

Brady Brammer proposes the following substitute bill:

Criminal Code Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill concerns certain criminal offenses.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain state agencies to regularly review and make recommendations concerning certain statutory criminal offenses;
- requires the State Commission on Criminal and Juvenile Justice to receive, compile, and submit a report on state agency reviews of statutory criminal offenses;
- lowers the penalty for criminal violations concerning an unauthorized use of a name in a charity solicitation;
- repeals the criminal offense relating to abuse of the flag;
- contains a coordination clause to coordinate technical changes between this bill and H.B. 21, Criminal Code Recodification and Cross References, due to the repeal of Section 76-10-604 in H.B. 21;
- contains a coordination clause coordinating technical changes between this bill, H.B. 21, Criminal Code Recodification and Cross References, and H.B. 38, Criminal Offenses Modifications;
- makes technical and clarifying changes to Section 76-9-803; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

63M-7-204, as last amended by Laws of Utah 2024, Chapter 345

76-9-803, as enacted by Laws of Utah 2008, Chapter 15

76-10-604, as last amended by Laws of Utah 1995, Chapter 20

ENACTS:

67-28-101, Utah Code Annotated 1953

67-28-102, Utah Code Annotated 1953

REPEALS:

76-9-601, as enacted by Laws of Utah 1973, Chapter 196

Utah Code Sections affected by Coordination Clause:

76-9-803, as enacted by Laws of Utah 2008, Chapter 15

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

Section 1. Section **63M-7-204** is amended to read:

63M-7-204 . Duties of commission.

(1) The commission shall:

- (a) promote the commission's purposes as enumerated in Section 63M-7-201;
- (b) promote the communication and coordination of all criminal and juvenile justice agencies;
- (c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;
- (d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;
- (e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;
- (f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;
- (g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on

- all components of the criminal and juvenile justice system;
- (h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;
- (i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;
- (j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;
- (k) provide a comprehensive criminal justice plan annually;
- (l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;
- (m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:
- (i) developing and maintaining common data standards for use by all state criminal justice agencies;
- (ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;
- (iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and
- (iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);
- (n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;
- (o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;
- (p) request, receive, and evaluate data and recommendations collected and reported by:
- (i) [-]agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 26B-5-102(2)(l); and
- (ii) state agencies under Section 67-28-102;

- (q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;
- (r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;
- (s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;
- (t) allocate and administer grants, from money made available, for pilot qualifying education programs;
- (u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;
- (v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:
- (i) ensuring oversight and accountability;
 - (ii) supporting local corrections systems;
 - (iii) improving and expanding reentry and treatment services; and
 - (iv) strengthening probation and parole supervision;
- (w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:
- (i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and
 - (ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;
- (x) publish the report described in Subsection (1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees;
- (y) receive, compile, and publish on the commission's website the data provided under:
- (i) Section 53-25-202;
 - (ii) Section 53-25-301; and

(iii) Section 53-25-401;

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

(bb) accept public comment.

(2)(a) The commission may designate an entity to perform the duties described in this part.

(b) If the commission designates an entity under Subsection (2)(a), the commission shall ensure that the membership of the designated entity includes representation from relevant stakeholder groups from the parts of the justice system implicated in the policy area.

(3) in fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

Section 2. Section **67-28-101** is enacted to read:

CHAPTER 28. STATE AGENCY CRIMINAL OFFENSE REVIEW

REQUIREMENTS

67-28-101 . Definitions.

As used in this chapter:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Criminal offense" means an act or omission that may result in a felony, misdemeanor, or infraction.

(3)(a) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch

of state government.

(b) "State agency" does not include the attorney general.

Section 3. Section **67-28-102** is enacted to read:

67-28-102 . State agency review and recommendation regarding criminal offenses.

(1) Except as provided in Subsection (4), on or before July 1, 2026, and on or before July 1 every three years after 2026, every state agency shall complete a review of the criminal offenses contained in the statutes:

(a) for which the state agency is responsible to prosecute or refer for prosecution; or

(b) contained in the state agency's designated area of code.

(2)(a) A state agency review required under this section shall require the state agency to evaluate each criminal offense described in Subsection (1) and recommend whether the criminal offense:

(i) would benefit from legislative amendment, clarification, or repeal; and

(ii) should have the penalty level increased, reduced, or remain the same.

(b) The review under Subsection (2)(a) shall include the state agency's specific recommendations and reasoning for any recommended statutory changes.

(c) Each state agency shall submit the results of the review required under this section to the commission:

(i) within 30 days after the day on which the review is completed; and

(ii) in the standardized format developed by the commission under Subsection (3).

(3) The commission shall:

(a) develop a standardized format for reporting the information described in Subsection (2);

(b) compile the information that was submitted under Subsection (2); and

(c) annually, on or before October 1, submit a report to the Law Enforcement and Criminal Justice Interim Committee that contains:

(i) the compiled information received for the current year, if any; and

(ii) the names of any agencies that failed to submit a review that was required under this section.

(4) This section does not apply to the Division of Professional Licensing with regard to offenses in Title 58, Chapters 37 through 37e.

The following section is affected by a coordination clause at the end of this bill.

Section 4. Section **76-9-803** is amended to read:

76-9-803 . Penalties regarding criminal street gang activities.

- (1) It is a class B misdemeanor to:
- (a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or not the minor actually joins the criminal street gang;
 - (b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to join a criminal street gang; or
 - (c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.
- (2) It is a class A misdemeanor for any ~~[person]~~ individual who is a member of or actively involved with a criminal street gang to:
- (a) intimidate or otherwise cause a minor to commit or attempt to commit any misdemeanor criminal offense; or
 - (b) commit a violation of Subsection (1)(a):
 - (i) more than once;
 - (ii) regarding the same minor; and
 - (iii) within a period of 180 days.
- (3) Prosecution for any offense under this section does not prohibit prosecution for any other criminal offense.

Section 5. Section **76-10-604** is amended to read:

76-10-604 . Violations -- Classification of offense.

Any person who violates the provisions of this part is guilty of ~~[a class B misdemeanor]~~ an infraction.

Section 6. Repealer.

This bill repeals:

Section **76-9-601, Abuse of a flag.**

Section 7. Effective Date.

This bill takes effect on May 7, 2025.

Section 8. Coordinating H.B. 353 with H.B. 21.

If H.B. 353, Criminal Code Amendments, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025:

(1) Subsection 76-12-402(3) in H.B. 21 be amended to read:

"(3) A violation of Subsection (2) is an infraction."; and

(2) Subsection 76-12-403(3) in H.B. 21 be amended to read:

231 "(3) A violation of Subsection (2) is an infraction.".

232 Section 9. **Coordinating H.B. 353 with H.B. 21 and H.B. 38.**

233 If H.B. 353, Criminal Code Amendments, H.B. 38, Criminal Offenses Modifications,
234 and H.B. 21, Criminal Code Recodification and Cross References, all pass and become law,
235 the Legislature intends that, on May 7, 2025:

236 (1) the amendments to Section 76-9-803 in H.B. 38 supersede the amendments to that
237 section in H.B. 21 and H.B. 353;

238 (2) Section 76-9-803.5 enacted in H.B. 21 be deleted; and

239 (3) Section 76-9-803.6 enacted in H.B. 21 be deleted.