

Representative Marsha Judkins proposes the following substitute bill:

PROSECUTOR DATA COLLECTION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marsha Judkins

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill requires certain agencies and jails throughout the state to provide specific data to the Commission on Criminal and Juvenile Justice.

Highlighted Provisions:

This bill:

- ▶ requires prosecutorial agencies, county jails, and the Administrative Office of the Courts to provide specific data to the Commission on Criminal and Juvenile Justice;
- ▶ requires that certain information and policies be made available to the public;
- ▶ provides that the commission will compile and analyze the data and include it in an annual report;
- ▶ allows the Law Enforcement and Criminal Justice Interim Committee to request data and analysis from the commission; and
- ▶ provides that the commission may provide prosecutorial agencies assistance with providing the required data.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63M-7-204**, as last amended by Laws of Utah 2019, Chapter 435

29 ENACTS:

30 **17-22-32.4**, Utah Code Annotated 1953

31 **63M-7-213**, Utah Code Annotated 1953

32 **78A-2-109.5**, Utah Code Annotated 1953

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

35 Section 1. Section **17-22-32.4** is enacted to read:

36 **17-22-32.4. Jail demographics reporting.**

37 (1) As used in this section:

38 (a) "Booking" means an individual is detained in a jail facility for an offense requiring
39 a subsequent court appearance.

40 (b) "Commission" means the Commission on Criminal and Juvenile Justice created in
41 Section [63M-7-201](#).

42 (c) "Offense tracking number" means a number assigned to an offense that requires a
43 mandatory court appearance and for which an individual is booked into a jail facility.

44 (2) Each county jail shall compile and provide the following information to the
45 commission on all bookings into the facility:

46 (a) full name;

47 (b) offense tracking number;

48 (c) gender;

49 (d) date of birth;

50 (e) race;

51 (f) ethnicity; and

52 (g) zip code.

53 (3) The information shall be submitted within 90 days of the last day of March, June,
54 September, and December of each year for the previous 90-day period in the form and manner
55 selected by the commission. If the last day of the month is a Saturday, Sunday, or state holiday,
56 the information shall be submitted on the next working day.

57 Section 2. Section **63M-7-204** is amended to read:

58 **63M-7-204. Duties of commission.**

59 (1) The State Commission on Criminal and Juvenile Justice administration shall:

60 (a) promote the commission's purposes as enumerated in Section **63M-7-201**;

61 (b) promote the communication and coordination of all criminal and juvenile justice
62 agencies;

63 (c) study, evaluate, and report on the status of crime in the state and on the
64 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
65 reduction of crime in the state;

66 (d) study, evaluate, and report on programs initiated by state and local agencies to
67 address reducing recidivism, including changes in penalties and sentencing guidelines intended
68 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
69 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
70 alternative to incarceration, as resources allow;

71 (e) study, evaluate, and report on policies, procedures, and programs of other
72 jurisdictions which have effectively reduced crime;

73 (f) identify and promote the implementation of specific policies and programs the
74 commission determines will significantly reduce crime in Utah;

75 (g) provide analysis and recommendations on all criminal and juvenile justice
76 legislation, state budget, and facility requests, including program and fiscal impact on all
77 components of the criminal and juvenile justice system;

78 (h) provide analysis, accountability, recommendations, and supervision for state and
79 federal criminal justice grant money;

80 (i) provide public information on the criminal and juvenile justice system and give
81 technical assistance to agencies or local units of government on methods to promote public
82 awareness;

83 (j) promote research and program evaluation as an integral part of the criminal and
84 juvenile justice system;

85 (k) provide a comprehensive criminal justice plan annually;

86 (l) review agency forecasts regarding future demands on the criminal and juvenile
87 justice systems, including specific projections for secure bed space;

88 (m) promote the development of criminal and juvenile justice information systems that
89 are consistent with common standards for data storage and are capable of appropriately sharing
90 information with other criminal justice information systems by:

91 (i) developing and maintaining common data standards for use by all state criminal
92 justice agencies;

93 (ii) annually performing audits of criminal history record information maintained by
94 state criminal justice agencies to assess their accuracy, completeness, and adherence to
95 standards;

96 (iii) defining and developing state and local programs and projects associated with the
97 improvement of information management for law enforcement and the administration of
98 justice; and

99 (iv) establishing general policies concerning criminal and juvenile justice information
100 systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this
101 Subsection (1)(m);

102 (n) allocate and administer grants, from money made available, for approved education
103 programs to help prevent the sexual exploitation of children;

104 (o) allocate and administer grants funded from money from the Law Enforcement
105 Operations Account created in Section 51-9-411 for law enforcement operations and programs
106 related to reducing illegal drug activity and related criminal activity;

107 (p) request, receive, and evaluate data and recommendations collected and reported by
108 agencies and contractors related to policies recommended by the commission regarding
109 recidivism reduction;

110 (q) establish and administer a performance incentive grant program that allocates funds
111 appropriated by the Legislature to programs and practices implemented by counties that reduce
112 recidivism and reduce the number of offenders per capita who are incarcerated;

113 (r) oversee or designate an entity to oversee the implementation of juvenile justice
114 reforms;

115 (s) make rules and administer the juvenile holding room standards and juvenile jail
116 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements
117 pursuant to 42 U.S.C. Sec. 5633;

118 (t) allocate and administer grants, from money made available, for pilot qualifying

119 education programs;

120 (u) oversee the trauma-informed justice program described in Section [63M-7-209](#);

121 [and]

122 (v) administer the Child Welfare Parental Defense Program in accordance with

123 Sections [63M-7-211](#), [63M-7-211.1](#), and [63M-7-211.2](#)~~[-]~~; and

124 (w) request, receive, and evaluate the aggregate data collected from prosecutorial

125 agencies, jails, and the Administrative Office of the Courts, in accordance with Sections

126 [17-22-32.4](#), [63M-7-213](#), and [78A-2-109.5](#).

127 (2) If the commission designates an entity under Subsection (1)(r), the commission

128 shall ensure that the membership of the entity includes representation from the three branches

129 of government and, as determined by the commission, representation from relevant stakeholder

130 groups across all parts of the juvenile justice system, including county representation.

131 Section 3. Section **63M-7-213** is enacted to read:

132 **63M-7-213. Prosecutorial data collection -- Policy transparency.**

133 (1) As used in this section:

134 (a) "Commission" means the Commission on Criminal and Juvenile Justice created in

135 Section [63M-7-201](#).

136 (b)(i) "Criminal case" means a case where an offender is charged with an offense for

137 which a mandatory court appearance is required under the Uniform Bail Schedule.

138 (ii) "Criminal case" does not mean a case for criminal non-support under Section

139 [76-7-201](#) or any proceeding involving collection or payment of child support, medical support,

140 or child care expenses by or on behalf of the Office of Recovery Services under Section

141 [62A-11-107](#) or [76-7-202](#).

142 (c) "Offense tracking number" means a distinct number applied to each criminal

143 offense by the Bureau of Criminal Identification.

144 (d) "Pre-filing diversion" means an agreement between a prosecutor and an individual

145 prior to being charged with a crime, before an information or indictment is filed, in which the

146 individual is diverted from the traditional criminal justice system into a program of supervision

147 and supportive services in the community.

148 (e) "Post-filing diversion" is as described in Section [77-2-5](#).

149 (f) "Prosecutorial agency" means the Office of the Attorney General and any city,

150 county, or district attorney acting as a public prosecutor.

151 (g) "Publish" means to make aggregated data available to the general public.

152 (2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the
153 following data with regards to each criminal case referred to it from a law enforcement agency
154 to the commission for compilation and analysis:

155 (a) the defendant's:

156 (i) full name;

157 (ii) offense tracking number;

158 (iii) date of birth; and

159 (iv) zip code;

160 (b) referring agency;

161 (c) whether the prosecutorial agency filed charges, declined charges, initiated a
162 pre-filing diversion, or asked the referring agency for additional information;

163 (d) if charges were filed, the case number and the court in which the charges were
164 filed;

165 (e) all charges brought against the defendant;

166 (f) whether bail was requested and, if so, the requested amount;

167 (h) the date of initial discovery disclosure;

168 (i) whether post-filing diversion was offered and, if so, whether it was entered;

169 (j) if post-filing diversion or other plea agreement was accepted, the date entered by the
170 court; and

171 (k) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of
172 the case.

173 (3) (a) The information required by Subsection (2), including information that was
174 missing or incomplete at the time of an earlier submission but is presently available, shall be
175 submitted within 90 days of the last day of March, June, September, and December of each
176 year for the previous 90-day period in the form and manner selected by the commission.

177 (b) If the last day of the month is a Saturday, Sunday, or state holiday, the information
178 shall be submitted on the next working day.

179 (4) The prosecutorial agency shall maintain a record of all information collected and
180 transmitted to the commission for 10 years.

181 (5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k)
182 an analysis of the data received, comparing and contrasting the practices and trends among and
183 between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim
184 Committee may request an in-depth analysis of the data received annually. Any request shall be
185 in writing and specify which data points the report shall focus on.

186 (6) The commission may provide assistance to prosecutorial agencies in setting up a
187 method of collecting and reporting data required by this section.

188 (7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office
189 policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall
190 affirmatively disclose that fact. Policies shall be published online on the following topics:

191 (a) screening and filing criminal charges;

192 (b) plea bargains;

193 (c) sentencing recommendations;

194 (d) discovery practices;

195 (e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;

196 (f) collection of fines and fees;

197 (g) criminal and civil asset forfeiture practices;

198 (h) services available to victims of crime, both internal to the prosecutorial office and
199 by referral to outside agencies;

200 (i) diversion programs;

201 (j) restorative justice programs; and

202 (8) (a) A prosecutorial agency not in compliance with this section by July 1, 2022, in
203 accordance with the commission's guidelines may not receive grants or other funding intended
204 to assist with bringing the agency into compliance with this section. In addition, any funds
205 received for the purpose of bringing the agency into compliance with this section shall be
206 returned to the source of the funding.

207 (b) Only funding received from the commission by a prosecutorial agency specifically
208 intended to assist the agency with compliance with this section may be recalled.

209 Section 4. Section **78A-2-109.5** is enacted to read:

210 **78A-2-109.5. Court demographics reporting.**

211 (1) As used in this section, "commission" means the Commission on Criminal and

212 Juvenile Justice created in Section 63M-7-201.

213 (2) The Administrative Office of the Courts shall compile and provide the following
214 information to the commission for each criminal case filed with the court:

215 (a) case number;

216 (b) the defendant's:

217 (i) full name;

218 (ii) offense tracking number; and

219 (iii) date of birth;

220 (c) charges filed;

221 (d) initial appearance date;

222 (e) bail amount set by the court, if any;

223 (f) whether the defendant was represented by a public defender, private counsel, or pro

224 se; and

225 (g) final disposition of the charges.

226 (3) The information shall be submitted on the last day of June and December of each
227 year for the previous six-month period in the form and manner selected by the commission. If
228 the last day of the month is a Saturday, Sunday, or state holiday, the information shall be
229 submitted on the next working day.