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

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

CHAPTER 13g. COMMISSION ON JAIL STANDARDS

64-13g-101. Title.

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

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

64-13g-102. Definitions.

As used in this chapter:

(1) "Commission" means the Commission on Jail Standards created in Section 64-13g-103.

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

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

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

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

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

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

(1) There is created the Commission on Jail Standards composed of 9 members
appointed by the governor with the advice and consent of the Senate.

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

(a) a member who is a sheriff of a county with a population of more than 35,000;
(b) a member who is a sheriff of a county with a population of 35,000 or fewer people;
(c) a member who is a county judge;
(d) a member who is a regional pathologist appointed under Section 26-4-4;
(e) a member who is an administrator of the Utah Department of Corrections;
(f) a member who is a mental health professional who is licensed in accordance with
Section 58-60-103;
(g) a member who is an individual who has been incarcerated; and
(h) two members who are members of the general public.

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

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

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

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

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

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

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

(a) is registered, certified, or licensed by a regulatory agency in the field of law
enforcement:
(b) is employed by or participates in the management of a business entity, county jail, or other organization that is regulated by the commission or receives funds from the commission;

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

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

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

(3) The commission shall:

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

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

(i) common issues concerning jail administration;
(ii) examples of successful strategies for maintaining compliance with state laws and regulations; and

(iii) solutions to operational challenges for county jails;

(c) regularly inspect county jails and juvenile facilities for compliance with state laws and regulations;

(d) report on the results of inspections;

(e) make recommendations to local government on the status of county jails and juvenile facilities under the control of the local government; and

(f) perform other duties necessary to carry out the policy of the state regarding correctional facilities.

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

64-13g-105. Operations and inmates.

The commission shall make rules establishing minimum standards for the operation of correctional facilities that include:

(1) staffing, training, and demeanor of personnel;

(2) procedures for admission and release of inmates;

(3) procedures for assigning inmates to housing, programs, and related activities;

(4) procedures for handling inmate mail, visits, including the search and admission of visitors, and telephone services;

(5) procedures for providing inmates with access to media, the general library, exercise, and recreation;

(6) procedures for providing inmates with access to legal material and legal counsel;

(7) procedures for providing inmates with the opportunity to practice religion and with access to religious materials;

(8) supervision and uses of the correctional facility's arsenal, firearms, and key room;

(9) food services;

(10) health services; and

(11) minimum standards for:

(a) the classification and reclassification of inmates;

(b) rehabilitative services required for inmates;

(c) inmate grievance procedures; and
152 (d) inmate conduct.
153
154 Section 6. Section 64-13g-106 is enacted to read:
155
64-13g-106. Construction and maintenance.
156 The commission shall study, develop, and enforce minimum standards for the
157 construction and maintenance of correctional facilities.
158 Section 7. Section 64-13g-107 is enacted to read:
159
64-13g-107. Juvenile facilities -- standards.
160 (1) The commission shall make rules to establish minimum standards for juvenile
161 facilities.
162 (2) The minimum standards described in Subsection (1) shall, in addition to the
163 standards described in Sections 64-13g-105 and 64-13g-106, address:
164 (a) physical facilities;
165 (b) care of inmates;
166 (c) programs available to inmates; and
167 (d) disciplinary procedures.
168 Section 8. Section 64-13g-108 is enacted to read:
169
64-13g-108. Inspection.
170 (1) Subject to Subsection (4), the commission shall regularly inspect county jails and
171 juvenile facilities to ensure compliance with state laws and regulations.
172 (2) The commission shall conduct both scheduled, announced inspections and
173 unannounced inspections of county jails and juvenile facilities.
174 (3) When conducting an inspection, the commission shall:
175 (a) determine the conditions of confinement;
176 (b) determine the treatment of inmates;
177 (c) determine if the facility complies with the minimum standards established by the
178 commission; and
179 (d) conduct private interviews with inmates and staff.
180 (4) The commission may not begin inspecting facilities until after the commission has
181 made the rules described in Sections 64-13g-105 through 64-13g-107.
182 Section 9. Section 64-13g-109 is enacted to read:
183
64-13g-109. Reporting.
(1) The commission shall compile a written report of an inspection within 30 days after the day on which the commission conducts an inspection described in Section 64-13g-108.

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

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

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

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

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

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

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

64-13g-110. Petition.

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

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

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

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

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

(3) The commission shall serve the petition described in Subsection (1) in accordance with the Utah Rules of Civil Procedure.
(4) The local governing body shall file a response to the petition to the court and shall serve the commission with the response by certified mail within 30 days after service of the petition.

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

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

(a) dismissal of the petition;

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

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

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

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

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

64-13g-111. Public information.

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

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

(3) The commission shall:

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

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