

COMMISSION ON JAIL STANDARDS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Commission on Jail Standards.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Commission on Jail Standards to establish standards for and provide oversight of county jails and juvenile facilities;
- ▶ grants rulemaking authority to the Commission on Jail Standards;
- ▶ authorizes the Commission on Jail Standards to conduct inspections; and
- ▶ creates an enforcement mechanism for the Commission on Jail Standards to follow if the commission finds that a county jail or juvenile facility is not in compliance with state law or regulations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

64-13g-101, Utah Code Annotated 1953

64-13g-102, Utah Code Annotated 1953



- 28 [64-13g-103](#), Utah Code Annotated 1953
- 29 [64-13g-104](#), Utah Code Annotated 1953
- 30 [64-13g-105](#), Utah Code Annotated 1953
- 31 [64-13g-106](#), Utah Code Annotated 1953
- 32 [64-13g-107](#), Utah Code Annotated 1953
- 33 [64-13g-108](#), Utah Code Annotated 1953
- 34 [64-13g-109](#), Utah Code Annotated 1953
- 35 [64-13g-110](#), Utah Code Annotated 1953
- 36 [64-13g-111](#), Utah Code Annotated 1953

37

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

39 Section 1. Section **64-13g-101** is enacted to read:

40 **CHAPTER 13g. COMMISSION ON JAIL STANDARDS**

41 **64-13g-101. Title.**

42 This chapter is known as the "Commission on Jail Standards."

43 Section 2. Section **64-13g-102** is enacted to read:

44 **64-13g-102. Definitions.**

45 As used in this chapter:

46 (1) "Commission" means the Commission on Jail Standards created in Section
47 [64-13g-103](#).

48 (2) "Correctional facility" means the same as that term is defined in Section
49 [76-8-311.3](#).

50 (3) "County jail" means a facility operated by or for a county to house or detain
51 individuals arrested for, charged with, or convicted of a criminal offense.

52 (4) "Inmate" means an individual who is housed or detained in a correctional facility.

53 (5) "Juvenile facility" means a juvenile detention facility or staff secure juvenile
54 facility.

55 Section 3. Section **64-13g-103** is enacted to read:

56 **64-13g-103. Creation -- Members -- Terms -- Vacancies -- Chair -- Per diem and**
57 **expenses.**

58 (1) There is created the Commission on Jail Standards composed of 9 members

59 appointed by the governor with the advice and consent of the Senate.

60 (2) The members appointed under Subsection (1) shall include the following:

61 (a) a member who is a sheriff of a county with a population of more than 35,000;

62 (b) a member who is a sheriff of a county with a population of 35,000 or fewer people;

63 (c) a member who is a county judge;

64 (d) a member who is a regional pathologist appointed under Section [26-4-4](#);

65 (e) a member who is an administrator of the Utah Department of Corrections;

66 (f) a member who is a mental health professional who is licensed in accordance with

67 Section [58-60-103](#);

68 (g) a member who is an individual who has been incarcerated; and

69 (h) two members who are members of the general public.

70 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
71 members expire, the governor shall appoint each new member or reappointed member to a
72 four-year term.

73 (b) The governor shall, at the time of appointment or reappointment, adjust the length
74 of terms to ensure that the terms of board members are staggered so that approximately half of
75 the board is appointed every two years.

76 (4) A member shall hold office until the expiration of the member's term, or the
77 expiration of the member's qualification for the term, and until the member's successor is
78 appointed, but not more than 90 days after the expiration of the member's term.

79 (5) If a member described in Subsection (2)(a), (b), (c), or (e) ceases to hold a position
80 described in Subsection (2)(a), (b), (c), or (e), the member's position on the commission shall
81 become vacant.

82 (6) When a vacancy occurs in the membership for any reason, the governor, with the
83 advice and consent of the Senate, shall appoint the replacement for the unexpired term.

84 (7) The governor shall appoint a member to the commission without regard to the race,
85 color, disability, sex, religion, age, or national origin of the member.

86 (8) An individual is not eligible for appointment to the commission as a member
87 described in Subsection (2)(d), (f), (g), or (h) if the individual or the individual's spouse:

88 (a) is registered, certified, or licensed by a regulatory agency in the field of law
89 enforcement;

90 (b) is employed by or participates in the management of a business entity, county jail,
91 or other organization that is regulated by the commission or receives funds from the
92 commission;

93 (c) own or controls, directly or indirectly, a substantial interest, as that term is defined
94 in Section 67-16-3, in a business entity or other organization that is regulated by the
95 commission or receives funds from the commission; or

96 (d) uses or receives a substantial amount of tangible goods, services, or funds from the
97 commission, other than compensation or reimbursement authorized by law for commission
98 membership, attendance, or expenses.

99 (9) A member described in Subsection (2)(a), (b), or (e) may not inspect, evaluate, or
100 make determinations regarding the correctional facilities under the supervision of the members'
101 respective counties or employers.

102 (10) A member may not receive compensation for the member's service on the
103 commission, but may receive per diem and travel expenses in accordance with:

104 (a) Section 63A-3-106;

105 (b) Section 63A-3-107; and

106 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
107 63A-3-107.

108 Section 4. Section **64-13g-104** is enacted to read:

109 **64-13g-104. Powers and duties of the commission.**

110 (1) (a) The commission shall make the rules described in this chapter in accordance
111 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

112 (b) The commission may not establish standards for correctional facilities that are less
113 stringent than the standards established by the Utah Department of Corrections.

114 (2) The commission shall consult with local government officials to provide technical
115 assistance for county jails.

116 (3) The commission shall:

117 (a) review and comment on plans for the construction and major modification to or
118 renovation of county jails;

119 (b) gather and distribute to correctional facilities information regarding:

120 (i) common issues concerning jail administration;

- 121 (ii) examples of successful strategies for maintaining compliance with state laws and
- 122 regulations; and
- 123 (iii) solutions to operational challenges for county jails;
- 124 (c) regularly inspect county jails and juvenile facilities for compliance with state laws
- 125 and regulations;
- 126 (d) report on the results of inspections;
- 127 (e) make recommendations to local government on the status of county jails and
- 128 juvenile facilities under the control of the local government; and
- 129 (f) perform other duties necessary to carry out the policy of the state regarding
- 130 correctional facilities.

131 Section 5. Section **64-13g-105** is enacted to read:

132 **64-13g-105. Operations and inmates.**

133 The commission shall make rules establishing minimum standards for the operation of

134 correctional facilities that include:

- 135 (1) staffing, training, and demeanor of personnel;
- 136 (2) procedures for admission and release of inmates;
- 137 (3) procedures for assigning inmates to housing, programs, and related activities;
- 138 (4) procedures for handling inmate mail, visits, including the search and admission of
- 139 visitors, and telephone services;
- 140 (5) procedures for providing inmates with access to media, the general library,
- 141 exercise, and recreation;
- 142 (6) procedures for providing inmates with access to legal material and legal counsel;
- 143 (7) procedures for providing inmates with the opportunity to practice religion and with
- 144 access to religious materials;
- 145 (8) supervision and uses of the correctional facility's arsenal, firearms, and key room;
- 146 (9) food services;
- 147 (10) health services; and
- 148 (11) minimum standards for:
- 149 (a) the classification and reclassification of inmates;
- 150 (b) rehabilitative services required for inmates;
- 151 (c) inmate grievance procedures; and

152 (d) inmate conduct.

153 Section 6. Section **64-13g-106** is enacted to read:

154 **64-13g-106. Construction and maintenance.**

155 The commission shall study, develop, and enforce minimum standards for the

156 construction and maintenance of correctional facilities.

157 Section 7. Section **64-13g-107** is enacted to read:

158 **64-13g-107. Juvenile facilities -- standards.**

159 (1) The commission shall make rules to establish minimum standards for juvenile

160 facilities.

161 (2) The minimum standards described in Subsection (1) shall, in addition to the

162 standards described in Sections [64-13g-105](#) and [64-13g-106](#), address:

163 (a) physical facilities;

164 (b) care of inmates;

165 (c) programs available to inmates; and

166 (d) disciplinary procedures.

167 Section 8. Section **64-13g-108** is enacted to read:

168 **64-13g-108. Inspection.**

169 (1) Subject to Subsection (4), the commission shall regularly inspect county jails and

170 juvenile facilities to ensure compliance with state laws and regulations.

171 (2) The commission shall conduct both scheduled, announced inspections and

172 unannounced inspections of county jails and juvenile facilities.

173 (3) When conducting an inspection, the commission shall:

174 (a) determine the conditions of confinement;

175 (b) determine the treatment of inmates;

176 (c) determine if the facility complies with the minimum standards established by the

177 commission; and

178 (d) conduct private interviews with inmates and staff.

179 (4) The commission may not begin inspecting facilities until after the commission has

180 made the rules described in Sections [64-13g-105](#) through [64-13g-107](#).

181 Section 9. Section **64-13g-109** is enacted to read:

182 **64-13g-109. Reporting.**

183 (1) The commission shall compile a written report of an inspection within 30 days after
184 the day on which the commission conducts an inspection described in Section [64-13g-108](#).

185 (2) The report described in Subsection (1) shall specify areas in which the inspected
186 facility is not in compliance with state law and regulations.

187 (3) If the commission finds that a facility inspected under Section [64-13g-108](#) is not in
188 compliance with state law or regulations, the commission shall deliver notice of
189 noncompliance and a copy of the inspection report to the local governing body responsible for
190 the facility.

191 (4) The notice shall give the local governing body six months to take corrective action
192 in response to the report.

193 (5) The commission shall inspect the facility six months after the day on which the
194 commission delivers the report to the local governing body to see if the facility is in
195 compliance with state laws and regulations.

196 (6) If the commission finds during the inspection described in Subsection (5) that the
197 facility has not come into compliance with the state laws and regulations cited in the notice
198 described in Subsection (3), the commission shall follow the process described in Section
199 [64-13g-110](#).

200 (7) The commission shall report the results of the commission's inspections to the Law
201 Enforcement and Criminal Justice Interim Committee no later than November 30 each year.

202 Section 10. Section **64-13g-110** is enacted to read:

203 **64-13g-110. Petition.**

204 (1) Subject to Subsection (8), if a facility is not in compliance with state laws and
205 regulations within six months after the day on which the local governing body for the facility
206 receives the notice described in Subsection [64-13g-109](#)(3), the commission may submit a
207 petition to the district court for the judicial district in which the facility is located.

208 (2) The petition described in Subsection (1) shall include:

209 (a) the inspection report containing a copy of the facility's findings;

210 (b) a copy of the notice sent to the local governing body; and

211 (c) a notice giving the local governing body 30 days to respond to the petition.

212 (3) The commission shall serve the petition described in Subsection (1) in accordance
213 with the Utah Rules of Civil Procedure.

214 (4) The local governing body shall file a response to the petition to the court and shall
215 serve the commission with the response by certified mail within 30 days after service of the
216 petition.

217 (5) The court shall hold a hearing on the petition at the request of either party.

218 (6) An order from the court on the petition after a hearing shall require:

219 (a) dismissal of the petition;

220 (b) direction to the local governing body to take corrective action at the facility with
221 respect to the violation of state laws and regulations; or

222 (c) direction to the local governing body to close the facility.

223 (7) A decision of the court is appealable to a state appellate court.

224 (8) The commission may not file a petition until one year after the day on which the
225 commission makes the rules described in Sections [64-13g-105](#) through [64-13g-107](#).

226 Section 11. Section **64-13g-111** is enacted to read:

227 **64-13g-111. Public information.**

228 (1) The commission's inspection reports are public documents.

229 (2) The commission shall redact inspection reports to remove information that is
230 private or protected under Title 63G, Chapter 2, Government Records Access and Management
231 Act.

232 (3) The commission shall:

233 (a) post the redacted inspection reports on the commission's public website, if the
234 commission has a public website; and

235 (b) determine other formats to share the redacted inspection reports with the public.