

**Representative Stephanie Pitcher** proposes the following substitute bill:

**RESTITUTION REPORTING**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Pitcher**

Senate Sponsor: Todd Weiler

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**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:**



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

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, except extradition.

51 (2) Each county jail within the state shall submit a report to the commission, before  
52 June 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 the 2019 calendar year, 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 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 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 the 2019 calendar year, 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 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 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 September 1, 2020, submit the compilation and all reports provided by  
121 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 during  
124 the years 2018 or 2019, 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 2018.

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

129 **17-22-32.3. Jail incarceration and transportation costs study -- Creation --**  
130 **Membership -- Duties.**

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

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

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

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

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

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

143 (d) two public defender coordinators as follows:

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

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

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

149 (f) one individual representing the Utah Indigent Defense Commission;

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

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

171 **63I-2-217. Repeal dates -- Title 17.**

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

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

175 ~~[(1)]~~ (3) Subsection 17-27a-102(1)(b), the language that states "or a designated  
176 mountainous planning district" is repealed June 1, 2020.

177 ~~[(2)]~~ (4) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2020.

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

179 ~~[(3)]~~ (5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous  
180 planning district area" is repealed June 1, 2020.

- 181           ~~[(4)]~~ (6) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2020.
- 182           (b) Subsection 17-27a-301(1)(c) is repealed June 1, 2020.
- 183           (c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
- 184 (1)(a) or (c)" is repealed June 1, 2020.
- 185           ~~[(5)]~~ (7) Subsection 17-27a-302(1), the language that states ", or mountainous planning
- 186 district" and "or the mountainous planning district," is repealed June 1, 2020.
- 187           ~~[(6)]~~ (8) Subsection 17-27a-305(1)(a), the language that states "a mountainous
- 188 planning district or" and ", as applicable" is repealed June 1, 2020.
- 189           ~~[(7)]~~ (9) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2020.
- 190           (b) Subsection 17-27a-401(6) is repealed June 1, 2020.
- 191           ~~[(8)]~~ (10) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2020.
- 192           (b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2020.
- 193           (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning
- 194 district" is repealed June 1, 2020.
- 195           (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
- 196 district" is repealed June 1, 2020.
- 197           ~~[(9)]~~ (11) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2020.
- 198           ~~[(10)]~~ (12) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2020.
- 199           ~~[(11)]~~ (13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
- 200 mountainous planning district, the mountainous planning district" is repealed June 1, 2020.
- 201           ~~[(12)]~~ (14) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2020.
- 202           ~~[(13)]~~ (15) Subsection 17-27a-605(1), the language that states "or mountainous
- 203 planning district land" is repealed June 1, 2020.
- 204           ~~[(14)]~~ (16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed
- 205 June 1, 2020.
- 206           ~~[(15)]~~ (17) On June 1, 2020, when making the changes in this section, the Office of
- 207 Legislative Research and General Counsel shall:
- 208           (a) in addition to its authority under Subsection 36-12-12(3), make corrections
- 209 necessary to ensure that sections and subsections identified in this section are complete
- 210 sentences and accurately reflect the office's understanding of the Legislature's intent; and
- 211           (b) identify the text of the affected sections and subsections based upon the section and

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

213 ~~[(16)]~~ (18) On June 1, 2020:

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

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

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

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

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

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

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

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

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

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

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

225 2018," is repealed.

226 ~~[(17)]~~ (19) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

227 Section 4. **Effective date.**

228 If approved by two-thirds of all the members elected to each house, this bill takes effect

229 upon approval by the governor, or the day following the constitutional time limit of Utah

230 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

231 the date of veto override.