

1 **DEPARTMENT OF CORRECTIONS AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lincoln Fillmore**

5 House Sponsor: Paul Ray

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies Title 17, Counties, and Title 64, State Institutions, regarding the
10 Department of Corrections.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ repeals language regarding work release programs;
- 14 ▶ eliminates a report to the Commission on Criminal and Juvenile Justice regarding
15 the effectiveness of sex offender treatment;
- 16 ▶ eliminates a report from the Commission on Criminal and Juvenile Justice to the
17 Judiciary Interim Committee regarding the sex offender treatment program; and
- 18 ▶ makes technical changes to reflect current practices of the Department of
19 Corrections.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **17-50-319**, as last amended by Laws of Utah 2011, Chapter 64

27 **64-13-1**, as last amended by Laws of Utah 2015, Chapter 412



- 28 **64-13-2**, as last amended by Laws of Utah 1990, Chapter 183
- 29 **64-13-6**, as last amended by Laws of Utah 2015, Chapter 412
- 30 **64-13-7**, as last amended by Laws of Utah 1987, Chapter 116
- 31 **64-13-30**, as last amended by Laws of Utah 2010, Chapter 386

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

34 Section 1. Section **17-50-319** is amended to read:

35 **17-50-319. County charges enumerated.**

36 (1) County charges are:

37 (a) those incurred against the county by any law;

38 (b) the necessary expenses of the county attorney or district attorney incurred in
 39 criminal cases arising in the county, and all other expenses necessarily incurred by the county
 40 or district attorney in the prosecution of criminal cases, except jury and witness fees;

41 (c) medical care as described in Section **17-22-8**, and other expenses necessarily
 42 incurred in the support of persons charged with or convicted of a criminal offense and
 43 committed to the county jail, except as provided in Subsection (2);

44 (d) for a county not within the state district court administrative system, the sum
 45 required by law to be paid jurors in civil cases;

46 (e) all charges and accounts for services rendered by any justice court judge for
 47 services in the trial and examination of persons charged with a criminal offense not otherwise
 48 provided for by law;

49 (f) the contingent expenses necessarily incurred for the use and benefit of the county;

50 (g) every other sum directed by law to be raised for any county purposes under the
 51 direction of the county legislative body or declared a county charge;

52 (h) the fees of constables for services rendered in criminal cases;

53 (i) the necessary expenses of the sheriff and deputies incurred in civil and criminal
 54 cases arising in the county, and all other expenses necessarily incurred by the sheriff and
 55 deputies in performing the duties imposed upon them by law;

56 (j) the sums required by law to be paid by the county to jurors and witnesses serving at
 57 inquests and in criminal cases in justice courts; and

58 (k) subject to Subsection (2), expenses incurred by a health care facility or provider in

59 providing medical services, treatment, hospitalization, or related transportation, at the request
60 of a county sheriff for:

- 61 (i) persons booked into a county jail on a charge of a criminal offense; or
- 62 (ii) persons convicted of a criminal offense and committed to a county jail.

63 (2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county
64 only to the extent that they exceed any private insurance in effect that covers those expenses.

65 (b) [~~Subject to the priorities for payment under Subsection 64-13-30(1), the~~] The
66 county may collect costs of medical care, treatment, hospitalization, and related transportation
67 provided to the person described in Subsection (1)(k) who has the resources or the ability to
68 pay[-], subject to the following priorities for payment:

- 69 (i) first priority shall be given to restitution; and
- 70 (ii) second priority shall be given to family support obligations.

71 (c) A county may seek reimbursement from a person described in Subsection (1)(k) for
72 expenses incurred by the county in behalf of the inmate for medical care, treatment,
73 hospitalization, or related transportation by:

74 (i) deducting the cost from the inmate's cash account on deposit with the detention
75 facility during the inmate's incarceration or during a subsequent incarceration if the subsequent
76 incarceration occurs within the same county and the incarceration is within 10 years of the date
77 of the expense in behalf of the inmate;

78 (ii) placing a lien for the amount of the expense against the inmate's personal property
79 held by the jail; and

80 (iii) adding the amount of expenses incurred to any other amount owed by the inmate
81 to the jail upon the inmate's release, as allowed under Subsection 76-3-201(6)(a).

82 (d) An inmate who receives medical care, treatment, hospitalization, or related
83 transportation shall cooperate with the jail facility seeking payment or reimbursement under
84 this section for the inmate's expenses.

85 (e) If there is no contract between a county jail and a health care facility or provider
86 that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k)
87 shall be commensurate with:

- 88 (i) for a health care facility, the current noncapitated state Medicaid rates; and
- 89 (ii) for a health care provider, 65% of the amount that would be paid to the health care

90 provider:

91 (A) under the Public Employees' Benefit and Insurance Program, created in Section
92 49-20-103; and

93 (B) if the person receiving the medical service were a covered employee under the
94 Public Employees' Benefit and Insurance Program.

95 (f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the
96 request of an agency of the United States.

97 (g) A county that receives information from the Public Employees' Benefit and
98 Insurance Program to enable the county to calculate the amount to be paid to a health care
99 provider under Subsection (2)(e)(ii) shall keep that information confidential.

100 Section 2. Section 64-13-1 is amended to read:

101 **64-13-1. Definitions.**

102 As used in this chapter:

103 (1) "Case action plan" means a document developed by the Department of Corrections
104 that identifies the program priorities for the treatment of the offender, including the criminal
105 risk factors as determined by a risk and needs assessment conducted by the department.

106 (2) "Community correctional center" means a nonsecure correctional facility operated[:
107 ~~(a)~~] by the department[~~; or~~].
108 [~~(b) under a contract with the department.~~]

109 (3) "Correctional facility" means any facility operated to house offenders, either in a
110 secure or nonsecure setting:

111 (a) by the department; or

112 (b) under a contract with the department.

113 (4) "Criminal risk factors" means a person's characteristics and behaviors that:

114 (a) affect that person's risk of engaging in criminal behavior; and

115 (b) are diminished when addressed by effective treatment, supervision, and other
116 support resources, resulting in a reduced risk of criminal behavior.

117 (5) "Department" means the Department of Corrections.

118 (6) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in
119 any correctional facility, or any situation that presents immediate danger to the safety, security,
120 and control of the department.

121 (7) "Executive director" means the executive director of the Department of
122 Corrections.

123 (8) "Inmate" means any person who is committed to the custody of the department and
124 who is housed at a correctional facility or at a county jail at the request of the department.

125 (9) "Offender" means any person who has been convicted of a crime for which he may
126 be committed to the custody of the department and is at least one of the following:

127 (a) committed to the custody of the department;

128 (b) on probation; or

129 (c) on parole.

130 (10) "Risk and needs assessment" means an actuarial tool validated on criminal
131 offenders that determines:

132 (a) an individual's risk of reoffending; and

133 (b) the criminal risk factors that, when addressed, reduce the individual's risk of
134 reoffending.

135 (11) "Secure correctional facility" means any prison, penitentiary, or other institution
136 operated by the department or under contract for the confinement of offenders, where force
137 may be used to restrain them if they attempt to leave the institution without authorization.

138 Section 3. Section **64-13-2** is amended to read:

139 **64-13-2. Creation of department.**

140 There is created a Department of Corrections, under the general supervision of the
141 executive director of the department. The department is the state authority for corrections [~~and~~
142 ~~assumes all powers and responsibilities formerly vested in the Board of Corrections and the~~
143 ~~Division of Corrections in the Department of Human Services].~~

144 Section 4. Section **64-13-6** is amended to read:

145 **64-13-6. Department duties.**

146 (1) The department shall:

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

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

150 (c) provide program opportunities for offenders;

151 (d) provide treatment for sex offenders who are found to be treatable based upon

152 criteria developed by the department;

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

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

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

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

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

164 (j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
165 Offender Supervision; and

166 (k) establish a case action plan for each offender as follows:

167 (i) if an offender is to be supervised in the community, the case action plan shall be
168 established for the offender not more than 90 days after supervision by the department begins;
169 and

170 (ii) if the offender is committed to the custody of the department, the case action plan
171 shall be established for the offender not more than 120 days after the commitment.

172 (2) The department may in the course of supervising probationers and parolees:

173 (a) impose graduated sanctions, as established by the Utah Sentencing Commission
174 under Subsection [63M-7-404\(6\)](#), for an individual's violation of one or more terms of the
175 probation or parole; and

176 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
177 sanction for an individual's violation of the terms of probation or parole a period of
178 incarceration of not more than three consecutive days and not more than a total of five days
179 within a period of 30 days.

180 (3) (a) By following the procedures in Subsection (3)(b), the department may
181 investigate the following occurrences at state correctional facilities:

182 (i) criminal conduct of departmental employees;

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

184 (iii) death of any person; or

185 (iv) aggravated kidnaping.

186 (b) Prior to investigating any occurrence specified in Subsection (3)(a), the department
187 shall:

188 (i) notify the sheriff or other appropriate law enforcement agency promptly after
189 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has
190 occurred; and

191 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
192 conduct an investigation involving an occurrence specified in Subsection (3)(a).

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

195 ~~[(5) The department shall provide data to the Commission on Criminal and Juvenile
196 Justice to show the criteria for determining sex offender treatability, the implementation and
197 effectiveness of sex offender treatment, and the results of ongoing assessment and objective
198 diagnostic testing. The Commission on Criminal and Juvenile Justice shall then report these
199 data in writing to the Judiciary Interim Committee, if requested by the committee, and to the
200 appropriate appropriations subcommittee annually.]~~

201 ~~[(6)]~~ (5) The Department of Corrections shall collect accounts receivable ordered by
202 the district court as a result of prosecution for a criminal offense according to the requirements
203 and during the time periods established in Subsection 77-18-1(9).

204 Section 5. Section 64-13-7 is amended to read:

205 **64-13-7. Offenders in custody of department.**

206 All offenders committed for incarceration in a state correctional facility~~[-]~~ or for
207 supervision on probation or parole, ~~[or for evaluation,]~~ shall be placed in the custody of the
208 department. The department shall establish procedures and is responsible for the appropriate
209 assignment or transfer of public offenders to facilities or programs.

210 Section 6. Section 64-13-30 is amended to read:

211 **64-13-30. Expenses incurred by offenders -- Payment to department or county
212 jail -- Medical care expenses and copayments.**

213 ~~[(1)(a) The department shall establish and collect from each offender on a work~~

214 release program the reasonable costs of the offender's maintenance, transportation, and
215 incidental expenses incurred by the department on behalf of the offender.]

216 [~~(b)~~ Priority shall be given to restitution and family support obligations.]

217 [~~(c)~~ The offender's reimbursement to the department for the cost of obtaining the
218 offender's DNA specimen under Section ~~53-10-404~~ is the next priority after Subsection (1)(b).]

219 [~~(2)~~ The department, under its rules, may advance funds to any offender as necessary to
220 establish the offender in a work release program.]

221 [~~(3)~~] (1) (a) The department or county jail may require an inmate to make a copayment
222 for medical and dental services provided by the department or county jail.

223 (b) For services provided while in the custody of the department, the copayment by the
224 inmate is \$5 for primary medical care, \$5 for dental care, and \$2 for prescription medication.

225 (c) For services provided outside of a prison facility while in the custody of the
226 department, the offender is responsible for 10% of the costs associated with hospital care with
227 a cap on an inmate's share of hospital care expenses not to exceed \$2,000 per fiscal year.

228 [~~(4)~~] (2) (a) An inmate who has assets exceeding \$200,000, as determined by the
229 department upon entry into the department's custody, is responsible to pay the costs of all
230 medical and dental care up to 20% of the inmate's total determined asset value.

231 (b) After an inmate has received medical and dental care equal to 20% of the inmate's
232 total asset value, the inmate is subject to the copayments provided in Subsection [~~(3)~~] (1).

233 [~~(5)~~] (3) The department shall turn over to the Office of State Debt Collection any debt
234 under this section that is unpaid at the time the offender is released from parole.

235 [~~(6)~~] (4) An inmate may not be denied medical treatment if the inmate is unable to pay
236 for the treatment because of inadequate financial resources.

237 [~~(7)~~] (5) When an offender in the custody of the department receives medical care that
238 is provided outside of a prison facility, the department shall pay the costs:

239 (a) at the contracted rate; or

240 (b) (i) if there is no contract between the department and a health care facility that
241 establishes a fee schedule for medical services rendered, expenses shall be at the noncapitated
242 state Medicaid rate in effect at the time the service was provided; and

243 (ii) if there is no contract between the department and a health care provider that
244 establishes a fee schedule for medical services rendered, expenses shall be 65% of the amount

245 that would be paid under the Public Employees' Benefit and Insurance Program, created in
246 Section [49-20-103](#).

247 ~~[(8)]~~ (6) Expenses described in Subsection ~~[(7)]~~ (5) are a cost to the department only to
248 the extent that they exceed an offender's private insurance that is in effect at the time of the
249 service and that covers those expenses.

250 ~~[(9)]~~ (7) (a) The Public Employees' Benefit and Insurance Program shall provide
251 information to the department that enables the department to calculate the amount to be paid to
252 a health care provider under Subsection ~~[(7)]~~ (5)(b).

253 (b) The department shall ensure that information provided under Subsection ~~[(9)]~~ (7)(a)
254 is confidential.

Legislative Review Note
Office of Legislative Research and General Counsel