

**SERIOUS HABITUAL OFFENDER  
COMPREHENSIVE ACTION PLAN  
AMENDMENTS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Blake D. Chard**

AN ACT RELATING TO STATE AFFAIRS IN GENERAL; MAKING CONFORMING  
AMENDMENTS NECESSARY TO IMPLEMENT THE PROGRAM STATEWIDE; MAKING  
TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**63-92-2**, as last amended by Chapter 108, Laws of Utah 1998

**63-92-3**, as last amended by Chapter 108, Laws of Utah 1998

REPEALS:

**63-92-4**, as last amended by Chapter 108, Laws of Utah 1998

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

Section 1. Section **63-92-2** is amended to read:

**63-92-2. Creation -- Purpose -- Administration -- Access.**

(1) There is created the Serious Habitual Offender Comprehensive Action Program (SHOCAP) to establish a SHOCAP Database to identify and track youthful offenders in order to assist agencies in providing collaborative and comprehensive services to them.

(2) The database shall be administered by the Administrative Office of the Courts with information contributed by the following agencies:

(a) the State Office of Education, including all school districts;

(b) the Department of Health;

(c) the Department of Human Services, including all county mental health agencies;

(d) the Department of Public Safety;

(e) all county and municipal law enforcement agencies; and

(f) all county and district attorney offices.

(3) The database shall be maintained in accordance with guidelines established by the ~~[oversight committee created in Section 63-92-3]~~ Administrative Office of the Courts so that the agencies listed in Subsection (2) can efficiently access the database.

(4) Information provided by schools in compliance with the provisions of this chapter is authorized under the Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99.

(5) Information in the database provided by an agency to the database is considered to be the property of the agency providing the information and retains any classification given it under Title 63, Chapter 2, Government Records Access and Management Act.

(6) Any person who knowingly releases or discloses information from the database for a purpose other than authorized by this chapter or to a person who is not entitled to it is guilty of a class B misdemeanor.

(7) Neither the state nor the courts are liable to any person for gathering, managing, or using the information in the database as provided in this chapter.

Section 2. Section **63-92-3** is amended to read:

**63-92-3. Establishment of local oversight committees.**

~~[(1) The SHOCAP program shall be established as a program in Davis County until the SHOCAP oversight committee in conjunction with the Administrative Office of the Courts is satisfied the program is capable of statewide implementation.]~~

~~[(2)]~~ <sup>h</sup> ~~(1)~~ <sup>[f]</sup> **The Commission on Criminal and Juvenile Justice shall administer the** <sup>[j]</sup>  
**STATEWIDE** <sup>[f]</sup> **SHOCAP**

**oversight committee and provide periodic review of the** <sup>[j]</sup> **[program] PROGRAMS** <sup>[f]</sup>. <sup>[j]</sup> <sup>h</sup>

~~[(3) The]~~ <sup>h</sup> ~~[(1)]~~ <sup>(2)</sup> <sup>h</sup> Counties or municipalities implementing SHOCAP shall form a local oversight committee ~~[shall be]~~ composed of the following persons, or their designees:

(a) the district juvenile court administrator ~~[for the 2nd Judicial District];~~

(b) the superintendent of the ~~[Davis County]~~ local school district;

(c) the ~~[Davis]~~ local county attorney;

(d) a member of the ~~[Davis]~~ local county or municipal legislative body;

(e) the ~~[Davis]~~ local county sheriff;

(f) ~~[the]~~ a local chief of police ~~[of at least four municipalities within Davis County];~~

~~[(g) the commissioner of the Department of Public Safety;]~~

59           ~~[(h)]~~ (g) the local chief of probation for the ~~h~~ ~~[2nd District]~~ ~~h~~ Juvenile Court;  
 60           ~~[(i)]~~ (h) the regional director of the Division of Youth Corrections;  
 61           ~~[(j)]~~ (i) the regional director of the Division of Child and Family Services;  
 62           ~~[(k)]~~ (j) ~~h~~ ~~[the regional director of the Division of Mental Health]~~ A REPRESENTATIVE OF A  
 62a LOCAL PUBLIC MENTAL HEALTH PROVIDER ~~h~~ ; and  
 63           ~~[(l)]~~ the state court administrator;]  
 64           ~~[(m)]~~ a member of the Commission on Criminal and Juvenile Justice appointed by the  
 65 executive director; and]  
 66           ~~[(n)]~~ a member of a private provider of after-care services;]  
 67           (k) any additional members considered appropriate by the local oversight committee.  
 68           ~~h~~ ~~[(2)]~~ (3) ~~h~~ The local oversight committee shall develop, implement, and periodically review  
 68a the  
 69 following:  
 70           (a) ~~h~~ ~~[local]~~ STANDARDIZED ~~h~~ criteria ~~h~~ AS DEVELOPED BY THE STATEWIDE SHOCAP  
 70a OVERSIGHT COMMITTEE ~~h~~ for determining who is a serious habitual offender (SHO);  
 71           (b) what information is needed on each offender for inclusion in the program;  
 72           (c) who will have access to the database;  
 73           (d) who will maintain the database and manage the information in the program;  
 74           (e) what the information in the database is to be used for; and  
 75           (f) penalties for improper use of the information in the database.  
 76           ~~h~~ ~~[(3)]~~ (4) ~~h~~ The local oversight committee shall develop a written interagency information  
 76a sharing  
 77 agreement to be signed by the chief executive officer of each of the agencies represented on the  
 78 oversight committee. The sharing agreement shall include the provisions requiring that:  
 79           (a) all records pertaining to a SHO be kept confidential;  
 80           (b) the disclosure of information to other staff members of signatory agencies be made  
 81 only to those staff members who provide direct services or supervision to the SHO; and  
 82           (c) all staff members of signatory agencies receiving confidential information concerning  
 83 a SHO be subject to the confidentiality requirements of this chapter.  
 84           ~~h~~ ~~[(4)]~~ (5) ~~h~~ Notwithstanding any other statutory provision, staff members of signatory  
 84a agencies  
 85 who provide direct services or supervision to SHOCAP youth may distribute photographs of  
 86 SHOCAP youth to other staff members of signatory agencies who provide direct services or  
 87 supervision to SHOCAP youth.  
 88           ~~h~~ ~~[(5)]~~ (6) ~~h~~ The local oversight committee shall develop a program which shall be capable of  
 89 maintaining the information determined to be necessary under Subsection ~~h~~ ~~[(2)]~~ (3) ~~h~~ .

90           ~~h [(6) The Commission on Criminal and Juvenile Justice shall provide technical assistance~~  
91 ~~and periodic review of local SHOCAP oversight committees.] h~~  
92           Section 3. **Repealer.**  
93           This act repeals:  
94           Section **63-92-4, Duties -- Report to Legislature.**  
95           Section 4. **Effective date.**  
96           This act takes effect on July 1, 1999.

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**Legislative Review Note**  
**as of 2-4-99 9:32 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**