

64-13-38 Emergency release due to overcrowding.

- (1) Definitions:
 - (a) "Maximum capacity" means every physical and funded prison bed is occupied by an inmate.
 - (b) "Operational capacity" means 96.5% of every physical and funded bed is occupied by an inmate.
 - (c) "Emergency release capacity" means 98% of every physical and funded bed is occupied by an inmate.
- (2) When the executive director of the department finds that either the male or female inmate population of the Utah State Prison has exceeded operational capacity for at least 45 consecutive days, the executive director shall notify the governor, the legislative leadership, and the Board of Pardons and Parole that the department is approaching an overcrowding emergency and provide them with information relevant to that determination.
- (3) When the executive director of the department finds that either the male or female inmate population of the Utah State Prison has exceeded emergency release capacity for at least 45 consecutive days, the executive director shall:
 - (a) notify the governor and the legislative leadership that the emergency release capacity has been reached and provide them with information relevant to that determination; and
 - (b) notify the Board of Pardons and Parole that the emergency release capacity has been reached so that the board may commence the emergency release process pursuant to Subsection (4).
- (4) Upon the department's notifying the governor and the legislative leadership of the emergency release capacity under Subsection (3), the department shall:
 - (a) notify the Board of Pardons and Parole of the number of inmates who need to be released in order to return the prison inmate population to operational capacity; and
 - (b) in cooperation and consultation with the Board of Pardons and Parole, compile a list of inmates, the release of whom would be sufficient to return the prison inmate population to operational capacity.
- (5) After 45 consecutive days of emergency release capacity, the Board of Pardons and Parole may order the release of a sufficient number of inmates identified under Subsection (4) to return the prison inmate population to operational capacity.
- (6) The department shall inform the governor and the legislative leadership when the emergency release has been completed.
- (7) The Board of Pardons and Parole shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

Amended by Chapter 21, 2012 General Session