old;
 - (ii) any personal identifying information of an individual other than the jail inmate;
 - (iii) any financial information of a person other than the jail inmate;
 - (iv) any child sexual abuse material as defined in Section 76-5b-103;
 - (v) any intimate image as defined in Section 76-5b-203; or
 - (vi) any visual depiction or information for which possession is prohibited, by policy,

130 at the jail.

131 Section 2. **Effective Date.**

132 This bill takes effect on May 7, 2025.