

RESTITUTION REPORTING

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill requires reporting and collection of certain data related to inmates of county jails and authorizes a study of that data.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires county jails to report specified data regarding certain fees collected from inmates to the Commission on Criminal and Juvenile Justice;
- ▶ creates a task force for the purpose of reviewing the collected data and making findings and recommendations based on that data;
- ▶ requires the Commission on Criminal and Juvenile Justice to compile the data collected and submit it to the Jail Incarceration and Transportation Costs Study Council;
- ▶ directs the membership and purpose of the Jail Incarceration and Transportation Costs Study Council; and
- ▶ provides a repeal date for provisions relating to the Jail Incarceration and Transportation Costs Study Council.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63I-2-217**, as last amended by Laws of Utah 2018, Chapter 68 and further amended by
32 Revisor Instructions, Laws of Utah 2018, Chapter 456

33 ENACTS:

34 **17-22-32.2**, Utah Code Annotated 1953

35 **17-22-32.3**, Utah Code Annotated 1953



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

38 Section 1. Section **17-22-32.2** is enacted to read:

39 **17-22-32.2. Restitution reporting.**

40 (1) As used in this section:

41 (a) "Commission" means the Commission on Criminal and Juvenile Justice.

42 (b) "Inmate" means an individual who is currently incarcerated or who was formerly
43 incarcerated at a county jail, regardless of whether the individual is convicted of a crime.

44 (c) "Incarceration fee" means a fee assessed to or collected from an inmate that is based
45 on the length of time the inmate is incarcerated at a county jail.

46 (d) "Restitution fees" means incarceration fees or transportation fees.

47 (e) "Sentencing court" means the court that exercises jurisdiction over an inmate
48 incarcerated at a county jail.

49 (f) "Transportation fee" means a fee assessed to or collected from an inmate if the
50 inmate is transported by a state entity for any reason.

51 (2) Each county jail within the state shall submit a report to the commission, before
52 August 1, 2020, disclosing whether the county jail:

53 (a) requires restitution for incarceration fees under Subsection [76-3-201\(6\)](#);

54 (b) requires restitution for transportation fees under Subsection [76-3-201\(5\)](#); or

55 (c) otherwise requires restitution fees.

56 (3) If a county jail requires restitution for incarceration fees, the jail shall include the
57 following data, reflecting fiscal year 2020, in the jail's report to the commission:

58 (a) the jail's policies and procedures related to incarceration fees, including:

- 59 (i) factors considered before assessing an incarceration fee;
60 (ii) the daily or nightly rate at which an inmate is charged;
61 (iii) whether an inmate's indigency may allow for waiver or reduction of an
62 incarceration fee;
63 (iv) if the jail allows a waiver or reduction described in Subsection (3)(a)(iii), how
64 indigency is determined; and
65 (v) the jail's methods for collecting an incarceration fee, including:
66 (A) whether the incarceration fee is collected by the sentencing court, the jail, or
67 another method; and
68 (B) methods used to collect payment of an unpaid incarceration fee;
69 (b) the total amount of incarceration fees assessed to inmates by the jail, the sentencing
70 court, or another method;
71 (c) the total amount of incarceration fees collected from inmates by the jail, the
72 sentencing court, or another method;
73 (d) the total number of inmates that paid the amount assessed for incarceration fees in
74 full;
75 (e) the total number of inmates that paid the amount assessed for incarceration fees in
76 part;
77 (f) the total amount of unpaid incarceration fees that are sent to the office of state debt
78 collection;
79 (g) the total amount of unpaid incarceration fees that are written off as unpaid;
80 (h) the total amount of incarceration fees assessed to inmates who are acquitted or
81 whose charges are dismissed;
82 (i) the total amount of incarceration fees collected from inmates who are acquitted or
83 whose charges are dismissed;
84 (j) costs incurred related to administering incarceration fees; and
85 (k) costs incurred related to collecting incarceration fees.
86 (4) If a county jail requires restitution for transportation fees, the jail shall include the
87 following data, reflecting fiscal year 2020, in the jail's report to the commission:
88 (a) the jail's policies and procedures related to transportation fees, including:
89 (i) factors considered before assessing a transportation fee;

- 90 (ii) the rates at which an inmate is charged per transportation, and by distance;
- 91 (iii) whether an inmate's indigency may allow waiver or reduction of transportation
- 92 fees;
- 93 (iv) if the jail allows the waiver or reduction described in Subsection (4)(a)(iii), how
- 94 indigency is determined; and
- 95 (v) the methods for collecting a transportation fee, including:
- 96 (A) whether the transportation fee is collected by the court, the jail, or another method;
- 97 and
- 98 (B) methods used to collect payment of an unpaid transportation fee;
- 99 (b) the total amount of transportation fees assessed to inmates by the jail, the
- 100 sentencing court, or another method;
- 101 (c) the total amount of transportation fees collected from inmates by the jail, the
- 102 sentencing court, or another method;
- 103 (d) the total number of inmates that paid the amount assessed for transportation fees in
- 104 full;
- 105 (e) the total number of inmates that paid the amount assessed for transportation fees in
- 106 part;
- 107 (f) the total amount of unpaid transportation fees that are sent to the office of state debt
- 108 collection;
- 109 (g) the total amount of unpaid transportation fees that are written off as unpaid;
- 110 (h) the total amount of transportation fees assessed to inmates who are acquitted or
- 111 whose charges are dismissed;
- 112 (i) the total amount of transportation fees collected from inmates who are acquitted or
- 113 whose charges are dismissed;
- 114 (j) costs incurred related to administering transportation fees; and
- 115 (k) costs incurred related to collecting transportation fees.
- 116 (5) After receiving the reports described in this section, the commission shall:
- 117 (a) compile the information from the reports;
- 118 (b) omit or redact any identifying information of an inmate in the compilation, to the
- 119 extent omission or redaction is necessary to comply with state or federal law; and
- 120 (c) on or before November 30, 2020, submit the compilation and all reports provided

121 by the county jails to the Jail Incarceration and Transportation Costs Study Council created in
122 Section [17-22-32.3](#).

123 (6) If a county jail's policies or procedures relating to restitution fees changed from
124 fiscal year 2019 to fiscal year 2020, the county jail shall include in the county jail's report to the
125 commission:

126 (a) the specific policies or procedures that changed; and

127 (b) a description of the changed policies and procedures as they existed in fiscal year
128 2019.

129 Section 2. Section **17-22-32.3** is enacted to read:

130 **17-22-32.3. Jail incarceration and transportation costs study -- Creation --**
131 **Membership -- Duties.**

132 (1) There is created the Jail Incarceration and Transportation Costs Study Council
133 under the Commission on Criminal and Juvenile Justice, consisting of the following
134 individuals:

135 (a) a county jail commander or an individual representing the Utah Sheriffs'
136 Association;

137 (b) an individual representing the Utah Association of Counties;

138 (c) two district or county attorneys actively engaged in the practice of civil or
139 constitutional law as follows:

140 (i) one attorney representing a county of the first class described in Section [17-50-501](#);

141 and

142 (ii) one attorney representing a county of the second, third, fourth, fifth, or sixth class
143 described in Section [17-50-501](#);

144 (d) two public defender coordinators as follows:

145 (i) one public defender coordinator from a county of the first class described in Section
146 [17-50-501](#); and

147 (ii) one public defender coordinator from a county of the second, third, fourth, fifth, or
148 sixth class described in Section [17-50-501](#);

149 (e) one individual representing the Legal Defenders Association;

150 (f) one individual representing the Utah Association of Criminal Defense Lawyers;

151 (g) one individual representing the Utah Indigent Defense Commission;

- 152 (h) one individual representing the Utah Sentencing Commission; and
 153 (i) other stakeholders, as determined by the Commission on Criminal and Juvenile
 154 Justice.
- 155 (2) Following the reporting described in Section 17-22-32.2, and upon receiving the
 156 reports and compilation described in Subsection 17-22-32.2(5), the council shall:
- 157 (a) provide an overview of the county jail policies and practices regarding the
 158 assessment and collection of restitution fees;
- 159 (b) provide a cost benefit analysis regarding the practice of assessing and collecting
 160 restitution fees;
- 161 (c) provide best practice recommendations for assessing or collecting restitution fees,
 162 taking into account an inmate's:
- 163 (i) potential indigency;
 164 (ii) opportunities or ability to post bail or bond;
 165 (iii) time spent in custody as a result of the inmate's inability to post bail or bond; and
 166 (iv) time spent in custody beyond what a judge would have likely imposed under the
 167 standard sentencing matrix, due to the inmate's inability to post bail or bond; and
- 168 (d) report any additional data or findings the council finds significant.
- 169 (3) The council shall present a report of the council's findings, including any
 170 recommendations for legislation, to the Law Enforcement and Criminal Justice Interim
 171 Committee before November 30, 2020.

172 Section 3. Section **63I-2-217** is amended to read:

173 **63I-2-217. Repeal dates -- Title 17.**

174 (1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

175 (2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study
 176 Council, is repealed January 1, 2021.

177 ~~[(1)]~~ (3) Subsection 17-27a-102(1)(b), the language that states "or a designated
 178 mountainous planning district" is repealed June 1, 2020.

179 ~~[(2)]~~ (4) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2020.

180 (b) Subsection 17-27a-103(37) is repealed June 1, 2020.

181 ~~[(3)]~~ (5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous
 182 planning district area" is repealed June 1, 2020.

- 183 ~~[(4)]~~ (6) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2020.
- 184 (b) Subsection 17-27a-301(1)(c) is repealed June 1, 2020.
- 185 (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
- 186 (1)(a) or (c)" is repealed June 1, 2020.
- 187 ~~[(5)]~~ (7) Subsection 17-27a-302(1), the language that states ", or mountainous planning
- 188 district" and "or the mountainous planning district," is repealed June 1, 2020.
- 189 ~~[(6)]~~ (8) Subsection 17-27a-305(1)(a), the language that states "a mountainous
- 190 planning district or" and ", as applicable" is repealed June 1, 2020.
- 191 ~~[(7)]~~ (9) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2020.
- 192 (b) Subsection 17-27a-401(6) is repealed June 1, 2020.
- 193 ~~[(8)]~~ (10) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2020.
- 194 (b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2020.
- 195 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning
- 196 district" is repealed June 1, 2020.
- 197 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
- 198 district" is repealed June 1, 2020.
- 199 ~~[(9)]~~ (11) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2020.
- 200 ~~[(10)]~~ (12) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2020.
- 201 ~~[(11)]~~ (13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
- 202 mountainous planning district, the mountainous planning district" is repealed June 1, 2020.
- 203 ~~[(12)]~~ (14) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2020.
- 204 ~~[(13)]~~ (15) Subsection 17-27a-605(1), the language that states "or mountainous
- 205 planning district land" is repealed June 1, 2020.
- 206 ~~[(14)]~~ (16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed
- 207 June 1, 2020.
- 208 ~~[(15)]~~ (17) On June 1, 2020, when making the changes in this section, the Office of
- 209 Legislative Research and General Counsel shall:
- 210 (a) in addition to its authority under Subsection 36-12-12(3), make corrections
- 211 necessary to ensure that sections and subsections identified in this section are complete
- 212 sentences and accurately reflect the office's understanding of the Legislature's intent; and
- 213 (b) identify the text of the affected sections and subsections based upon the section and

214 subsection numbers used in Laws of Utah 2017, Chapter 448.

215 [~~(16)~~] (18) On June 1, 2020:

216 (a) Section 17-52a-104 is repealed;

217 (b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision

218 described in Subsection 17-52a-104(2)," is repealed;

219 (c) Subsection 17-52a-301(3)(a)(vi) is repealed;

220 (d) in Subsection 17-52a-501(1), the language that states "or, for a county under a

221 pending process described in Section 17-52a-104, under Section 17-52-204 as that section was

222 in effect on March 14, 2018," is repealed; and

223 (e) in Subsection 17-52a-501(3)(a), the language that states "or, for a county under a

224 pending process described in Section 17-52a-104, the attorney's report that is described in

225 Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a

226 statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14,

227 2018," is repealed.

228 [~~(17)~~] (19) On January 1, 2028, Subsection 17-52a-102(3) is repealed.