SB0074S03 compared with SB0074S01

~~{Omitted text}~~ shows text that was in SB0074S01 but was omitted in SB0074S03
inserted text shows text that was not in SB0074S01 but was inserted into SB0074S03

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Corrections Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor:Melissa G. Ballard

LONG TITLE

General Description:

This bill amends provisions related to corrections.

Highlighted Provisions:

This bill:

- amends which individuals in the custody of the Department of Corrections (the department) may petition to have a sex designation change on a birth certificate;
- prohibits an individual in the custody of the department from filing a petition in district court to legally change the individual's name;
- includes individuals on parole on the list of individuals to whom a government entity is not required to respond regarding certain records requests;
- clarifies that the department may independently investigate criminal allegations against:
  - individuals in the custody of the department; and
  - subject to certain limitations, employees of the department;
- amends the prison telephone surcharge account to allow revenue generated from offenders using department tablets and other electronic devices to be placed in the account;

SB0074S01

- amends provisions regarding the substances administered by the department when carrying out a judgment of death by lethal intravenous injection; {~~and~~}
- **requires an individual on probation or parole who is required to undergo drug testing as a condition of probation or parole to sign a waiver allowing the provider undertaking the testing to notify the individual's supervising officer regarding the results of the testing; and**
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

AMENDS:

26B-8-111 , as last amended by Laws of Utah 2024, Chapter 296 , as last amended by Laws of Utah 2024, Chapter 296

42-1-1 , as last amended by Laws of Utah 2024, Chapter 296 , as last amended by Laws of Utah 2024, Chapter 296

63G-2-201 , as last amended by Laws of Utah 2023, Chapters 173, 516 , as last amended by Laws of Utah 2023, Chapters 173, 516

64-13-6 , as last amended by Laws of Utah 2024, Chapters 144, 208 , as last amended by Laws of Utah 2024, Chapters 144, 208

64-13-42 , as last amended by Laws of Utah 2024, Chapter 144 , as last amended by Laws of Utah 2024, Chapter 144

77-18-105 , as last amended by Laws of Utah 2024, Chapters 187, 208 , as last amended by Laws of Utah 2024, Chapters 187, 208

77-19-10 , as last amended by Laws of Utah 2021, Chapter 260 , as last amended by Laws of Utah 2021, Chapter 260

77-27-10 , as last amended by Laws of Utah 2024, Chapter 208 , as last amended by Laws of Utah 2024, Chapter 208

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

Section 1. Section **26B-8-111** is amended to read:

26B-8-111. Birth certificate name or sex designation change -- Registration of court order and amendment of birth certificate.

(1) An individual may obtain a court order in accordance with Title 42, Names, to change the name on the individual's birth certificate.

(2)

(a) A court may grant a petition ordering a sex designation change on a birth certificate if the court determines by clear and convincing evidence that the individual seeking the sex designation change:

(i) is not involved in any kind of lawsuit;

(ii) is not [~~on probation or parole~~] an offender as defined in Section 64-13-1;

(iii) is not seeking the amendment:

(A) to commit a crime;

(B) to interfere with the rights of others;

(C) to avoid creditors;

(D) to influence the sentence, fine, or conditions of imprisonment in a criminal case;

(E) to commit fraud on the public; or

(F) for any other fraudulent purpose;

(iv) has transitioned from the sex designation of the biological sex at birth to the sex sought in the petition;

(v) has outwardly expressed as the sex sought in the petition in a consistent and uniform manner for at least six months; and

(vi) suffers from clinically significant distress or impairment due to the current sex designation on the birth certificate.

(b) The court shall consider the following when making the determination described in Subsection (2)(a)(iv):

(i) evidence of medical history, care, or treatment related to sex transitioning; and

(ii) evidence that the sex sought in the petition is sincerely held and part of the individual's core identity.

(c)

(i) An individual petitioning for a sex designation change under this section shall indicate on the petition whether the individual is registered with the state's Sex and Kidnap Offender Registry.

(ii) Based on the disclosure described in Subsection (2)(c)(i), the court may request additional information from an individual who is registered with the state's Sex and Kidnap Offender Registry to determine whether to grant a petition under this section.

(3)

(a)

(i) When determining whether to grant a sex designation change for a child who is at least 15 years and six months old, unless the child is emancipated, the court shall appoint, notwithstanding Subsection 78A-2-703(1), a guardian ad litem for the child.

(ii) Notwithstanding Subsection 78A-2-703(7), the child's parent or guardian is responsible for the costs of the guardian ad litem's services unless the court determines the parent or guardian is indigent in accordance with Section 78A-2-302.

(b) The guardian ad litem shall provide the court relevant evidence, whether submitted by the child or other sources of evidence, regarding the following:

(i) whether the child is capable of making decisions with long-term consequences independently of the child's parent or guardian;

(ii) whether the child is mature and capable of appreciating the implications of the decision to change the sex designation on the child's birth certificate; and

(iii) whether the child meets the other requirements of this section.

(c) The guardian of a child described in Subsection (3)(a) shall:

(i) give notice of the proceeding to any known parent of the child; and

(ii) provide the court with a declaration of the status of any divorce or custody matter pertaining to the child, including the case name, case number, court, judge, and current status of the case.

(d) The court shall:

(i) consider any objection given by a parent;

(ii) close the hearing on a petition for a sex designation change;

(iii) receive all evidence; and

(iv) make a determination as to whether:

(A) all of the requirements of Subsection (2) have been met; and

(B) the evidence supports a finding by clear and convincing evidence that the sex designation change is in the best interest of the child and would not create a risk of harm to the minor.

(4)

(a) A court may not grant a petition for a sex designation change if:

(i) the birth certificate is for a child who is younger than 15 years and six months old; or

(ii) the child's parent or guardian with legal custody has not given permission.

(b) An order granting a sex designation change under this section is not effective until the individual is at least 16 years old.

(5) A petition for a sex designation under this section may be combined with a petition under Title 42, Names.

(6)

(a) Upon the receipt of a certified order granting a birth certificate amendment, any required application, and an appropriate fee, the department shall issue:

(i) a birth certificate that does not indicate which fields were amended unless requested by the individual; and

(ii) an amendment history of the birth certificate, including the fields of the birth certificate that have been amended and the date of the amendment.

(b) The department shall retain a record of all amendments to a birth certificate, including any amendment history issued by the department.

(7) The provisions of this section are severable.

(8) This section only applies to birth certificates issued by the state.

(9) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

Section 2. Section **42-1-1** is amended to read:

42-1-1. By petition to district court -- Contents.

(1) [~~Any~~] Except as provided in Subsection (2) and subject to Subsection (3), any natural person, desiring to change the natural person's name, may file a petition in the district court of the county where the natural person resides, setting forth:

(a) the cause for which the change of name is sought;

(b) the name proposed; and

(c) that the natural person has been a bona fide resident of the county for the year immediately prior to the filing of the petition.

(2) A natural person who is an offender, as that term is defined in Section 64-13-1, may not file a petition in district court to change the natural person's name.

[~~(2)~~] (3)

(a) A natural person petitioning for a name change under this section shall indicate on the petition whether the individual is registered with the state's Sex and Kidnap Offender Registry.

(b) The court may request additional information from a natural person who is registered with the state's Sex and Kidnap Offender Registry to make the determination described in Subsection 77-41-105(8).

[~~(3)~~] (4) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

Section 3. Section **63G-2-201** is amended to read:

63G-2-201. Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

(1)

(a) Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (7)(a)(v); or

(iii)

(A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.

(5)

(a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

(II) the governmental entity; and

(III) the public; and

(B) serves a public purpose related to:

(I) public safety; or

(II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) A governmental entity shall provide a person with a certified copy of a record if:

(a) the person requesting the record has a right to inspect it;

(b) the person identifies the record with reasonable specificity; and

(c) the person pays the lawful fees.

(7)

(a) In response to a request, a governmental entity is not required to:

(i) create a record;

(ii) compile, format, manipulate, package, summarize, or tailor information;

(iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

(iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;

(v) fill a person's records request if:

(A) the record requested is:

(I) publicly accessible online; or

(II) included in a public publication or product produced by the governmental entity receiving the request; and

(B) the governmental entity:

(I) specifies to the person requesting the record where the record is accessible online; or

(II) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product; or

(vi) fulfill a person's records request if:

(A) the person has been determined under Section 63G-2-209 to be a vexatious requester;

(B) the State Records Committee order determining the person to be a vexatious requester provides that the governmental entity is not required to fulfill a request from the person for a period of time; and

(C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.

(b) A governmental entity shall conduct a reasonable search for a requested record.

(8)

(a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.

(b) In determining whether to fulfill a request described in Subsection (8)(a), a governmental entity may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.

(c) A governmental entity may require a person who makes a request under Subsection (8)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.

(9)

(a) Notwithstanding any other provision of this chapter, and subject to Subsection (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is on parole or confined in a jail or other correctional facility following the individual's conviction.

(b) Subsection (9)(a) does not apply to:

(i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or

(ii) a record request that is submitted by an attorney of an individual described in Subsection (9)(a).

(10)

(a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

(i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and

(ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) If the requirements of Subsection (10)(a) are met, the governmental entity may:

(i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or

(ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

(11)

(a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

(12) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

(13) Subject to the requirements of Subsection (7), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

(a) the person making the request requests or states a preference for an electronic copy;

(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and

(c) the electronic copy of the record:

(i) does not disclose other records that are exempt from disclosure; or

(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

(14) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:

(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and

(b) any public interests served by disclosure.

Section 4. Section **64-13-6** is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (3), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i)

(A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements; and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section 53B-35-201; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

(o) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) The department may in the course of supervising probationers and parolees:

(a) respond to an individual's violation of one or more terms of the probation or parole in accordance with the graduated and evidence-based processes established by the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

[~~(3)~~

~~(a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:~~]

[~~(i) criminal conduct of departmental employees;~~]

[~~(ii) felony crimes resulting in serious bodily injury;~~]

[~~(iii) death of any person; or~~]

[~~(iv) aggravated kidnaping.~~]

[~~(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:~~]

[~~(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and~~]

[~~(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).~~]

[~~(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.~~]

(3) In accordance with department policy, the department may conduct criminal investigations regarding an allegation that:

(a) an offender has committed a criminal offense; or

(b) an employee of the department has committed a criminal offense.

Ŝ→ [~~{(3)}~~ (5)] (4)

~~(a) Subject to Subsection (3)(b), the department may conduct criminal investigations~~ {~~]~~} {} { ←Ŝ } { Ŝ→ } {} {~~[~~} ~~regarding an allegation that:~~{~~]~~}

[~~(i) an offender has committed a criminal offense; or~~{~~]~~}

[~~(ii) an employee of the department has committed a criminal offense.~~{~~]~~}

{~~[~~(b)} ~~If during a criminal investigation into an allegation of an employee of the department~~ {~~]~~} {} { ←Ŝ } { Ŝ→ } {} {~~[~~} ~~committing a criminal offense as described in Subsection (3)(a)(ii), the~~

~~department~~ {~~]~~} {} { ←Ŝ } { Ŝ→ } {} {[} ~~determines that the allegation could be substantiated, the department shall turn the~~ {~~]~~} {} { ←Ŝ } { Ŝ→ } {} {[} ~~criminal investigation over to another law enforcement agency to complete the~~ {~~]~~} {} { ←Ŝ } { Ŝ→ } {} {[} ~~investigation.~~~~]~~}

387a **{~~(3) In accordance with department policy, the department may conduct criminal investigations regarding an allegation that:~~}**

387c **{~~(a) an offender has committed a criminal offense; or~~}**

387d {~~(b)~~} **{~~an employee of the department has committed a criminal offense.~~}**{} { ←Ŝ }

388 {~~[(5)] (4)~~}

{~~(a)~~} The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

393 (b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

395 (i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time; and

398 (ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

400 [~~(6)~~] (5)

(a) As used in this Subsection [~~(6):~~] (5):

401 (i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

403 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

407 (b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

409 (i) the parole period and any extension of that period in accordance with Subsection [~~(6)(c)~~] (5)(c); and

411

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c)

(i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection [~~(6)~~] (5) only applies to offenders sentenced before July 1, 2021.

Section 5. Section **64-13-42** is amended to read:

64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender education and training programs.

(1)

(a) There is created within the General Fund a restricted account known as the Prison Telephone Surcharge Account.

(b) The Prison Telephone Surcharge Account consists of:

(i) revenue generated by the state from pay telephone services located at any correctional facility as defined in Section 64-13-1;

(ii) interest on account money;

(iii)

(A) money paid by inmates participating in postsecondary education provided by the department; and

(B) money repaid by former inmates who have a written agreement with the department to pay for a specified portion of the tuition costs under the department's deferred tuition payment program;

(iv) money collected by the Office of State Debt Collection for debt described in Subsection (1)(b)(iii);

(v) revenue generated from offenders using department tablets or other electronic devices; and

[~~(v)~~] (vi) money appropriated by the Legislature.

(2) Upon appropriation by the Legislature, money from the Prison Telephone Surcharge Account shall be used by the department for education and training programs for offenders and inmates as defined in Section 64-13-1.

Section 6. Section **77-18-105** is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3)

(a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4)

(a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.

(5)

(a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b)

(i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6)

(a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance [~~Abuse~~] Use and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) If a defendant is placed on probation and a condition of the defendant's probation is routine or random drug testing, the defendant shall sign a waiver consistent with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 1320d et seq., allowing the treatment provider conducting the drug testing to notify the defendant's supervising probation officer regarding the results of the defendant's drug testing.

[~~(b)~~] (c)

(i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7)

(a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases

of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8)

(a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d)

(i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation:

(a) the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements; and

(b) the court may not rely solely on an algorithm or a risk assessment tool score.

Section 7. Section **77-19-10** is amended to read:

77-19-10. Judgment of death -- Location and procedures for execution.

(1) The executive director of the Department of Corrections or a designee shall ensure that the method of judgment of death specified in the warrant or as required under Section 77-18-113 is carried out at a secure correctional facility operated by the department and at an hour determined by the department on the date specified in the warrant.

(2) When the judgment of death is to be carried out by lethal intravenous injection, the executive director of the department or a designee shall select two or more persons trained in accordance with accepted medical practices to administer intravenous injections, who shall each administer a continuous intravenous injection,[~~ one of which shall be of a lethal quantity of:~~]

[~~(a) sodium thiopental; or~~]

[~~(b) other equally or more effective substance sufficient to cause death.~~] consisting of one or more substances of a type and amount that is sufficiently effective to cause death without a substantial risk of severe pain.

(3) If the judgment of death is to be carried out by firing squad under Subsection 77-18-113(2), (3), or (4) the executive director of the department or a designee shall select a five-person firing squad of peace officers.

(4) Compensation for persons administering intravenous injections and for members of a firing squad under Subsection 77-18-113(2), (3), or (4) shall be in an amount determined by the director of the Division of Finance.

(5) Death under this section shall be certified by a physician.

(6) The department shall adopt and enforce rules governing procedures for the execution of judgments of death.

Section 8. Section **77-27-10** is amended to read:

77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.

(1)

(a) When the Board of Pardons and Parole releases an offender on parole, it shall, in accordance with Section 64-13-21, issue to the parolee a certificate setting forth the conditions of parole, including the graduated and evidence-based responses to a violation of a condition of parole established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.

(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:

(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or

(ii)

(A) the inmate has engaged in criminal conduct prior to the granting of parole; and

(B) the board did not have information regarding the conduct at the time parole was granted.

(c)

(i) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee.

(ii) The original agreement shall remain with the board's file.

(2)

(a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, 76-5-302, 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, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.

(b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) This Subsection (2) does not apply to intensive early release parole.

(3)

(a)

(i) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program.

(ii) The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.

(b) The offender is eligible for this program only if the offender:

(i) has not been convicted of a sexual offense; or

(ii) has not been sentenced pursuant to Section 76-3-406.

(c) The department shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;

(ii) adopt and implement internal management policies for operation of the program;

(iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and

(iv) make the final recommendation to the board regarding the placement of an offender into the program.

(d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.

(e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.

(f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.

(4) This program shall be implemented by the department within the existing budget.

(5) In addition to the conditions of parole described in this section, and if a condition of the offender's parole is routine or random drug testing, the board shall order the offender to sign a waiver consistent with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 1320d et seq., allowing the treatment provider conducting the drug testing to notify the offender's supervising parole officer regarding the results of the offender's drug testing.

[~~(5)~~] (6) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section 64-13-21.

[~~(6)~~] (7) When a parolee commits a violation of the parole agreement, the department may:

(a) respond in accordance with the graduated and evidence-based responses established in accordance with Section 64-13-21; or

(b) when the graduated and evidence-based responses established in accordance with Section 64-13-21 indicate, refer the parolee to the Board of Pardons and Parole for revocation of parole.

Section 9. **Effective date.**

This bill takes effect on May 7, 2025.

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