

STATUTORILY REQUIRED REPORTS AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

Committee Note:

The Judiciary, Law Enforcement, and Criminal Justice Interim Committee recommended this bill.

General Description:

This bill modifies the reporting requirements of agencies to the Judiciary and the Law Enforcement and Criminal Justice Interim Committees.

Highlighted Provisions:

This bill:

- ▶ changes some reports required of the Administrative Office of the Courts, the Judicial Council, and the Commission on Criminal and Juvenile Justice to be provided at the option of the Judiciary Interim Committee;
- ▶ requires that certain annual reports be provided in writing;
- ▶ amends reporting dates; and
- ▶ eliminates the requirement for the Emergency Medical Services Committee to report annually to the Law Enforcement and Criminal Justice Committee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

- 29 **26-8a-103**, as last amended by Laws of Utah 2010, Chapter 286
- 30 **30-3-11.3**, as last amended by Laws of Utah 2009, Chapter 146
- 31 **30-3-11.4**, as last amended by Laws of Utah 2008, Chapter 382
- 32 **41-6a-511**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 33 **53-5-707**, as last amended by Laws of Utah 2010, Chapter 62
- 34 **63M-7-305**, as last amended by Laws of Utah 2010, Chapter 39
- 35 **64-13-6**, as last amended by Laws of Utah 2004, Chapter 90
- 36 **64-13e-106**, as last amended by Laws of Utah 2008, Chapter 188
- 37 **78A-8-109**, as enacted by Laws of Utah 2008, Chapter 3
- 38 **78B-6-204**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

41 Section 1. Section **26-8a-103** is amended to read:

42 **26-8a-103. State Emergency Medical Services Committee -- Membership --**
 43 **Expenses.**

44 (1) The State Emergency Medical Services Committee created by Section 26-1-7 shall
 45 be composed of the following 16 members appointed by the governor, at least five of whom
 46 must reside in a county of the third, fourth, fifth, or sixth class:

47 (a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
 48 Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

- 49 (i) one surgeon who actively provides trauma care at a hospital;
- 50 (ii) one rural physician involved in emergency medical care;
- 51 (iii) two physicians who practice in the emergency department of a general acute
 52 hospital; and
- 53 (iv) one pediatrician who practices in the emergency department or critical care unit of
 54 a general acute hospital or a children's specialty hospital;

55 (b) one representative from a private ambulance provider;

56 (c) one representative from an ambulance provider that is neither privately owned nor
 57 operated by a fire department;

58 (d) two chief officers from fire agencies operated by the following classes of licensed

59 or designated emergency medical services providers: municipality, county, and fire district,
60 provided that no class of medical services providers may have more than one representative
61 under this Subsection (1)(d);

62 (e) one director of a law enforcement agency that provides emergency medical
63 services;

64 (f) one hospital administrator;

65 (g) one emergency care nurse;

66 (h) one paramedic in active field practice;

67 (i) one emergency medical technician in active field practice;

68 (j) one certified emergency medical dispatcher affiliated with an emergency medical
69 dispatch center; and

70 (k) one consumer.

71 (2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a
72 four-year term beginning July 1.

73 (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment
74 or reappointment, adjust the length of terms to ensure that the terms of committee members are
75 staggered so that approximately half of the committee is appointed every two years.

76 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
77 appointed by the governor for the unexpired term.

78 (3) (a) Each January, the committee shall organize and select one of its members as
79 chair and one member as vice chair. The committee may organize standing or ad hoc
80 subcommittees, which shall operate in accordance with guidelines established by the
81 committee.

82 (b) The chair shall convene a minimum of four meetings per year. The chair may call
83 special meetings. The chair shall call a meeting upon request of five or more members of the
84 committee.

85 (c) Nine members of the committee constitute a quorum for the transaction of business
86 and the action of a majority of the members present is the action of the committee.

87 ~~[(4) The committee shall submit a report in a form acceptable to the committee each~~
88 ~~November at the Law Enforcement and Criminal Justice Interim Committee meeting~~
89 ~~concerning its:]~~

- 90 ~~[(a) funding priorities and recommended sources;]~~
- 91 ~~[(b) closest responder recommendations;]~~
- 92 ~~[(c) centralized dispatch;]~~
- 93 ~~[(d) duplication of services and any taxing consequences;]~~
- 94 ~~[(e) appropriate providers for emergency medical services; and]~~
- 95 ~~[(f) recommendations and suggested legislation.]~~

96 ~~[(5)]~~ (4) A member may not receive compensation or benefits for the member's service,
 97 but may receive per diem and travel expenses in accordance with:

- 98 (a) Section 63A-3-106;
- 99 (b) Section 63A-3-107; and
- 100 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 101 63A-3-107.

102 ~~[(6)]~~ (5) Administrative services for the committee shall be provided by the
 103 department.

104 Section 2. Section **30-3-11.3** is amended to read:

105 **30-3-11.3. Mandatory educational course for divorcing parents -- Purpose --**
 106 **Curriculum -- Exceptions.**

107 ~~[(1) There is established a mandatory course for divorcing parents as a pilot program in~~
 108 ~~the third and fourth judicial districts to be administered by the Administrative Office of the~~
 109 ~~Courts from July 1, 1992, to June 30, 1994. On July 1, 1994, an approved course shall be~~
 110 ~~implemented in all judicial districts.]~~

111 (1) The Judicial Council shall approve and implement a mandatory course for
 112 divorcing parents in all judicial districts. The mandatory course is designed to educate and
 113 sensitize divorcing parties to their children's needs both during and after the divorce process.

114 (2) The Judicial Council shall adopt rules to implement and administer this program.

115 (3) As a prerequisite to receiving a divorce decree, both parties are required to attend a
 116 mandatory course on their children's needs after filing a complaint for divorce and receiving a
 117 docket number, unless waived under Section 30-3-4. If that requirement is waived, the court
 118 may permit the divorce action to proceed.

119 (4) The court may require unmarried parents to attend this educational course when
 120 those parents are involved in a visitation or custody proceeding before the court.

- 121 (5) The mandatory course shall instruct both parties:
122 (a) about divorce and its impacts on:
123 (i) their child or children;
124 (ii) their family relationship; and
125 (iii) their financial responsibilities for their child or children; and
126 (b) that domestic violence has a harmful effect on children and family relationships.
- 127 (6) The Administrative Office of the Courts shall administer the course pursuant to
128 Title 63G, Chapter 6, Utah Procurement Code, through private or public contracts and organize
129 the program in each of Utah's judicial districts. The contracts shall provide for the recoupment
130 of administrative expenses through the costs charged to individual parties, pursuant to
131 Subsection (8).
- 132 (7) A certificate of completion constitutes evidence to the court of course completion
133 by the parties.
- 134 (8) (a) Each party shall pay the costs of the course to the independent contractor
135 providing the course at the time and place of the course. A fee of \$8 shall be collected, as part
136 of the course fee paid by each participant, and deposited in the Children's Legal Defense
137 Account, described in Section 51-9-408.
- 138 (b) Each party who is unable to pay the costs of the course may attend the course
139 without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of
140 impecuniosity filed in the district court. In those situations, the independent contractor shall be
141 reimbursed for its costs from the appropriation to the Administrative Office of the Courts for
142 "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce
143 may be entered, the court shall make a final review and determination of impecuniosity and
144 may order the payment of the costs if so determined.
- 145 (9) Appropriations from the General Fund to the Administrative Office of the Courts
146 for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay
147 the costs of an indigent parent who makes a showing as provided in Subsection (8)(b).
- 148 (10) The Administrative Office of the Courts shall adopt a program to evaluate the
149 effectiveness of the mandatory educational course. Progress reports shall be provided
150 [~~annually to~~] if requested by the Judiciary Interim Committee.
- 151 Section 3. Section **30-3-11.4** is amended to read:

152 **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**
153 **Curriculum -- Exceptions.**

154 (1) There is established a mandatory divorce orientation course for all parties with
155 minor children who file a petition for temporary separation or for a divorce. A couple with no
156 minor children are not required, but may choose to attend the course. The purpose of the
157 course shall be to educate parties about the divorce process and reasonable alternatives.

158 (2) A petitioner shall attend a divorce orientation course no more than 60 days after
159 filing a petition for divorce.

160 (3) The respondent shall attend the divorce orientation course no more than 30 days
161 after being served with a petition for divorce.

162 (4) The clerk of the court shall provide notice to a petitioner of the requirement for the
163 course, and information regarding the course shall be included with the petition or motion,
164 when served on the respondent.

165 (5) The divorce orientation course shall be neutral, unbiased, at least one hour in
166 duration, and include:

167 (a) options available as alternatives to divorce;

168 (b) resources available from courts and administrative agencies for resolving custody
169 and support issues without filing for divorce;

170 (c) resources available to improve or strengthen the marriage;

171 (d) a discussion of the positive and negative consequences of divorce;

172 (e) a discussion of the process of divorce;

173 (f) options available for proceeding with a divorce, including:

174 (i) mediation;

175 (ii) collaborative law; and

176 (iii) litigation; and

177 (g) a discussion of post-divorce resources.

178 (6) The course may be provided in conjunction with the mandatory course for
179 divorcing parents required by Section 30-3-11.3.

180 (7) The Administrative Office of the Courts shall administer the course pursuant to
181 Title 63G, Chapter 6, Utah Procurement Code, through private or public contracts.

182 (8) Each participant shall pay the costs of the course, which may not exceed \$20, to the

183 independent contractor providing the course at the time and place of the course.

184 (a) A fee of \$5 shall be collected, as part of the course fee paid by each participant, and
185 deposited in the Children's Legal Defense Account described in Section 51-9-408.

186 (b) A participant who is unable to pay the costs of the course may attend without
187 payment and request an Affidavit of Impecuniosity from the provider to be filed with the
188 petition or motion. The provider shall be reimbursed for its costs by the Administrative Office
189 of the Courts. A petitioner who is later determined not to meet the qualifications for
190 impecuniosity may be ordered to pay the costs of the course.

191 (9) Appropriations from the General Fund to the Administrative Office of the Courts
192 for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is
193 determined to be impecunious as provided in Subsection (8)(b).

194 (10) The Online Court Assistance Program shall include instructions with the forms for
195 divorce which inform the petitioner of the requirement of this section.

196 (11) Both parties shall attend a divorce orientation course before a divorce decree may
197 be entered, unless waived by the court. A certificate of completion constitutes evidence to the
198 court of course completion by the parties.

199 (12) It shall be an affirmative defense in all divorce actions that the divorce orientation
200 requirement was not complied with, and the action may not continue until a party has
201 complied.

202 (13) The Administrative Office of the Courts shall adopt a program to evaluate the
203 effectiveness of the mandatory educational course. Progress reports shall be provided
204 [~~annually to~~] if requested by the Judiciary Interim Committee.

205 Section 4. Section **41-6a-511** is amended to read:

206 **41-6a-511. Courts to collect and maintain data.**

207 (1) The state courts shall collect and maintain data necessary to allow sentencing and
208 enhancement decisions to be made in accordance with this part.

209 (2) (a) Each justice court shall transmit dispositions electronically to the Department of
210 Public Safety in accordance with the requirement for recertification established by the Judicial
211 Council.

212 (b) Immediately upon filling the requirements under Subsection (2)(a), a justice court
213 shall collect and report the same DUI related data elements collected and maintained by the

214 state courts under Subsection (1).

215 (3) The department shall maintain an electronic data base for DUI related records and
216 data including the data elements received or collected from the courts under this section.

217 (4) (a) The Commission on Criminal and Juvenile Justice shall prepare an annual
218 report of DUI related data including the following:

219 (i) the data collected by the courts under Subsections (1) and (2); and

220 (ii) any measures for which data are available to evaluate the profile and impacts of
221 DUI recidivism and to evaluate the DUI related processes of:

222 (A) law enforcement;

223 (B) adjudication;

224 (C) sanctions;

225 (D) [~~drivers~~] driver license control; and

226 (E) alcohol education, assessment, and treatment.

227 (b) The report shall be provided in writing to the Judiciary and Transportation Interim
228 Committees no later than the last day of October following the end of the fiscal year for which
229 the report is prepared.

230 Section 5. Section **53-5-707** is amended to read:

231 **53-5-707. Permit -- Fees -- Disposition.**

232 (1) (a) Each applicant for a permit shall pay a fee of \$35 at the time of filing an
233 application.

234 (b) The initial fee shall be waived for an applicant who is a law enforcement officer
235 under Section 53-13-103.

236 (2) The renewal fee for the permit is \$10.

237 (3) The replacement fee for the permit is \$10.

238 (4) The late fee for the renewal permit is \$7.50.

239 (5) The bureau shall use the fees collected under Subsections (1), (2), (3), and (4) as a
240 dedicated credit to cover the costs of issuing concealed firearm permits under this part.

241 (6) (a) The bureau may collect any fees charged by an outside agency for additional
242 services required by statute as a prerequisite for issuance of a permit.

243 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the
244 appropriate agency.

245 (7) The bureau shall make an annual report in writing to the Legislature's Law
246 Enforcement and Criminal Justice Interim Committee on the amount and use of the fees
247 collected under this section.

248 Section 6. Section **63M-7-305** is amended to read:

249 **63M-7-305. Drug Offender Reform Act -- Coordination.**

250 (1) As used in this section:

251 (a) "Council" means the Utah Substance Abuse Advisory Council.

252 (b) "Drug Offender Reform Act" and "act" mean the screening, assessment, substance
253 abuse treatment, and supervision provided to convicted offenders under Subsection
254 77-18-1.1(2) to:

255 (i) determine offenders' specific substance abuse treatment needs as early as possible in
256 the judicial process;

257 (ii) expand treatment resources for offenders in the community;

258 (iii) integrate treatment of offenders with supervision by the Department of
259 Corrections; and

260 (iv) reduce the incidence of substance abuse and related criminal conduct.

261 (c) "Substance abuse authority" has the same meaning as in Section 17-43-201.

262 (2) The council shall provide ongoing oversight of the implementation, functions, and
263 evaluation of the Drug Offender Reform Act.

264 (3) The council shall develop an implementation plan for the Drug Offender Reform
265 Act. The plan shall:

266 (a) identify local substance abuse authority areas where the act will be implemented, in
267 cooperation with the Division of Substance Abuse and Mental Health, the Department of
268 Corrections, and the local substance abuse authorities;

269 (b) include guidelines on how funds appropriated under the act should be used;

270 (c) require that treatment plans under the act are appropriate for criminal offenders;

271 (d) include guidelines on the membership of local planning groups;

272 (e) include guidelines on the membership of the Department of Corrections' planning
273 group under Subsection (5); and

274 (f) provide guidelines for the Commission on Criminal and Juvenile Justice to conduct
275 an evaluation of the implementation, impact, and results of the act.

276 (4) (a) Each local substance abuse authority designated under Subsection (3) to
277 implement the act shall establish a local planning group and shall submit a plan to the council
278 detailing how the authority proposes to use the act funds. The uses shall be in accordance with
279 the guidelines established by the council under Subsection (3).

280 (b) Upon approval of the plan by the council, the Division of Substance Abuse and
281 Mental Health shall allocate the funds.

282 (c) Local substance abuse authorities shall annually, on or before October 1, submit to
283 the Division of Substance Abuse and Mental Health and to the council reports detailing use of
284 the funds and the impact and results of the use of the funds during the prior fiscal year ending
285 June 30.

286 (5) (a) The Department of Corrections shall establish a planning group and shall submit
287 a plan to the council detailing how the department proposes to use the act funds. The uses shall
288 be in accordance with the guidelines established by the council under Subsection (3).

289 (b) The Department of Corrections shall annually, ~~on or~~ before October 1, submit to
290 the council a report detailing use of the funds and the impact and results of the use of the funds
291 during the prior fiscal year ending June 30.

292 (6) The council shall monitor the progress and evaluation of the act and shall provide a
293 written report on the implementation, impact, and results of the act to the Law Enforcement
294 and Criminal Justice and the Health and Human Services legislative interim committees
295 annually ~~on or~~ before November ~~[30]~~ 1.

296 Section 7. Section **64-13-6** is amended to read:

297 **64-13-6. Department duties.**

298 (1) The department shall:

299 (a) protect the public through institutional care and confinement, and supervision in the
300 community of offenders where appropriate;

301 (b) implement court-ordered punishment of offenders;

302 (c) provide program opportunities for offenders;

303 (d) provide treatment for sex offenders who are found to be treatable based upon
304 criteria developed by the department;

305 (e) provide the results of ongoing assessment of sex offenders and objective diagnostic
306 testing to sentencing and release authorities;

307 (f) manage programs that take into account the needs and interests of victims, where
308 reasonable;

309 (g) supervise probationers and parolees as directed by statute and implemented by the
310 courts and the Board of Pardons and Parole;

311 (h) subject to Subsection (2), investigate criminal conduct involving offenders
312 incarcerated in a state correctional facility;

313 (i) cooperate and exchange information with other state, local, and federal law
314 enforcement agencies to achieve greater success in prevention and detection of crime and
315 apprehension of criminals; and

316 (j) implement the provisions of [~~Section 77-28c-102~~] Title 77, Chapter 28c, Interstate
317 Compact for Adult Offender Supervision.

318 (2) (a) By following the procedures in Subsection (2)(b), the department may
319 investigate the following occurrences at state correctional facilities:

320 (i) criminal conduct of departmental employees;

321 (ii) felony crimes resulting in serious bodily injury;

322 (iii) death of any person; or

323 (iv) aggravated kidnaping.

324 (b) Prior to investigating any occurrence specified in Subsection (2)(a), the department
325 shall:

326 (i) notify the sheriff or other appropriate law enforcement agency promptly after
327 ascertaining facts sufficient to believe an occurrence specified in Subsection (2)(a) has
328 occurred; and

329 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
330 conduct an investigation involving an occurrence specified in Subsection (2)(a).

331 (3) Upon request, the department shall provide copies of investigative reports of
332 criminal conduct to the sheriff or other appropriate law enforcement agencies.

333 (4) The department shall provide data to the Commission on Criminal and Juvenile
334 Justice to show the criteria for determining sex offender treatability, the implementation and
335 effectiveness of sex offender treatment, and the results of ongoing assessment and objective
336 diagnostic testing. The Commission on Criminal and Juvenile Justice [~~will~~] shall then report
337 these data in writing to the Judiciary Interim Committee, if requested by the committee, and to

338 the appropriate appropriations subcommittee annually.

339 (5) The Department of Corrections shall collect accounts receivable ordered by the
340 district court as a result of prosecution for a criminal offense according to the requirements and
341 during the time periods established in Subsection 77-18-1(9).

342 Section 8. Section **64-13e-106** is amended to read:

343 **64-13e-106. Report to Legislature.**

344 [~~On or before September~~] Before November 1 of each year, the department shall
345 provide to the Law Enforcement and Criminal Justice Interim Committee of the Legislature a
346 written report regarding housing of state inmates, state parole inmates, and state probationary
347 inmates under this chapter, including:

- 348 (1) the final state daily incarceration rate established under this chapter;
- 349 (2) the rates described in Subsections 64-13e-103(3) and 64-13e-104(2);
- 350 (3) participating counties;
- 351 (4) the number of state inmates housed by each county;
- 352 (5) the number of state parole inmates housed by each county; and
- 353 (6) the number of state probationary inmates housed by each county.

354 Section 9. Section **78A-8-109** is amended to read:

355 **78A-8-109. Report to Judiciary Interim Committee.**

356 The Judicial Council shall present to the Judiciary Interim Committee [~~not later than~~
357 ~~November 30 of each odd-numbered year~~], if requested by the committee, a report and
358 recommendation concerning the maximum amount of small claims actions.

359 Section 10. Section **78B-6-204** is amended to read:

360 **78B-6-204. Dispute Resolution Programs -- Director -- Duties -- Report.**

361 (1) Within the Administrative Office of the Courts, there shall be a director of Dispute
362 Resolution Programs, appointed by the state court administrator.

363 (2) The director shall be an employee of the Administrative Office of the Courts and
364 shall be responsible for the administration of all court-annexed Dispute Resolution Programs.
365 The director shall have duties, powers, and responsibilities as the Judicial Council may
366 determine. The qualifications for employment of the director shall be based on training and
367 experience in the management, principles, and purposes of alternative dispute resolution
368 procedures.

369 (3) In order to implement the purposes of this part, the Administrative Office of the
370 Courts may employ or contract with ADR providers or ADR organizations on a case-by-case
371 basis, on a service basis, or on a program basis. ADR providers and organizations shall be
372 subject to the rules and fees set by the Judicial Council. The Administrative Office of the
373 Courts shall establish programs for training ADR providers and orienting attorneys and their
374 clients to ADR programs and procedures.

375 (4) An ADR provider is immune from all liability when conducting proceedings under
376 the rules of the Judicial Council and the provisions of this part, except for wrongful disclosure
377 of confidential information, to the same extent as a judge of the courts in this state.

378 (5) (a) The director shall report annually to the Supreme Court, the Judicial Council,
379 ~~[the Judiciary Interim Committee,]~~ the governor, and the Utah State Bar on the operation of the
380 Dispute Resolution Programs.

381 (b) The director shall provide the report to the Judiciary Interim Committee, if
382 requested by the committee.

383 ~~[(a)]~~ (c) Copies of the report shall be available to the public at the Administrative
384 Office of the Courts.

385 ~~[(b)]~~ (d) The report shall include:

- 386 (i) identification of participating judicial districts and the methods of alternative
387 dispute resolution that are available in those districts;
- 388 (ii) the number and types of disputes received;
- 389 (iii) the methods of alternative dispute resolution to which the disputes were referred;
- 390 (iv) the course of the referral;
- 391 (v) the status of cases referred to alternative dispute resolution or the disposition of
392 these disputes; and

393 (vi) any problems encountered in the administration of the program and the
394 recommendations of the director as to the continuation or modification of any program.

395 ~~[(e)]~~ (e) Nothing may be included in a report which would impair the privacy or
396 confidentiality of any specific ADR proceeding.

Legislative Review Note
as of **9-13-10 9:51 AM**

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 21, 2011 General Session

SHORT TITLE: **Statutorily Required Reports Amendments**

SPONSOR: **Ipson, D.**

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.