

1                   **DEPARTMENT OF CORRECTIONS AMENDMENTS**

2                                   2012 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Eric K. Hutchings**

5                                   Senate Sponsor: Daniel W. Thatcher

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7 **LONG TITLE**

8 **Committee Note:**

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

11 **General Description:**

12                   This bill modifies provisions regarding the Department of Corrections and inmate  
13 capacity.

14 **Highlighted Provisions:**

15                   This bill:

- 16                   ▶ defines levels of capacity regarding inmates in correctional institutions;
- 17                   ▶ requires notice to the legislative leadership and the Board of Pardons, in addition to  
18 the governor, when an overcrowding emergency is approaching; and
- 19                   ▶ provides process for an emergency inmate release, including requiring that inmate  
20 information be provided to the Board of Pardons and Parole for use in carrying out  
21 an emergency release.

22 **Money Appropriated in this Bill:**

23                   None

24 **Other Special Clauses:**

25                   None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 64-13-38, as last amended by Laws of Utah 2008, Chapter 382



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

31 Section 1. Section 64-13-38 is amended to read:

32 **64-13-38. Emergency release due to overcrowding.**

33 (1) Definitions:

34 (a) "Maximum capacity" means every physical and funded prison bed is occupied by  
35 an inmate.

36 (b) "Operational capacity" means 96.5% of every physical and funded bed is occupied  
37 by an inmate.

38 (c) "Emergency release capacity" means 98% of every physical and funded bed is  
39 occupied by an inmate.

40 ~~[(1)]~~ (2) When the executive director of the department finds that either the male or  
41 female inmate population of the Utah State Prison has exceeded [physical] operational capacity  
42 for at least 45 [calendar] consecutive days, the executive director [may: (a)] shall notify the  
43 governor [that], the legislative leadership, and the Board of Pardons and Parole that the  
44 department is approaching an overcrowding emergency [exists] and provide [him] them with  
45 information relevant to that determination[; and].

46 ~~[(b) notify the Board of Pardons and Parole of the existence of the overcrowding~~  
47 ~~emergency so that the board may commence emergency releases pursuant to Subsection (2).]~~

48 (3) When the executive director of the department finds that either the male or female  
49 inmate population of the Utah State Prison has exceeded emergency release capacity for at least  
50 45 consecutive days, the executive director shall:

51 (a) notify the governor and the legislative leadership that the emergency release  
52 capacity has been reached and provide them with information relevant to that determination;  
53 and

54 (b) notify the Board of Pardons and Parole that the emergency release capacity has  
55 been reached so that the board may commence the emergency release process pursuant to  
56 Subsection (4).

57 ~~[(2)]~~ (4) Upon the [governor's receipt of notification] department's notifying the  
58 governor and the legislative leadership of the [existence of an] emergency release capacity

59 under Subsection (3), the department shall:

60 (a) notify the [~~board~~] Board of Pardons and Parole of the number of inmates who need  
61 to be released in order to [~~eliminate the overcrowding emergency;~~] return the prison inmate  
62 population to operational capacity; and

63 (b) in cooperation and consultation with the [~~board~~] Board of Pardons and Parole,  
64 compile a list of inmates [~~by chronological order according to their existing parole release~~  
65 ~~dates, sufficient to eliminate the overcrowding emergency; and~~], the release of whom would be  
66 sufficient to return the prison inmate population to operational capacity.

67 [~~(c) for each inmate listed in accordance with Subsection (2)(b), notify the board if the~~  
68 ~~department has any reason to believe that the inmate has violated a disciplinary rule or for~~  
69 ~~some other reason recommends that the inmate's existing parole date be rescinded.]~~

70 [~~(3) Unless the board has identified a reason to believe that the inmate's existing parole~~  
71 ~~date should be rescinded, the parole release date of each inmate identified in Subsection (2)(b)~~  
72 ~~may be advanced a sufficient number of days to allow for release.]~~

73 [~~(4) When the process described in Subsections (2) and (3) has been completed, the~~  
74 ~~board may order the release of the eligible inmates.]~~

75 [~~(5) The department shall:]~~

76 [~~(a) send to the Commission on Criminal and Juvenile Justice a list of names of the~~  
77 ~~inmates released under this section; and]~~

78 [~~(b) provide the name and address of each inmate to the local law enforcement agency~~  
79 ~~for the political subdivision in which the inmate intends to reside.]~~

80 (5) After 45 consecutive days of emergency release capacity, the Board of Pardons and  
81 Parole may order the release of a sufficient number of inmates identified under Subsection (4)  
82 to return the prison inmate population to operational capacity.

83 (6) The department shall inform the governor and the legislative leadership when the  
84 emergency release has been completed.

85 (7) The [~~board~~] Board of Pardons and Parole shall make rules in accordance with Title  
86 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this  
87 section.

**Legislative Review Note**  
**as of 6-16-11 11:07 AM**

**Office of Legislative Research and General Counsel**