

**SHERIFF'S CLASSIFICATION OF JAIL  
INMATES AND JAIL FACILITIES**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael G. Waddoups**

AN ACT RELATING TO COUNTIES; REQUIRING COUNTY SHERIFFS TO ADOPT AND  
IMPLEMENT CERTAIN INCARCERATION CRITERIA AND PRACTICES; AUTHORIZING  
COUNTY SHERIFFS **§ TO DEVELOP AND IMPLEMENT ALTERNATIVE INCARCERATION**

**PROGRAMS; REQUIRING COUNTY SHERIFFS § TO CLASSIFY JAIL FACILITIES AND TO  
ESTABLISH MAXIMUM**

**JAIL CAPACITIES; REQUIRING COUNTY SHERIFFS TO TRANSFER OR RELEASE  
PRISONERS UNDER CERTAIN CIRCUMSTANCES; AND MAKING TECHNICAL  
CHANGES.**

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

AMENDS:

**17-22-5**, as repealed and reenacted by Chapter 13, Laws of Utah 1991

ENACTS:

**17-22-5.5**, Utah Code Annotated 1953

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

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

**17-22-5. Sheriff's classification of jail inmates.**

**(1) § [~~The~~] EXCEPT AS PROVIDED IN SUBSECTION (4), THE** § sheriff shall adopt and  
implement written policy for the classification of persons  
incarcerated in the jail which shall provide for the separation of prisoners by [~~sex~~] gender and by  
such other factors as may reasonably provide for the safety and well-being of inmates and the  
community.

**(2) § [~~Each~~] EXCEPT AS PROVIDED IN SUBSECTION (4), EACH** § county sheriff shall assign  
prisoners to a facility or section of a facility based on  
classification criteria that the sheriff develops and maintains.

**(3) (a) § [~~A~~] EXCEPT AS PROVIDED IN SUBSECTION (4), A** § county sheriff may develop  
and  
implement alternative incarceration programs  
that may or may not involve housing a prisoner in a jail facility.

28 (b) A prisoner housed under an alternative incarceration program under Subsection (3)(a)  
 29 shall be considered to be in the full custody and control of the sheriff for purposes of Section  
 30 76-8-309.

30a **§ (c) A PRISONER MAY NOT BE PLACED IN AN ALTERNATIVE INCARCERATION PROGRAM UNDER**  
 30b **SUBSECTION (3)(a) UNLESS:**

30c **(i) THE JAIL FACILITY IS AT MAXIMUM OPERATING CAPACITY, AS ESTABLISHED UNDER**  
 30d **SUBSECTION 17-22-5.5(2); OR**

30e **(ii) ORDERED BY THE COURT.**

30f **(4) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE A SHERIFF TO MODIFY PROVISIONS OF**  
 30g **A CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO HOUSE IN A COUNTY JAIL**  
 30h **PERSONS SENTENCED TO THE DEPARTMENT OF CORRECTIONS. §**

31 Section 2. Section 17-22-5.5 is enacted to read:

32 **17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of**  
 33 **jail facilities -- Transfer or release of prisoners.**

34 **(1) § [A] (a) EXCEPT AS PROVIDED IN SUBSECTION (3), A § county sheriff § [may] SHALL §**  
 34a **determine:**

35 **§ [(a)] (i) SUBJECT TO SUBSECTION (1)(b), § the classification of each jail facility or section**  
 35a **of a jail facility under the sheriff's**  
 36 **control;**

37 **§ [(b)] (ii) § the nature of each program conducted at a jail facility under the sheriff's control; and**

38 **§ [(c)] (iii) § the internal operation of a jail facility under the sheriff's control.**

38a **§ (b) A CLASSIFICATION UNDER SUBSECTION (1)(a)(i) OF A JAIL FACILITY MAY NOT VIOLATE ANY**  
 38b **APPLICABLE ZONING ORDINANCE OR CONDITIONAL USE PERMIT OF THE COUNTY OR**  
 38c **MUNICIPALITY. §**

39 **(2) § [Each] EXCEPT AS PROVIDED IN SUBSECTION (3), EACH § county sheriff shall:**

40 **(a) § WITH THE APPROVAL OF THE COUNTY LEGISLATIVE BODY, § establish a maximum**  
 40a **operating capacity for each jail facility under the sheriff's control,**  
 41 **based on facility design and staffing; and**

42 **(b) upon a jail facility reaching its maximum operating capacity § [as established by the**  
 43 **sheriff] § :**

44 **(i) transfer prisoners to another appropriate facility:**

45 **(A) under the sheriff's control; or**

46 **(B) available to the sheriff by contract; or**

47 **(ii) release prisoners:**

48 **(A) to a supervised release program, according to release criteria established by the sheriff;**

49 **or**

50 **(B) to another alternative incarceration program developed by the sheriff.**

50a **§ (3) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE A SHERIFF TO MODIFY**  
 50b **PROVISIONS**

50c **OF A CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO HOUSE IN A COUNTY JAIL**  
**PERSONS SENTENCED TO THE DEPARTMENT OF CORRECTIONS. §**

## Legislative Review Note

as of 2-4-00 4:45 PM

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