

HB0326S02 compared with HB0326S01

{Omitted text} shows text that was in HB0326S01 but was omitted in HB0326S02
inserted text shows text that was not in HB0326S01 but was inserted into HB0326S02

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Pregnant and Postpartum Inmate Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Candice B. Pierucci
Senate Sponsor:

LONG TITLE

General Description:

This bill addresses statutes regarding pregnant and postpartum inmates.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Corrections (the department) and the county jails to ensure that each female individual admitted to a correctional facility is tested for pregnancy;
- ▶ requires the department and each county jail to collect certain parental information on inmates;
- ▶ requires the department and each county jail to report to the State Commission on Criminal and Juvenile Justice:
 - the number of known pregnant inmates in custody; and
 - the number of inmates in custody who are parents to a minor child;
- ▶ amends the membership of the Correctional Postnatal and Early Childhood Advisory Board (the board);
- ▶ extends the repeal date of the board;and
- ▶

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~~{ requires a sentencing court, when considering whether to impose a sentence of imprisonment for a defendant with a minor child, to consider the potential harm that the incarceration could inflict on the child; and }~~

22 ▶ makes technical and conforming changes.

20 Money Appropriated in this Bill:

21 None

22 None

25 AMENDS:

26 **17-22-5** , as last amended by Laws of Utah 2024, Chapters 96, 187 and 341 , as last amended by Laws of Utah 2024, Chapters 96, 187 and 341

27 **17-22-8** , as last amended by Laws of Utah 2023, Chapters 119, 420 , as last amended by Laws of Utah 2023, Chapters 119, 420

28 **17-22-32** , as last amended by Laws of Utah 2024, Chapter 245 , as last amended by Laws of Utah 2024, Chapter 245

29 **63I-1-264** , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5 , as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

30 **64-13-1** , as last amended by Laws of Utah 2023, Chapters 177, 322 and 414 , as last amended by Laws of Utah 2023, Chapters 177, 322 and 414

31 **64-13-7** , as last amended by Laws of Utah 2024, Chapter 341 , as last amended by Laws of Utah 2024, Chapter 341

32 **64-13-10.4** , as enacted by Laws of Utah 2023, Chapter 414 , as enacted by Laws of Utah 2023, Chapter 414

33 **64-13-45** , as last amended by Laws of Utah 2024, Chapters 245, 341 , as last amended by Laws of Utah 2024, Chapters 245, 341

34 **64-13-46** , as last amended by Laws of Utah 2024, Chapter 182 , as last amended by Laws of Utah 2024, Chapter 182

35 **64-13-46.1** , as renumbered and amended by Laws of Utah 2024, Chapter 182 , as renumbered and amended by Laws of Utah 2024, Chapter 182

39 ~~**77-18-103** , as last amended by Laws of Utah 2024, Chapters 187, 245 and 434 , as last amended by Laws of Utah 2024, Chapters 187, 245 and 434 }~~

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

38 Section 1. Section 17-22-5 is amended to read:

39 **17-22-5. Sheriff's classification of jail inmates -- Classification criteria -- Alternative**
incarceration programs -- Limitation.

45 (1) As used in this section, "living area" means the same as that term is defined in Section 64-13-7.

47 (2)

. (a) Except as provided in Subsections (5) and ~~[(6)]~~ (7), the sheriff shall adopt and implement written policies for admission of inmates to the county jail and the classification of individuals incarcerated in the jail which shall provide for the separation of prisoners by gender and by such other factors as may reasonably provide for the safety and well-being of inmates and the community.

52 (b) To the extent authorized by law, any written admission policies adopted and implemented under this Subsection (2) shall be applied equally to all entities using the county correctional facilities.

55 (3) Except as provided in Subsections (5) and ~~[(6)]~~ (7), each county sheriff shall assign inmates to a facility or section of a facility based on classification criteria that the sheriff develops and maintains.

58 (4)

. (a) Except as provided in Subsection ~~[(6)]~~ (7), a county sheriff may develop and implement alternative incarceration programs that may involve housing an inmate in a jail facility.

61 (b) An inmate housed under an alternative incarceration program under Subsection (4)(a) shall be considered to be in the full custody and control of the sheriff for purposes of Sections 76-8-309 and 76-8-309.3.

64 (c) An inmate may not be placed in an alternative incarceration program under Subsection (4)(a) unless:

66 (i) the jail facility is at maximum operating capacity, as established under Section 17-22-5.5; or

68 (ii) ordered by the court.

69 (5) A jail facility shall comply with the same requirements as the Department of Corrections described in Subsections 64-13-7(4), (5), and ~~[(6)]~~ (7) when assigning an inmate to a living area, including the reporting requirements in Subsections ~~[64-13-45(2)(d) and (e).]~~ 64-13-45(f) and (g).

73 (6) At the time an inmate is booked into a county jail, the county sheriff shall request and retain the following information from the inmate:

75 (a) whether the inmate is a parent to a minor child; and

76 (b) if applicable:

77 (i) the number of minor children to whom the inmate is a parent; and

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78 (ii) the ages of the minor children described in Subsection (6)(b)(i).

79 [~~(6)~~] (7) This section does not authorize a sheriff to modify provisions of a contract with the
Department of Corrections to house in a county jail inmates sentenced to the Department of
Corrections.

78 Section 2. Section **17-22-8** is amended to read:

79 **17-22-8. Care of prisoners -- Funding of services -- Private contractor.**

84 (1) As used in this section, "medication assisted treatment plan" means a prescription plan to use
buprenorphine, methadone, or naltrexone to treat substance use withdrawal symptoms or an opioid
use disorder.

87 (2) Except as provided in Subsection (7), a sheriff shall:

88 (a) receive each individual committed to jail by competent authority;

89 (b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the
county legislative body;

91 (c) provide each prisoner medical care when:

92 (i) the prisoner's symptoms evidence a serious disease or injury;

93 (ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

94 (iii) the potential for harm to the person by reason of delay or the denial of medical care would be
substantial;

96 (d) provide each prisoner, as part of the intake process, with the option of continuing any of the
following medically prescribed methods of contraception:

98 (i) an oral contraceptive;

99 (ii) an injectable contraceptive;

100 (iii) a patch;

101 (iv) a vaginal ring; or

102 (v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner
experiences serious and persistent adverse effects when using the methods of contraception
described in Subsections (2)(d)(i) and (ii);~~and~~

105 (e) cooperate with medical personnel to continue a medication assisted treatment plan for an inmate if
the inmate was an active client before arrest and commitment~~[-]~~ ; and

107 (f) ensure that each female prisoner younger than 50 years old who has been incarcerated for longer
than 72 hours is offered, which the prisoner may reject, a test for pregnancy.

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- 110 (3) A sheriff may provide the generic form of a contraceptive described in Subsection (2)(d)(i) or (ii).
- 112 (4) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant or in postpartum
recovery[, including the reporting requirements in Subsection 64-13-45(2)(c)].
- 114 (5)
- . (a) Except as provided in Section 17-22-10 and Subsection (5)(b), the expense incurred in providing the
services required by this section to prisoners shall be paid from the county treasury.
- 117 (b) The expense incurred in providing the services described in Subsection (2)(d) to prisoners shall be
paid by the Department of Health and Human Services.
- 119 (6) A medication used for a medication assisted treatment plan under Subsection (2)(e):
- 120 (a) shall be administered to an inmate in accordance with the inmate's prescription under the direction
of the sheriff;
- 122 (b) may be paid for by a county; and
- 123 (c) may be left or stored at a jail at the discretion of the sheriff.
- 124 (7) If the county executive contracts with a private contractor to provide the services required by this
section, the sheriff shall provide only those services required of the sheriff by the contract between
the county and the private contractor.
- 123 Section 3. Section **17-22-32** is amended to read:
- 124 **17-22-32. County jail reporting requirements.**
- 129 (1) As used in this section:
- 130 (a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section
63M-7-201.
- 132 (b)
- . (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county
jail.
- 134 (ii) "In-custody death" includes an inmate death that occurs while the inmate is:
- 135 (A) being transported for medical care; or
- 136 (B) receiving medical care outside of a county jail.
- 137 (c) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in
the state.
- 139 (d) "Opiate" means the same as that term is defined in Section 58-37-2.
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- (2) Each county jail shall submit a report to the commission before June 15 of each year that includes, for the preceding calendar year:
- 142 (a) the average daily inmate population each month;
- 143 (b) the number of inmates in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the United States Federal Bureau of Investigation;
- 146 (c) the number of inmates booked into the county jail;
- 147 (d) the number of inmates held in the county jail each month on behalf of each of the following entities:
- 149 (i) the Bureau of Indian Affairs;
- 150 (ii) a state prison;
- 151 (iii) a federal prison;
- 152 (iv) the United States Immigration and Customs Enforcement; and
- 153 (v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;
- 155 (e) the number of inmates that are denied pretrial release and held in the custody of the county jail while the inmate awaited final disposition of the inmate's criminal charges;
- 157 (f) for each inmate booked into the county jail:
- 158 (i) the name of the agency that arrested the inmate;
- 159 (ii) the date and time the inmate was booked into and released from the custody of the county jail;
- 161 (iii) if the inmate was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;
- 163 (iv) if the inmate was released from the custody of the county jail on a financial condition, whether the financial condition was set by a county sheriff or a court;
- 165 (v) the number of days the inmate was held in the custody of the county jail before disposition of the inmate's criminal charges;
- 167 (vi) whether the inmate was released from the custody of the county jail before final disposition of the inmate's criminal charges; and
- 169 (vii) the state identification number of the inmate;
- 170 (g) the number of in-custody deaths that occurred at the county jail;
- 171 (h) for each in-custody death:
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- (i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any, of the deceased;
- 174 (ii) the date, time, and location of death;
- 175 (iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased;
and
- 177 (iv) a brief description of the circumstances surrounding the death;
- 178 (i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(g);
- 180 (j) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;
- 182 (k) the county jail policies, procedures, and protocols:
- 183 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;
- 185 (ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and
- 188 (iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; ~~and~~
- 190 (l) the number of female inmates that the county jail knows were pregnant while incarcerated in the county jail;
- 192 (m) the number of inmates who gave birth and were restrained in accordance with Section 64-13-46, including:
- 194 (i) the types of restraints used; and
- 195 (ii) whether the use of restraints was to prevent escape or to ensure the safety of the inmate, medical or corrections staff, or the public;
- 197 (n) the number of inmates incarcerated in the county jail who are the parent of a minor child as that term is defined in Section 81-1-101; and
- 199 ~~(h)~~ (o) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.
- 201 (3)
- . (a) Subsection (2) does not apply to a county jail if the county jail:
- 202 (i) collects and stores the data described in Subsection (2); and

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- 203 (ii) enters into a memorandum of understanding with the commission that allows the commission to
access the data described in Subsection (2).
- 205 (b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include a provision to
protect any information related to an ongoing investigation and comply with all applicable federal
and state laws.
- 208 (c) If the commission accesses data from a county jail in accordance with Subsection (3)(a), the
commission may not release a report prepared from that data, unless:
- 210 (i) the commission provides the report for review to:
- 211 (A) the county jail; and
- 212 (B) any arresting agency that is named in the report; and
- 213 (ii)
- 214 (A) the county jail approves the report for release;
- 214 (B) the county jail reviews the report and prepares a response to the report to be published with the
report; or
- 216 (C) the county jail fails to provide a response to the report within four weeks after the day on which the
commission provides the report to the county jail.
- 218 (4) The commission shall:
- 219 (a) compile the information from the reports described in Subsection (2);
- 220 (b) omit or redact any identifying information of an inmate in the compilation to the extent omission or
redaction is necessary to comply with state and federal law;
- 222 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the
Utah Substance Use and Mental Health Advisory Committee before November 1 of each year; and
- 225 (d) submit the compilation to the protection and advocacy agency designated by the governor before
November 1 of each year.
- 227 (5) The commission may not provide access to or use a county jail's policies, procedures, or protocols
submitted under this section in a manner or for a purpose not described in this section.
- 230 (6) A report including only the names and causes of death of deceased inmates and the facility in which
they were being held in custody shall be made available to the public.

228 Section 4. Section **63I-1-264** is amended to read:

229 **63I-1-264. Repeal dates: Title 64.**

Section 64-13-46.1, Correctional Postnatal and Early Childhood Advisory Board, is

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repealed July 1, [2025] 2027.

232 Section 5. Section **64-13-1** is amended to read:

233 **64-13-1. Definitions.**

As used in this chapter:

- 239 (1) "Behavioral health transition facility" means a nonsecure correctional facility operated by the
department for the purpose of providing a therapeutic environment for offenders receiving mental
health services.
- 242 (2) "Case action plan" means a document developed by the Department of Corrections that identifies:
244 (a) the program priorities for the treatment of the offender, including the criminal risk factors as
determined by risk, needs, and responsivity assessments conducted by the department; and
247 (b) clearly defined completion requirements.
- 248 (3) "Community correctional center" means a nonsecure correctional facility operated by the
department, but does not include a behavioral health transition facility for the purposes of Section
64-13f-103.
- 251 (4) "Correctional facility" means any facility operated to house offenders in a secure or nonsecure
setting:
253 (a) by the department; or
254 (b) under a contract with the department.
- 255 (5) "Criminal risk factors" means an individual's characteristics and behaviors that:
256 (a) affect the individual's risk of engaging in criminal behavior; and
257 (b) are diminished when addressed by effective treatment, supervision, and other support resources,
resulting in a reduced risk of criminal behavior.
- 259 (6) "Department" means the Department of Corrections.
- 260 (7) "Direct supervision" means a housing and supervision system that is designed to meet the goals
described in Subsection 64-13-14(5) and has the elements described in Subsection 64-13-14(6).
- 263 (8) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional
facility, or any situation that presents immediate danger to the safety, security, and control of the
department.
- 266 (9) "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.

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- 270 (10) "Evidence-informed" means a program or practice that is based on research and the experience and
expertise of the department.
- 272 (11) "Executive director" means the executive director of the Department of Corrections.
- 273 (12) "Inmate" means an individual who is:
- 274 (a) committed to the custody of the department; and
- 275 (b) housed at a correctional facility or at a county jail at the request of the department.
- 276 (13) "Minor child" means the same as that term is defined in Section 81-1-101.
- 277 [~~(13)~~] (14) "Offender" means an individual who has been convicted of a crime for which the individual
may be committed to the custody of the department and is at least one of the following:
- 280 (a) committed to the custody of the department;
- 281 (b) on probation; or
- 282 (c) on parole.
- 283 [~~(14)~~] (15) "Recidivism" means a return to criminal activity after a previous criminal conviction.
- 285 [~~(15)~~] (16) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 286 [~~(16)~~] (17) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that
determines:
- 288 (a) an individual's risk of reoffending; and
- 289 (b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.
- 291 [~~(17)~~] (18) "Secure correctional facility" means any prison, penitentiary, or other institution operated
by the department or under contract for the confinement of offenders, where force may be used to
restrain an offender if the offender attempts to leave the institution without authorization.
- 295 [~~(18)~~] (19) "Serious illness" means, as determined by the inmate's physician, an illness that substantially
impairs the inmate's quality of life.
- 297 [~~(19)~~] (20) "Serious injury" means, as determined by the inmate's physician, bodily injury that involves
a substantial risk of death, prolonged unconsciousness, prolonged and obvious disfigurement, or
prolonged loss or impairment of the function of a bodily member, organ, or mental faculty.
- 301 [~~(20)~~] (21) "State-issued driver license" means a driver license issued in accordance with Title 53,
Chapter 3, Part 2, Driver Licensing Act, or an equivalent issued by another state.
- 304 [~~(21)~~] (22) "State-issued identification card" means an identification card issued in accordance with
Title 53, Chapter 3, Part 8, Identification Card Act, or an equivalent issued by another state.
- 303 Section 6. Section **64-13-7** is amended to read:

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304 **64-13-7. Individuals in custody.**

309 (1) As used in this section:

310 (a) "Biological sex at birth" means the same as that term is defined in Section 26B-8-101.

311 (b) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

312 (c) "Criminogenic factor" means a personal trait, condition, outside influence, or societal factor that tends to increase an inmate's likelihood of committing a criminal offense.

314 (d)

. (i) "Living area" means a location within a correctional facility where an inmate is assigned to sleep, recreate, study, or interact with other inmates.

316 (ii) "Living area" does not include a location within a correctional facility where an inmate is temporarily placed by staff of the correctional facility to facilitate transfers, visitation, medical care, or other needs of the correctional facility or inmate.

320 (e) "Transgender inmate" means an inmate whose gender identity or expression does not correspond with the inmate's biological sex at birth.

322 (2) An offender committed for incarceration in a state correctional facility or for supervision on probation or parole, shall be placed in the custody of the department.

324 (3) The department shall establish procedures and is responsible for the appropriate assignment or transfer of an offender to a facility or program.

326 (4) Subject to Subsection (5), the department or a county jail may not:

327 (a) assign an inmate whose biological sex at birth is male to a living area where an inmate whose biological sex at birth is female is assigned; or

329 (b) assign an inmate whose biological sex at birth is female to a living area where an inmate whose biological sex at birth is male is assigned.

331 (5)

. (a) Upon a request from a transgender inmate to be assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth, or if the department or a county jail seeks to assign a transgender inmate to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth, the department or a county jail shall undertake an individualized security analysis considering criminogenic and other factors including:

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- (i) the transgender inmate's anatomy which may be verified through a conversation with the transgender inmate, reviewing the transgender inmate's medical records, routine protocols applicable to all inmates, or as part of a broader medical examination of the transgender inmate conducted in private by a medical professional if necessary;
- 343 (ii) the physical characteristics of the transgender inmate;
- 344 (iii) the transgender inmate's criminal history, including whether the transgender inmate has displayed predatory behavior against individuals whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth;
- 347 (iv) the history of the transgender inmate's behavior while in the department's or a county jail's custody;
- 349 (v) the likelihood of the transgender inmate causing physical or psychological harm to, or committing offenses against, inmates in the requested living area whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth;
- 353 (vi) the safety of correctional facility staff if the transgender inmate were to be assigned to the requested living area;
- 355 (vii) an analysis of whether the transgender inmate has a history or pattern of:
- 356 (A) anti-social attitudes or behaviors;
- 357 (B) interacting with peers who display anti-social attitudes or behaviors;
- 358 (C) negative family issues or influence;
- 359 (D) a lack of achievement in education and employment;
- 360 (E) not participating in pro-social leisure activities; or
- 361 (F) substance abuse;
- 362 (viii) whether the requested living area assignment would:
- 363 (A) ensure the transgender inmate's health and safety; and
- 364 (B) assist the transgender inmate in successfully reentering the community; and
- 365 (ix) any other factor determined to be relevant by the executive director or a county sheriff.
- 367 (b) The department or a county jail may assign a transgender inmate to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth only if:
- 370 (i) the department or a county jail determines, after undertaking the individualized security analysis described in Subsection (5)(a), that the assignment presents a low risk of causing:
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- (A) any physical or psychological harm to an inmate who resides in or will reside in the living area, the correctional facility staff that manage the living area, or the transgender inmate;
- 376 (B) disruption to correctional facility management; and
- 377 (C) overall security issues; and
- 378 (ii) there is no evidence that the transgender inmate is claiming a gender identity or expression that does not correspond with the inmate's biological sex at birth solely for the purpose of altering the inmate's living area assignment.
- 381 (6) If the department or a county jail, after complying with Subsection (5), assigns a transgender inmate to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth, the department or a county jail shall:
- 385 (a)
- . (i) undertake the security analysis described in Subsection (5)(a) after a security incident involving the transgender inmate and at regular intervals determined by the executive director or a county sheriff to ensure that the assignment continues to meet the conditions described in Subsection (5)(b); and
- 389 (ii) if the analysis conducted in Subsection (6)(a) demonstrates that the assignment no longer meets the conditions described in Subsection (5)(b), assign the transgender inmate to a living area with inmates whose biological sex at birth corresponds with the transgender inmate's biological sex at birth; and
- 393 (b) comply with the reporting requirements described in Subsections [~~64-13-45(2)(d) and (e)~~] 64-13-45(2)(f) and (g).

391 Section 7. Section ~~64-13-10.4~~ is amended to read:

392 **64-13-10.4. Entry of an inmate -- Identification application requests -- Parental information request.**

- 398 (1)
- . (a) Within 15 days after the date on which an inmate enters incarceration in a state correctional facility, and, if applicable, approximately six months before the date of the inmate's anticipated release as described in Subsection 64-13-10.6(3), the department shall determine whether the inmate has:
- 402 (i) a certified copy of the inmate's birth certificate;
- 403 (ii) a copy of the inmate's social security card; and
- 404 (iii) a current state-issued driver license or state-issued identification card.
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- (b) For any document described in Subsection (1)(a) that the inmate does not possess, the department shall:
- 407 (i) inform the inmate that each document listed in Subsection (1)(a) may be required to obtain
employment upon release;
- 409 (ii) inquire whether the inmate would like to apply for and obtain any of the documents described in
Subsection (1)(a); and
- 411 (iii)
- . (A) if the inmate accepts assistance in obtaining the documents described in Subsection (1)(a), subject
to Subsection (5), provide the assistance described in Subsections (2) through (4) within 30 days
after the date on which the inmate accepts assistance; or
- 415 (B) if the inmate refuses assistance in obtaining the documents described in Subsection (1)(a), maintain
a record of the inmate's refusal in the department's electronic file management system.
- 418 (2)
- . (a) If an inmate was born in the United States and accepts assistance in obtaining a certified copy of the
inmate's birth certificate, the department shall:
- 420 (i) request that the inmate pay the fee for obtaining the certified copy of the inmate's birth
certificate; or
- 422 (ii) if the department determines that the inmate is unable to pay the fee as described in Subsection
(2)(a)(i), determine whether funds are available from a private donation and use the private
donation to pay the fee.
- 425 (b) If funds are available to pay the fee for obtaining a certified copy of a birth certificate as described
in Subsection (2)(a), the department shall request a certified copy of the inmate's birth certificate
from the inmate's state of birth.
- 428 (3) If an inmate accepts assistance in obtaining a copy of the inmate's social security card and does not
have a copy of the inmate's social security card, the department shall coordinate with the Social
Security Administration in obtaining a copy of the inmate's social security card, unless the inmate
previously requested the maximum number of yearly or lifetime requests.
- 433 (4) If an inmate accepts assistance in obtaining a state-issued identification card or driver license, the
department shall follow the procedure described in Subsection 64-13-10.6(4).
- 435 (5) The requirements [~~of this section~~] of Subsections (1) through (4) do not apply if the inmate is not:
- 437 (a) a citizen of the United States; or

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- 438 (b) a lawful resident of the United States who has legal authorization to work in the United States.
440 (6) At the time an inmate enters incarceration in a state correctional facility, the department shall
request and retain the following information from the inmate:
- 442 (a) whether the inmate is a parent to a minor child; and
443 (b) if applicable:
- 444 (i) the number of minor children to whom the inmate is a parent; and
445 (ii) the ages of the minor children described in Subsection (6)(b)(i).
- 442 Section 8. Section **64-13-45** is amended to read:
443 **64-13-45. Department reporting requirements.**
- 448 (1) As used in this section:
449 (a) "Biological sex at birth" means the same as that term is defined in Section 26B-8-101.
450 (b)
451 (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of the
department.
452 (ii) "In-custody death" includes an inmate death that occurs while the inmate is:
453 (A) being transported for medical care; or
454 (B) receiving medical care outside of a correctional facility, other than a county jail.
456 (c) "Inmate" means an individual who is processed or booked into custody or housed in the department
or a correctional facility other than a county jail.
458 (d) "Opiate" means the same as that term is defined in Section 58-37-2.
459 (e) "Transgender inmate" means the same as that term is defined in Section 64-13-7.
- 460 (2) The department shall submit a report to the Commission on Criminal and Juvenile Justice created in
Section 63M-7-201 before June 15 of each year that includes:
462 (a) the number of in-custody deaths that occurred during the preceding calendar year, including:
464 (i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-
custody deaths described in Subsection (2)(a); and
466 (ii) the department's policy for notifying an inmate's next of kin after the inmate's in-custody death;
468 (b) the department policies, procedures, and protocols:
469 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of
opiates;

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- (ii) that relate to the department's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and
- 474 (iii) that relate to screening, assessment, and treatment of an inmate for a substance use disorder or mental health disorder;
- 476 (c) the number of female inmates that the department knows who are pregnant and currently incarcerated in a correctional facility operated by the department;
- 478 [~~(e)~~] (d) the number of inmates who gave birth and were restrained in accordance with Section 64-13-46, including:
- 480 (i) the types of restraints used; and
- 481 (ii) whether the use of restraints was to prevent escape or to ensure the safety of the inmate, medical or corrections staff, or the public;
- 483 (e) the number of inmates incarcerated in a correctional facility operated by the department who are the parent of a minor child;
- 485 [~~(d)~~] (f) the number of transgender inmates that are assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth in accordance with Section 64-13-7, including:
- 488 (i) the results of the individualized security analysis conducted for each transgender inmate in accordance with Subsection 64-13-7(5)(a); and
- 490 (ii) a detailed explanation regarding how the security conditions described in Subsection 64-13-7(5)(b) are met for each transgender inmate;
- 492 [~~(e)~~] (g) the number of transgender inmates that were:
- 493 (i) assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth; and
- 495 (ii) removed and assigned to a living area with inmates whose biological sex at birth corresponds with the transgender inmate's biological sex at birth in accordance with Subsection 64-13-7(6); and
- 498 [~~(f)~~] (h) any report the department provides or is required to provide under federal law or regulation relating to inmate deaths.
- 500 (3) The Commission on Criminal and Juvenile Justice shall:
- 501 (a) compile the information from the reports described in Subsection (2);
- 502

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- (b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law[-]; and
- 504 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Committee before November 1 of each year.
- 507 (4) The Commission on Criminal and Juvenile Justice may not provide access to or use the department's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.
- 506 Section 9. Section **64-13-46** is amended to read:
- 507 **64-13-46. Pregnant inmates.**
- 512 (1) As used in this section:
- 513 (a) "Postpartum recovery" means, as determined by the pregnant inmate's physician, the period immediately following delivery, including the entire period the inmate is in the hospital or health care facility after birth.
- 516 (b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.
- 519 (c)
- . (i) "Shackles" means metal restraints, including leg irons, belly chains, or a security or tether chain.
- 521 (ii) "Shackles" does not include hard metal handcuffs.
- 522 (2) The department shall ensure that each female inmate younger than 50 years old is offered, which the inmate may reject, a test for pregnancy upon admission, or within a reasonable time after admission, to a correctional facility.
- 525 [~~(2)~~] (3) Subject to Subsections [~~(3) and (4)~~] (4) and (5), if the staff of a correctional facility knows or has reason to believe that an inmate is pregnant or is in postpartum recovery, the staff shall, when restraining the inmate at any time or location, use the least restrictive restraints necessary to ensure the safety and security of the inmate and others.
- 529 [~~(3)~~] (4) A correctional staff member may not use restraints on an inmate during the third trimester of pregnancy, labor, or childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the inmate presents:
- 533 (a) an immediate and serious risk of harm to the inmate, the inmate's infant, medical staff, correctional staff, or the public; or
- 535 (b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

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- 537 ~~[(4)]~~ (5) Notwithstanding Subsection ~~[(3)]~~ (4), under no circumstances may shackles, leg restraints, or
waist restraints be used on an inmate during the third trimester of pregnancy, labor, childbirth, or
postpartum recovery.
- 540 ~~[(5)]~~ (6) Correctional staff present during labor or childbirth shall:
- 541 (a) be stationed in a location that offers the maximum privacy to the inmate, while taking into
consideration safety and security concerns; and
- 543 (b) be female, if practicable.
- 544 ~~[(6)]~~ (7) If a correctional staff member authorizes restraints under Subsection ~~[(2) or (3)]~~ (3) or (4), the
correctional staff member shall make a written record of the authorization and use of the restraints
that includes:
- 547 (a) an explanation of the grounds for the correctional staff member's authorization on the use of
restraints;
- 549 (b) the type of restraints that were used; and
- 550 (c) the length of time the restraints were used.
- 551 ~~[(7)]~~ (8) The record described in Subsection ~~[(6)]~~ (7):
- 552 (a) shall be retained by the correctional facility for five years;
- 553 (b) shall be available for public inspection with individually identifying information redacted; and
- 555 (c) may not be considered a medical record under state or federal law.
- 556 ~~[(8)]~~ (9) For a minimum of 48 hours after an inmate has given birth, a correctional facility shall, if
directed by the inmate's physician, allow the infant to remain with the inmate at the health care
facility.
- 559 ~~[(9)]~~ (10) A correctional facility shall provide:
- 560 (a) an inmate who is pregnant, or who has given birth within the past six weeks, access to a social
worker to help the inmate:
- 562 (i) arrange childcare;
- 563 (ii) establish a reunification plan; and
- 564 (iii) establish a substance abuse treatment plan, if needed; and
- 565 (b) an inmate in postpartum recovery access to postpartum care for up to 12 weeks as determined by the
inmate's physician.
- 567 ~~[(10)]~~ (11) The department may not create or operate a nursery in a correctional facility to provide
space for a female inmate and the inmate's child.

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565 Section 10. Section **64-13-46.1** is amended to read:

566 **64-13-46.1. Correctional Postnatal and Early Childhood Advisory Board -- Duties --
Rulemaking.**

572 (1) As used in this part:

573 (a) "Advisory board" means the Correctional Postnatal and Early Childhood Advisory Board.

575 (b) "Correctional facility" means a facility operated by the department or a county sheriff that houses
inmates in a secure setting.

577 (c) "Incarcerated mother" means an inmate who:

578 (i) has recently given birth before entering a correctional facility;

579 (ii) is pregnant and incarcerated in a correctional facility; or

580 (iii) has given birth while incarcerated in a correctional facility.

581 (2) The advisory board shall consist of the following members:

582 (a) two individuals from the department, appointed by the executive director;

583 (b) one individual appointed by the Board of Pardons and Parole;

584 (c) one individual appointed by the president of the Utah Sheriffs' Association;

585 ~~{(d)}~~ one individual representing the Administrative Office of the Courts appointed by the Judicial
Council;

581 (d) one individual representing the Administrative Office of the Courts appointed by the Judicial
Council;

583 (e) one individual appointed by the Statewide Association of Public Attorneys and Prosecutors;
one individual appointed by the Utah Association of Criminal Defense Lawyers; and

587 ~~{(d)}~~ (e)

586 ~~{(d)}~~ (g) four individuals appointed by the executive director of the Department of Health and Human
Services, including:

589 (i) ~~[two]~~ one pediatric healthcare ~~[providers]~~ provider;

590 (ii) one individual with expertise in early childhood development;

591 (iii) one individual employed by the Division of Child and Family Services; and

592 ~~{(iii)}~~ (iv) one individual with experience advocating for incarcerated women.

593 (3)

(a) Except as provided in Subsection (3)(b), a member of the advisory board shall be appointed for a
four-year term.]

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- 595 ~~[(b) A member that is appointed to complete an unexpired term may complete the unexpired term and~~
serve a subsequent four-year term.]
- 597 ~~[(c) Appointments and reappointments may be staggered so that one-fourth of the advisory board~~
changes each year.]
- 599 ~~[(d)]~~ The advisory board shall annually elect a chair and co-chair of the board from among the members
of the board ~~[to serve a two-year term]~~.
- 601 (4) The advisory board shall meet at least bi-annually, or more frequently as determined by the
executive director, the chair, or three or more members of the advisory board.
- 603 (5) A majority of the board constitutes a quorum and a vote of the majority of the members present
constitutes an action of the advisory board.
- 605 (6) A member of the advisory board may not receive compensation or benefits for the member's service,
but may receive per diem and travel expenses as allowed in:
- 607 (a) Section 63A-3-106;
- 608 (b) Section 63A-3-107; and
- 609 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- 611 (7) The advisory board shall:
- 612 (a) review research regarding childhood development and best practices for placing infants and
incarcerated mothers in a diversion program not located in a correctional facility;
- 615 (b) study the costs of implementing a diversion program for infants and incarcerated mothers removed
from a correctional facility;
- 617 (c) create a provisional plan for implementing a diversion program for infants and incarcerated mothers
removed from a correctional facility; and
- 619 (d) advise and make recommendations to the department and county sheriffs regarding rules and
policies for placing an infant or incarcerated mother in a diversion program not located in a
correctional facility.
- 622 (8) On or before November 30~~[, 2024]~~ of each year, the advisory board shall provide a report of the
advisory board's research and study under Subsections (7)(a) through (c), including any proposed
legislation, to:
- 625 (a) the Law Enforcement and Criminal Justice Interim Committee; and
- 626 (b) the ~~[Executive Offices and]~~ Criminal Justice Appropriations Subcommittee.
- 627 ~~{Section 11. Section 77-18-103 is amended to read: }~~

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- 628 **77-18-103. Presentence investigation report -- Classification of presentence investigation**
630 **report -- Evidence or other information at sentencing.**
- 630 (1) Before the imposition of a sentence, the court may:
- 631 (a) upon agreement of the defendant, continue the date for the imposition of the sentence for a
 reasonable period of time for the purpose of obtaining a presentence investigation report from the
 department or a law enforcement agency, or information from any other source about the defendant;
 and
- 635 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a
 law enforcement agency prepare a presentence investigation report for the defendant.
- 638 (2)
- (a) Notwithstanding Subsection (1), if a defendant is convicted of a felony offense and the defendant
 is a habitual offender, the prosecuting attorney shall notify the court that the defendant is a habitual
 offender.
- 641 (b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for the conviction
 without ordering and obtaining a presentence investigation report, unless the court finds good cause
 to proceed with sentencing without the presentence investigation report.
- 645 (3) If a presentence investigation report is required under Subsection (2) or the standards established
 by the department described in Section 77-18-109, the presentence investigation report under
 Subsection (1) shall include:
- 648 (a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);
- 650 (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);
- 651 (c) recommendations for treatment for the defendant; and
- 652 (d) the number of days since the commission of the offense that the defendant has spent in the custody
 of the jail and the number of days, if any, the defendant was released to a supervised release
 program or an alternative incarceration program under Section 17-22-5.5.
- 656 (4) The department or law enforcement agency shall provide the presentence investigation report to the
 defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting
 attorney, and the court for review within three working days before the day on which the defendant
 is sentenced.
- 660 (5)
- (a)

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- . (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:
- 663 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and
- 665 (B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.
- 669 (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:
- 672 (A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and
- 674 (B) provide the written finding to the department or the law enforcement agency.
- 675 (b) The department shall attach the written finding to the presentence investigation report as an addendum.
- 677 (c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.
- 679 (6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.
- 682 (7)
- . (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- 684 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.
- 686 (8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:
- 689 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 690 (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;
- 692 (c) requested by the board;
- 693

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- (d) requested by the subject of the presentence investigation report or the subject's authorized representative;
- 695 (e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:
- 698 (i) statements or materials provided by the victim;
- 699 (ii) the circumstances of the offense, including statements by the defendant; or
- 700 (iii) the impact of the offense on the victim or the victim's household; or
- 701 (f) requested by a sex offender treatment provider:
- 702 (i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);
- 704 (ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and
- 706 (iii) who provides written assurance to the department that the report:
- 707 (A) is necessary for the treatment of the defendant;
- 708 (B) will be used solely for the treatment of the defendant; and
- 709 (C) will not be disclosed to an individual or entity other than the defendant.
- 710 (9)
- . (a) At the time of sentence, the court shall:
- 711 (i) [-]receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence[-] ; and
- 713 (ii) if the defendant is a parent of a minor child, as that term is defined in Section 81-1-101, allow the defendant to present a family impact statement that details how any incarceration of the defendant will likely negatively affect the defendant's minor child and is not in the best interest of the minor child.
- 717 (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.
- 719 (10) If the court receives a family impact statement under Subsection (9)(a)(ii), and if not prohibited by Section 76-3-406 or another section of the Utah Code that prohibits the suspension of a sentence, the court shall consider suspending the defendant's sentence and placing the defendant on probation in accordance with Section 77-18-105.

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~~[(10)]~~ (11) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

626

Section 11. **Effective date.**

This bill takes effect on May 7, 2025.

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