

26 ▶ \$900,000 from the Justice Court Technology, Security, and Training Account for
27 fiscal year 2004-05 only.

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-8-58**, as last amended by Chapter 195, Laws of Utah 2001

33 **17-22-5**, as last amended by Chapter 191, Laws of Utah 2000

34 **17-22-5.5**, as enacted by Chapter 191, Laws of Utah 2000

35 **17-22-27**, as last amended by Chapter 282, Laws of Utah 1998

36 **63-63c-102**, as enacted by Chapter 340, Laws of Utah 2003

37 ENACTS:

38 **78-5-116.5**, Utah Code Annotated 1953

39 **78-5-116.7**, Utah Code Annotated 1953



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

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

43 **10-8-58. Jails and workhouses -- Establishment and maintenance.**

44 The governing body of a city or town may:

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

48 (2) make rules for the government of them;

49 (3) appoint necessary jailers and keepers; and

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

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

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

56 (c) with the consent of the county legislative body[;] which may include, without

57 limitation, the allocation or rationing of correctional facility capacity and prohibition of
58 booking for classes of offenses or offenders. These limitations shall be applied equally to all
59 entities using the county correctional facilities.

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

63 (6) Nothing contained in this section shall:

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

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

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

68 **17-22-5. Sheriff's classification of jail inmates -- Classification criteria --**

69 **Alternative incarceration programs -- Limitation.**

70 (1) Except as provided in Subsection (4), the sheriff shall adopt and implement written
71 ~~[policy for]~~ policies for admission of prisoners to the county jail and the classification of
72 persons incarcerated in the jail which shall provide for the separation of prisoners by gender
73 and by such other factors as may reasonably provide for the safety and well-being of inmates
74 and the community. To the extent authorized by law, any written admission policies shall be
75 applied equally to all entities using the county correctional facilities.

76 (2) Except as provided in Subsection (4), each county sheriff shall assign prisoners to a
77 facility or section of a facility based on classification criteria that the sheriff develops and
78 maintains.

79 (3) (a) Except as provided in Subsection (4), a county sheriff may develop and
80 implement alternative incarceration programs that may or may not involve housing a prisoner
81 in a jail facility.

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

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

87 (i) the jail facility is at maximum operating capacity, as established under Subsection

88 17-22-5.5(2); or

89 (ii) ordered by the court.

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

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

94 **17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity**
95 **of jail facilities -- Transfer or release of prisoners -- Limitation.**

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

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

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

100 and

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

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

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

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

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

109 (i) transfer prisoners to another appropriate facility:

110 (A) under the sheriff's control; or

111 (B) available to the sheriff by contract; or

112 (ii) release prisoners:

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

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

116 (iii) admit prisoners in accordance with law and a uniform admissions policy imposed
117 equally upon all entities using the county jail.

118 (3) This section may not be construed to authorize a sheriff to modify provisions of a

119 contract with the Department of Corrections to house in a county jail persons sentenced to the
120 Department of Corrections.

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

122 **17-22-27. Sheriff -- Assignment of court bailiffs -- Contract and costs.**

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

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

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

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

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

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

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

147 **63-63c-102. Court Security Account established -- Funding -- Uses.**

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

150 (2) The state treasurer shall deposit in the Court Security Account;
 151 (a) collected monies from the surcharge established in Section 63-63c-101 [~~and~~];
 152 (b) monies from the portion of filing fees established in Subsections 78-7-35(1)(j)(iv)
 153 and (v)[~~]; and~~

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

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

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

159 **78-5-116.5. Security surcharge -- Application -- Deposit in restricted accounts.**

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

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

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

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

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

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

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

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

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

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

178 **78-5-116.7. Justice Court Technology, Security, and Training Account established**
 179 **-- Funding -- Uses.**

180 There is created a restricted account in the General Fund known as the Justice Court

181 Technology, Security, and Training Account.

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

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

187 **Section 8. Appropriation.**

188 (1) There is appropriated \$1,800,000 from the Court Security Account for fiscal year
189 2004-05 only, to the Administrative Office of the Courts to be used only for juvenile court
190 security needs throughout the state.

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