

# HB0288S01 compared with HB0288

~~text~~ shows text that was in HB0288 but was deleted in HB0288S01.

text shows text that was not in HB0288 but was inserted into HB0288S01.

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Representative Marsha Judkins proposes the following substitute bill:

## PROSECUTOR DATA COLLECTION AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marsha Judkins**

Senate Sponsor: \_\_\_\_\_

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### 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

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- ▶ provides that the commission may provide prosecutorial agencies assistance with providing the required data.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

ENACTS:

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

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

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

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

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

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

(1) As used in this section ~~{, "commission"}:~~

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

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

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

(2) Each county jail shall compile and provide the following information to the commission on ~~{each person booked}~~all bookings into the facility:

(a) full name;

(b) ~~{offender}~~offense tracking number;

(c) gender;

(d) date of birth;

(e) race;

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(f) ethnicity; and

(g) zip code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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awareness;

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

(k) provide a comprehensive criminal justice plan annually;

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

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

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

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

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

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

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

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

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

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

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

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

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

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

(v) administer the Child Welfare Parental Defense Program in accordance with Sections 63M-7-211, 63M-7-211.1, and 63M-7-211.2[-]; and

(w) request, receive, and evaluate, ~~and publish~~ the aggregate data collected from prosecutorial agencies, jails, and the Administrative Office of the Courts, in accordance with Sections 17-22-32.4, 63M-7-213, and 78A-2-109.5.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

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

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

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b)(i) "Criminal case" means a case where an offender is charged with an offense for which a mandatory court appearance is required under the Uniform Bail Schedule.

(ii) "Criminal case" does not mean a case for criminal non-support under Section 76-7-201 or any proceeding involving collection or payment of child support, medical support, or child care expenses by or on behalf of the Office of Recovery Services under Section 62A-11-107 or 76-7-202.

(c) "Offense tracking number" means a distinct number applied to each criminal offense by the Bureau of Criminal Identification.

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(d) "Pre-filing diversion" means an agreement between a prosecutor and an individual prior to being charged with a crime, before an information or indictment is filed, in which the individual is diverted from the traditional criminal justice system into a program of supervision and supportive services in the community.

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

(~~fb~~f) "Prosecutorial agency" means the Office of the Attorney General and any city, county, or district attorney acting as a public prosecutor.

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

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

(a) the defendant's:

(i) full name;

(ii) ~~f~~offender}offense tracking number;

(iii) date of birth; and

(iv) zip code;

(b) referring agency;

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

(d) if charges were filed, the case number ~~for other nomenclature by}~~and the court in which the ~~f~~criminal case can be identified}charges were filed;

(e) all charges brought against the defendant;

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

~~f~~ (g) the initial appearance date;

~~f~~ (h) the date of initial discovery disclosure;

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

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

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

(3) (a) The information required by Subsection (2), including information that was

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missing or incomplete at the time of an earlier submission but is presently available, shall be submitted ~~on~~ within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission ~~on the following schedule:~~

~~{ (i) the information submitted on March 31 shall be for the period of July 1 through September 30 of the previous year;~~

~~— (ii) the information submitted on June 30 shall be for the period of October 1 through December 31 of the previous year;~~

~~— (iii) the information submitted on September 30 shall be for the period of January 1 through March 31 of the current year; and~~

~~— (iv) the information submitted on December 31 shall be for the period of April 1 through June 30 of the current year.~~

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

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

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

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

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

(a) screening and filing criminal charges;

(b) plea bargains;

(c) sentencing recommendations;

(d) discovery practices;

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- (e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;
  - (f) collection of fines and fees;
  - (g) criminal and civil asset forfeiture practices;
  - (h) services available to victims of crime, both internal to the prosecutorial office and by referral to outside agencies;
  - (i) diversion programs;
  - ~~{ (j) internal policies for evaluation, discipline, or promotion of prosecutors, and rotation among divisions, units, or assignments by prosecutors throughout or within the prosecutorial office;~~
  - ~~{ (k) restorative justice programs; and~~
  - ~~{ (l) office training, including a list of in-house training offered to all employees in the previous year.~~
  - ~~{ (8) (a) A prosecutorial agency not in compliance with this section by July 1, 2022, in accordance with the commission's guidelines may not receive grants or other funding intended to assist with bringing the agency into compliance with this section. In addition, any funds received for the purpose of bringing the agency into compliance with this section shall be returned to the source of the funding.~~
    - (b) Only funding received from the commission by a prosecutorial agency specifically intended to assist the agency with compliance with this section may be recalled.
- Section 4. Section **78A-2-109.5** is enacted to read:
- 78A-2-109.5. Court demographics reporting.**
- (1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
  - (2) The Administrative Office of the Courts shall compile and provide the following information to the commission for each criminal case filed with the court:
    - (a) case number;
    - (b) the defendant's:
      - (i) full name;
      - (ii) ~~{offender}~~offense tracking number; and
      - (iii) date of birth;
  - (c) charges filed;



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(d) initial appearance date;

(~~f~~~~d~~~~e~~) bail amount set by the court, if any;

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

(~~f~~~~e~~~~g~~) final disposition of the charges.

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