

**COURT FEE ADJUSTMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: David L. Gladwell**

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**LONG TITLE**

**General Description:**

This bill adds a security surcharge to justice court convictions to fund security and technology in juvenile and justice courts.

**Highlighted Provisions:**

This bill:

- ▶ adds juvenile court security to the contract responsibility for the state court administrator;
- ▶ imposes a \$32 security surcharge on criminal convictions and moving violations in justice courts;
- ▶ allows the justice court to retain 20% of the funds collected;
- ▶ distributes 62.5% of the remaining 80% of the funds to the counties in which the justice court which remitted the funds is located;
- ▶ distributes 25% of the remaining 80% of the funds to a restricted account for the Administrative Office of the Courts to use for security needs in juvenile courts; and
- ▶ creates a new restricted account for 12.5% of the remaining 80% of the funds for security and technology needs in justice courts.

**Monies Appropriated in this Bill:**

This bill appropriates to the Administrative Office of the Courts:

- ▶ \$1,800,000 from the Court Security Account for fiscal year 2004-05 only; and
- ▶ \$900,000 from the Justice Court Technology, Security, and Training Account for fiscal year 2004-05 only.

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-8-58**, as last amended by Chapter 195, Laws of Utah 2001

**17-22-5**, as last amended by Chapter 191, Laws of Utah 2000

**17-22-5.5**, as enacted by Chapter 191, Laws of Utah 2000

**17-22-27**, as last amended by Chapter 282, Laws of Utah 1998

**63-63c-102**, as enacted by Chapter 340, Laws of Utah 2003

ENACTS:

**78-5-116.5**, Utah Code Annotated 1953

**78-5-116.7**, Utah Code Annotated 1953

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

Section 1. Section **10-8-58** is amended to read:

**10-8-58. Jails and workhouses -- Establishment and maintenance.**

The governing body of a city or town may:

(1) establish, erect, and maintain city jails, houses of correction, and workhouses for the temporary confinement, not to exceed 72 hours, of persons convicted of violating any city ordinances;

(2) make rules for the government of them;

(3) appoint necessary jailers and keepers; and

(4) use the county correctional facilities, including the county jail, for the confinement or punishment of offenders[;] on the following conditions:

(a) a city or town may use the county correctional facilities without payment of core incarceration costs as defined in Subsection 64-13c-101(1) or costs associated with booking of offenders in county correctional facilities;

(b) subject to any conditions that are imposed by law[;]; and

(c) with the consent of the county legislative body[;] which may include, without limitation, the allocation or rationing of correctional facility capacity and prohibition of booking

for classes of offenses or offenders. These limitations shall be applied equally to all entities using the county correctional facilities.

(5) If consent is given for the use of the county correctional facilities, the sheriff, at the sheriff's discretion, may assign offenders to county correctional facilities or programs or transfer offenders between facilities or programs.

(6) Nothing contained in this section shall:

(a) preclude cities, towns, and counties from executing written agreements containing terms or conditions for the use of the county jail; or

(b) invalidate any agreements entered into prior to July 1, 2004.

Section 2. Section **17-22-5** is amended to read:

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

**Alternative incarceration programs -- Limitation.**

(1) Except as provided in Subsection (4), the sheriff shall adopt and implement written ~~[policy for]~~ policies for admission of prisoners to the county jail and the classification of persons 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. To the extent authorized by law, any written admission policies shall be applied equally to all entities using the county correctional facilities.

(2) 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) 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.

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

(c) A prisoner may not be placed in an alternative incarceration program under Subsection (3)(a) unless:

(i) the jail facility is at maximum operating capacity, as established under Subsection 17-22-5.5(2); or

(ii) ordered by the court.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail persons sentenced to the Department of Corrections.

Section 3. Section **17-22-5.5** is amended to read:

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

(1) (a) Except as provided in Subsection (3), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (3), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching its maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract; or

(ii) release prisoners:

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

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

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed

equally upon all entities using the county jail.

(3) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail persons sentenced to the Department of Corrections.

Section 4. Section **17-22-27** is amended to read:

**17-22-27. Sheriff -- Assignment of court bailiffs -- Contract and costs.**

(1) The sheriff shall assign law enforcement officers or special function officers, as defined under Sections 53-13-103 and 53-13-105, to serve as court bailiffs and security officers in the courts of record and county justice courts as required by the rules of the Judicial Council.

(2) (a) The state court administrator shall enter into a contract with the county sheriff for bailiffs and building security officers for the district and juvenile courts within the county. The contract shall not exceed amounts appropriated by the Legislature for that purpose. The county shall assume costs related to security administration, supervision, travel, equipment, and training of bailiffs.

(b) The contract shall specify the agreed services, costs of services, and terms of payment.

(c) If the court is located in the same facility as a state or local law enforcement agency and the county sheriff's office is not in close proximity to the court, the State Court Administrator in consultation with the sheriff may enter into a contract with the state or local law enforcement agency for bailiff and security services subject to meeting all other requirements of this section. If the services are provided by another agency, the county sheriff shall have no responsibility for the services under this section.

(3) (a) At the request of the court, the sheriff may appoint as a law clerk bailiff graduates of a law school accredited by the American Bar Association to provide security and legal research assistance. Any law clerk who is also a bailiff shall meet the requirements of Subsection (1) of this section.

(b) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two years, who shall be exempt from the deputy sheriff merit service commission.

Section 5. Section **63-63c-102** is amended to read:

**63-63c-102. Court Security Account established -- Funding -- Uses.**

(1) There is created a restricted account in the General Fund known as the Court Security Account.

(2) The state treasurer shall deposit in the Court Security Account:

(a) collected monies from the surcharge established in Section 63-63c-101 [and];

(b) monies from the portion of filing fees established in Subsections 78-7-35(1)(j)(iv) and (v)[-]; and

(c) amounts designated by Subsection 78-5-116.5(3)(b)(ii).

(3) The Administrative Office of the Courts shall use the allocation only to contract for court security at all district and juvenile courts, including perimeter security at stand alone juvenile courts, throughout the state.

Section 6. Section **78-5-116.5** is enacted to read:

**78-5-116.5. Security surcharge -- Application -- Deposit in restricted accounts.**

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$32 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations.

(2) The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(3) The security surcharge shall be allocated as follows:

(a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and

(b) 80% shall be remitted to the state treasurer to be distributed as follows:

(i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;

(ii) 25% to the Court Security Account created in Section 63-63c-102; and

(iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78-5-116.7.

(4) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 7. Section **78-5-116.7** is enacted to read:

**78-5-116.7. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.**

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(1) The state treasurer shall deposit in the account monies collected from the surcharge established in Subsection 78-5-116.5(3)(b)(iii).

(2) Monies shall be appropriated from the account to the Administrative Office of the Courts to only be used for technology, security, and training needs in justice courts throughout the state.

Section 8. **Appropriation.**

(1) There is appropriated \$1,800,000 from the Court Security Account for fiscal year 2004-05 only, to the Administrative Office of the Courts to be used only for juvenile court security needs throughout the state.

(2) There is appropriated \$900,000 from the Justice Court Technology, Security, and Training Account for fiscal year 2004-05 only, to the Administrative Office of the Courts to be used only for technology, security, and training needs in justice courts throughout the state.