

**COMMISSION ON RACIAL AND ETHNIC
FAIRNESS**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Duane E. Bourdeaux

LONG TITLE

General Description:

This bill creates the Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System and specifies membership, purpose, duties, and reporting requirements.

Highlighted Provisions:

This bill:

- ▶ creates a Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System composed of 30 members;
- ▶ houses the commission within the governor's office; and
- ▶ sets out the purpose, duties, and reporting requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2005.

Utah Code Sections Affected:

ENACTS:

63-25a-601, Utah Code Annotated 1953

63-25a-602, Utah Code Annotated 1953

63-25a-603, Utah Code Annotated 1953

63-25a-604, Utah Code Annotated 1953



28 **63-25a-605**, Utah Code Annotated 1953

29 **63-25a-606**, Utah Code Annotated 1953



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

32 Section 1. Section **63-25a-601** is enacted to read:

33 **63-25a-601. Commission on Racial and Ethnic Fairness in the Criminal and**
34 **Juvenile Justice System -- Creation -- Purpose.**

35 (1) There is created within the governor's office the Utah Commission on Racial and
36 Ethnic Fairness in the Criminal and Juvenile Justice System.

37 (2) The commission's purpose is to:

38 (a) provide leadership and focus for Utah's ongoing efforts to advance racial and ethnic
39 fairness within the criminal and juvenile justice system and monitor those efforts;

40 (b) recommend and coordinate systemwide efforts to implement programs, policies,
41 and activities identified by the commission;

42 (c) promote collaboration and mutually beneficial public, private, and community
43 partnerships; and

44 (d) coordinate and assist in the implementation of recommendations made by it or any
45 special committees created under Section 63-25a-604.

46 Section 2. Section **63-25a-602** is enacted to read:

47 **63-25a-602. Composition -- Appointments -- Terms -- Vacancies -- Removal.**

48 (1) The commission shall be composed of 30 voting members as follows:

49 (a) the governor or the governor's designee;

50 (b) the attorney general or the attorney general's designee;

51 (c) the commissioner of public safety or the commissioner's designee;

52 (d) the executive director of the Commission on Criminal and Juvenile Justice or the
53 executive director's designee;

54 (e) the executive director of the Department of Corrections or the executive director's
55 designee;

56 (f) the director of Peace Officer Standards and Training or the director's designee;

57 (g) the director of Juvenile Justice Services or the director's designee;

58 (h) the chair of the Board of Pardons and Parole or the chair's designee;

- 59 (i) the chair of the Utah Board of Juvenile Justice or the chair's designee;
 60 (j) the director of the Sentencing Commission or the director's designee;
 61 (k) ~~H→ [the chair of]~~ a member of the Asian community appointed by ~~←H~~ the Asian
 61a Advisory Council ~~H→ [or the chair's designee]~~ ~~←H~~ ;
 62 (l) ~~H→ [the chair of]~~ a member of the Black community appointed by ~~←H~~ the Black
 62a Advisory Council ~~H→ [or the chair's designee]~~ ~~←H~~ ;
 63 (m) ~~H→ [the chair of]~~ a member of the Hispanic community appointed by ~~←H~~ the
 63a Hispanic Advisory Council ~~H→ [or the chair's designee]~~ ~~←H~~ ;
 64 (n) ~~H→ [the chair of]~~ a member of the Pacific Islander community appointed by ~~←H~~ the
 64a Pacific Islander Advisory Council ~~H→ [or the chair's designee]~~ ~~←H~~ ;
 65 (o) ~~H→~~ a member of the Native American community appointed by ~~←H~~ the director of
 65a the Division of Indian Affairs ~~H→ [or the director's designee]~~ ~~←H~~ ;
 66 (p) the president of the Utah Sheriffs Association or a sheriff designated by the
 67 association's president;
 68 (q) the president of the Chiefs of Police Association or a chief of police designated by
 69 the association's president;
 70 (r) a member of the House of Representatives, appointed by the speaker of the House;
 71 (s) a member of the Senate, appointed by the president of the Senate;
 72 (t) the State Court Administrator or the administrator's designee;
 73 (u) the following members appointed by the chief justice as presiding officer of the
 74 Judicial Council to serve staggered four-year terms:
 75 (i) a juvenile court judge;
 76 (ii) a district court judge;
 77 (iii) an appellate court judge; and
 78 (iv) a justice court judge;
 79 (v) the following members appointed by the governor to serve staggered four-year
 80 terms:
 81 (i) a person knowledgeable about disproportionate minority contact in the juvenile
 82 justice system; and
 83 (ii) three members from the general public knowledgeable about racial and ethnic
 84 issues in the justice system; and
 85 (w) the following members appointed by the president of the Utah ~~H→~~ State ~~←H~~ Bar
 85a ~~H→ [Association]~~ ~~←H~~ to
 86 serve staggered four-year terms:
 87 (i) a prosecuting attorney; and
 88 (ii) a legal defender.
 89 (2) The appointing authority shall, at the time of appointment, adjust the length of

90 terms to ensure that the terms of commission members are staggered so that approximately half
91 of the commission is appointed every two years.

92 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
93 appointed for the unexpired term in the same manner as the position was originally filled.

94 (4) Members serve at the will of the appointing authority for the duration of their
95 terms.

96 Section 3. Section **63-25a-603** is enacted to read:

97 **63-25a-603. Chair -- Quorum -- Expenses.**

98 (1) The governor shall appoint a member of the commission to serve as chair.

99 (a) The chair is responsible for the call and conduct of meetings.

100 (b) The chair shall call and hold meetings of the commission at least quarterly.

101 (2) A majority of the members of the commission constitute a quorum.

102 (3) The action of a majority of a quorum constitutes the action of the commission.

103 (4) (a) (i) Members who are not government employees shall receive no compensation
104 or benefits for their services, but may receive per diem and expenses incurred in the
105 performance of the member's official duties at the rates established by the Division of Finance
106 under Sections 63A-3-106 and 63A-3-107.

107 (ii) Members may decline to receive per diem and expenses for their service.

108 (b) (i) State government officer and employee members who do not receive salary, per
109 diem, or expenses from their agency for their service may receive per diem and expenses
110 incurred in the performance of their official duties from the council at the rates established by
111 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

112 (ii) State government officer and employee members may decline to receive per diem
113 and expenses for their service.

114 (c) Legislators on the council shall receive compensation and expenses as provided by
115 law and legislative rule.

116 (d) (i) Local government members who do not receive salary, per diem, or expenses
117 from the entity that they represent for their service may receive per diem and expenses incurred
118 in the performance of their official duties at the rates established by the Division of Finance
119 under Sections 63A-3-106 and 63A-3-107.

120 (ii) Local government members may decline to receive per diem and expenses for their

121 service.

122 Section 4. Section **63-25a-604** is enacted to read:

123 **63-25a-604. Duties of commission.**

124 (1) The Commission on Racial and Ethnic Fairness in the Criminal and Juvenile

125 Justice System shall:

126 (a) promote the commission's purposes as listed in Section 63-25a-601;

127 (b) study, evaluate, and report on the status and effectiveness of policies, procedures,

128 and programs that promote racial and ethnic fairness in the justice system;

129 (c) study and evaluate the policies, procedures, and programs implemented by other

130 states that address racial and ethnic fairness in the justice system; and

131 (d) provide a public forum for public comments on issues related to racial and ethnic

132 fairness in the justice system.

133 (2) To accomplish its duties, the commission may:

134 (a) request and receive from any state or local governmental agency or institution,

135 summary information related to racial and ethnic minority populations, including:

136 (i) reports;

137 (ii) audits; and

138 (iii) statistics;

139 (b) apply for and accept grants or donations for uses consistent with the duties of the

140 commission from public and private sources; and

141 (c) appoint special committees to advise and assist the commission.

142 (3) Any funds received shall be accounted for and expended in compliance with the

143 requirements of federal and state law.

144 (4) (a) Members of any special committees described in Subsection (2)(c):

145 (i) shall be appointed by the commission; and

146 (ii) may be members of the commission; or

147 (iii) individuals from the private or public sector.

148 (b) Notwithstanding Section 63-25a-603, members may not receive any reimbursement

149 or pay for any work done in relation to the special committee.

150 (c) A special committee shall regularly report to the commission on the progress of the

151 special committee.

152 (5) The commission shall meet quarterly or more frequently as determined necessary
153 by the chair.

154 Section 5. Section **63-25a-605** is enacted to read:

155 **63-25a-605. Annual report by the commission.**

156 (1) The commission shall annually prepare and publish a report directed to the:

157 (a) governor;

158 (b) Legislature; and

159 (c) judicial council.

160 (2) The report shall describe how the commission fulfilled its statutory purposes and
161 duties during the year and contain recommendations on how the state should act on issues
162 relating to racial and ethnic fairness in the criminal and juvenile justice system.

163 Section 6. Section **63-25a-606** is enacted to read:

164 **63-25a-606. Staffing.**

165 The Commission on Criminal and Juvenile Justice shall provide staff to the
166 commission and any special committees established by the commission.

167 Section 7. **Effective date.**

168 This bill takes effect on July 1, 2005.

Legislative Review Note

as of 2-4-05 9:35 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

An ongoing General Fund appropriation of \$122,800 is required to fund the Commission established by this bill.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$122,800	\$122,800	\$0	\$0
TOTAL	\$122,800	\$122,800	\$0	\$0

Individual and Business Impact

Any fiscal impact to individuals or businesses as a result of this legislation will depend on the actions of the Commission created by the bill.

Office of the Legislative Fiscal Analyst