

Representative Brad L. Dee proposes the following substitute bill:

COMMISSION ON CRIMINAL AND JUVENILE

JUSTICE FUNDING

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill modifies the code provisions regarding distribution of the criminal surcharge to also allocate funds for law enforcement purposes. This bill also modifies the membership of the Commission on Criminal and Juvenile Justice.

Highlighted Provisions:

This bill:

- ▶ creates the Law Enforcement Operations Account as a restricted account within the General Fund;
- ▶ provides that the balance of the criminal surcharge collected will be allocated to the Law Enforcement Operations Account;
- ▶ provides that funds from the account shall be appropriated to the Commission on Criminal and Juvenile Justice, which shall allocate the funds to law enforcement and other appropriate agencies that work on illegal drug and crime issues, and provides subsequent priorities, with the first priority being state, local, or multijurisdictional drug and crime forces;
- ▶ adds the director of the Division of Substance Abuse and Mental Health as a member of the Commission on Criminal and Juvenile Justice;



26 ▶ provides that the Commission on Criminal and Juvenile Justice shall allocate and
27 administer law enforcement grants from monies in the Law Enforcement Operations
28 Account; and

29 ▶ directs that the Commission on Criminal and Juvenile Justice allocate \$2,500,000
30 annually from the Law Enforcement Operations Account as grants for these task
31 forces, depending on funding available.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **63-25a-102**, as last amended by Chapter 211, Laws of Utah 2004

39 **63-25a-104**, as last amended by Chapter 350, Laws of Utah 2006

40 **63-63a-2**, as last amended by Chapter 156, Laws of Utah 2003

41 ENACTS:

42 **63-63a-10**, Utah Code Annotated 1953



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

45 Section 1. Section **63-25a-102** is amended to read:

46 **63-25a-102. Composition -- Appointments -- Ex officio members -- Terms -- U.S.**

47 **Attorney as nonvoting member.**

48 (1) The commission on criminal and juvenile justice shall be composed of 20 voting
49 members as follows:

50 (a) the chief justice of the supreme court, as the presiding officer of the judicial
51 council, or a judge designated by the chief justice;

52 (b) the state court administrator;

53 (c) the executive director of the Department of Corrections;

54 (d) the director of the Division of Juvenile Justice Services;

55 (e) the commissioner of the Department of Public Safety;

56 (f) the attorney general;

57 (g) the president of the chiefs of police association or a chief of police designated by
58 the association's president;

59 (h) the president of the sheriffs' association or a sheriff designated by the association's
60 president;

61 (i) the chair of the Board of Pardons and Parole or a member designated by the chair;

62 (j) the chair of the Utah Sentencing Commission;

63 (k) the chair of the Utah Substance Abuse and Anti-Violence Coordinating Council;

64 (l) the chair of the Utah Board of Juvenile Justice;

65 (m) the chair of the Utah Council on Victims of Crime or the chair's designee; [~~and~~]

66 (n) the director of the Division of Substance Abuse and Mental Health; and

67 [~~(n)~~] (o) the following members designated to serve four-year terms:

68 (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the
69 Judicial Council;

70 (ii) a representative of the statewide association of public attorneys designated by the
71 association's officers;

72 (iii) one member of the House of Representatives who is appointed by the speaker of
73 the House of Representatives; and

74 (iv) one member of the Senate who is appointed by the president of the Senate.

75 (2) The governor shall appoint the remaining three members to four-year staggered
76 terms as follows:

77 (a) one criminal defense attorney appointed from a list of three nominees submitted by
78 the Utah State Bar Association;

79 (b) one representative of public education; and

80 (c) one citizen representative.

81 (3) In addition to the members designated under Subsections (1) and (2), the United
82 States Attorney for the district of Utah may serve as a nonvoting member.

83 (4) In appointing the members under Subsection (2), the governor shall take into
84 account the geographical makeup of the commission.

85 Section 2. Section **63-25a-104** is amended to read:

86 **63-25a-104. Duties of commission.**

87 The State Commission on Criminal and Juvenile Justice administration shall:

- 88 (1) promote the commission's purposes as enumerated in Section 63-25a-101;
- 89 (2) promote the communication and coordination of all criminal and juvenile justice
- 90 agencies;
- 91 (3) study, evaluate, and report on the status of crime in the state and on the
- 92 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
- 93 reduction of crime in the state;
- 94 (4) study, evaluate, and report on policies, procedures, and programs of other
- 95 jurisdictions which have effectively reduced crime;
- 96 (5) identify and promote the implementation of specific policies and programs the
- 97 commission determines will significantly reduce crime in Utah;
- 98 (6) provide analysis and recommendations on all criminal and juvenile justice
- 99 legislation, state budget, and facility requests, including program and fiscal impact on all
- 100 components of the criminal and juvenile justice system;
- 101 (7) provide analysis, accountability, recommendations, and supervision for state and
- 102 federal criminal justice grant monies;
- 103 (8) provide public information on the criminal and juvenile justice system and give
- 104 technical assistance to agencies or local units of government on methods to promote public
- 105 awareness;
- 106 (9) promote research and program evaluation as an integral part of the criminal and
- 107 juvenile justice system;
- 108 (10) provide a comprehensive criminal justice plan annually;
- 109 (11) review agency forecasts regarding future demands on the criminal and juvenile
- 110 justice systems, including specific projections for secure bed space;
- 111 (12) promote the development of criminal and juvenile justice information systems that
- 112 are consistent with common standards for data storage and are capable of appropriately sharing
- 113 information with other criminal justice information systems by:
- 114 (a) developing and maintaining common data standards for use by all state criminal
- 115 justice agencies;
- 116 (b) annually performing audits of criminal history record information maintained by
- 117 state criminal justice agencies to assess their accuracy, completeness, and adherence to
- 118 standards;

119 (c) defining and developing state and local programs and projects associated with the
120 improvement of information management for law enforcement and the administration of
121 justice; and

122 (d) establishing general policies concerning criminal and juvenile justice information
123 systems and making rules as necessary to carry out the duties under this Subsection (12) and
124 Subsection (10); [~~and~~]

125 (13) allocate and administer grants, from monies made available, for approved
126 education programs to help prevent the sexual exploitation of children[-]; and

127 (14) allocate and administer grants funded from monies from the Law Enforcement
128 Operations Account created in Section 63-63a-10 for law enforcement operations and programs
129 related to reducing illegal drug activity and related criminal activity.

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

131 **63-63a-2. Division of collected monies retained by state treasurer and local**
132 **governmental collecting entity -- Purpose of surcharge -- Allocation of collections --**
133 **Financial information.**

134 (1) The amount of the surcharge imposed under this chapter by courts of record shall
135 be collected before any fine and deposited with the state treasurer.

136 (2) The amount of the surcharge and the amount of criminal fines, penalties, and
137 forfeitures imposed under this chapter by courts not of record shall be collected concurrently.

138 (a) As monies are collected on criminal fines, penalties, and forfeitures subject to the
139 85% surcharge, the monies shall be divided pro rata so that the local governmental collecting
140 entity retains 54% of the collected monies and the state retains 46% of the collected monies.

141 (b) As monies are collected on criminal fines, penalties, and forfeitures subject to the
142 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting
143 entity retains 74% of the collected monies and the state retains 26% of the collected monies.

144 (c) The court shall deposit with the state treasurer the surcharge portion of all monies
145 as they are collected.

146 (3) Courts of record, courts not of record, and administrative traffic proceedings shall
147 collect financial information to determine:

148 (a) the total number of cases in which:

149 (i) a final judgment has been rendered;

150 (ii) surcharges and fines are paid by partial or installment payment; and
151 (iii) the judgment is fulfilled by an alternative method upon the court's order;
152 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state
153 and county or municipality, including:

- 154 (i) waived surcharges;
- 155 (ii) uncollected surcharges; and
- 156 (iii) collected surcharges.

157 (4) The courts of record, courts not of record, and administrative traffic proceedings
158 shall report all collected financial information monthly to the Administrative Office of the
159 Courts. The collected information shall be categorized by cases subject to the 85% and 35%
160 surcharge.

161 (5) The purpose of the surcharge is to finance the trust funds and support accounts as
162 provided in this chapter.

163 (6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for
164 the purposes described in Sections 63-63a-3 through ~~[63-63a-9]~~ 63-63a-10.

165 ~~[(b) The balance of the collected surcharge shall be deposited in the General Fund.]~~

166 ~~[(c)]~~ (b) Allocations shall be made on a fiscal year basis.

167 (7) The provisions of Sections 63-63a-1 and 63-63a-2 may not impact the distribution
168 and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13,
169 78-3-14.5, and 78-5-116.

170 Section 4. Section ~~63-63a-10~~ is enacted to read:

171 **63-63a-10. Law Enforcement Operations Account -- Share of surcharge -- Uses.**

172 (1) As used in this section:

173 (a) "Account" means the Law Enforcement Operations Account.

174 (b) "Commission" means the Commission on Criminal and Juvenile Justice created in
175 Section 63-25a-101.

176 (c) "Law enforcement agency" means a state or local law enforcement agency.

177 (d) "Other appropriate agency" means a state or local government agency, or a nonprofit
178 organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug
179 activity and related criminal activity by:

- 180 (i) programs, including education, prevention, treatment, and research programs; and

181 (ii) enforcement of laws regarding illegal drugs.

182 (2) There is created a restricted account within the General Fund known as the Law
183 Enforcement Operations Account.

184 (3) (a) The Division of Finance shall allocate the balance of the collected surcharge
185 under Section 63-63a-1 that is not allocated under Title 63, Chapter 63a, Crime Victim
186 Reparation Trust, Public Safety Support Funds, Substance Abuse Prevention Account, and
187 Services for Victims of Domestic Violence Account, to the account, to be appropriated by the
188 Legislature.

189 (b) Money in the account shall be appropriated to the commission for implementing
190 law enforcement operations and programs related to reducing illegal drug activity and related
191 criminal activity as listed in Subsection (5).

192 (4) (a) The commission shall allocate grants of funds from the account for the purposes
193 under Subsection (5) to state, local, or multijurisdictional law enforcement agencies and other
194 appropriate agencies.

195 (b) The grants shall be made by an application process established by the commission
196 in accordance with Subsection (6).

197 (5) (a) The first priority of the commission is to annually allocate not more than
198 \$2,500,000, depending upon funding available from other sources, to directly fund the
199 operational costs of state and local law enforcement agencies' drug or crime task forces,
200 including multijurisdictional task forces.

201 (b) The second priority of the commission is to allocate grants for specified law
202 enforcement agency functions and other agency functions as the commission finds appropriate
203 to more effectively reduce illegal drug activity and related criminal activity, including
204 providing education, prevention, treatment, and research programs.

205 (6) (a) In allocating grants and determining the amount of the grants, the commission
206 shall consider:

207 (i) the demonstrated ability of the agency to appropriately use the grant to implement
208 the proposed functions and how this function or task force will add to the law enforcement
209 agency's current efforts to reduce illegal drug activity and related criminal activity; and

210 (ii) the agency's cooperation with other state and local agencies and task forces.

211 (b) Agencies qualify for a grant only if they demonstrate compliance with all reporting

212 and policy requirements applicable under this section and under Title 63, Chapter 25a,
213 Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.

214 (7) Recipient agencies may only use grant monies after approval or appropriation by
215 the agency's governing body, and a determination that the grant monies are nonlapsing.

216 (8) A recipient law enforcement agency may use funds granted under this section only
217 for the purposes stated by the commission in the grant.

218 (9) For each fiscal year, any law enforcement agency that receives a grant from the
219 commission under this section shall prepare, and file with the commission and the state auditor,
220 a report in a form specified by the commission. The report shall include the following
221 regarding each grant:

222 (a) the agency's name;

223 (b) the amount of the grant;

224 (c) the date of the grant;

225 (d) how the grant has been used; and

226 (e) a statement signed by both the agency's or political subdivision's executive officer
227 or designee and by the agency's legal counsel, that all grant funds were used for law
228 enforcement operations and programs approved by the commission and that relate to reducing
229 illegal drug activity and related criminal activity, as specified in the grant.

230 (10) The commission shall report in writing to the legislative Law Enforcement and
231 Criminal Justice Interim Committee annually regarding the grants allocated under this section,
232 including the amounts and uses of the grants.