

PRISON RAPE ELIMINATION ACT COMPLIANCE

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: _____

LONG TITLE

General Description:

This bill complies with national standards made under the federal Prison Rape Elimination Act of 2003 by mandating the implementation of policies and data collection relating to the sexual assault of inmates.

Highlighted Provisions:

This bill:

- ▶ requires the creation of policies to prevent, detect, and respond to inmate sexual assault;
- ▶ specifies requirements for investigations of inmate sexual assaults; and
- ▶ requires the collection and reporting of data regarding inmate sexual assaults.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

64-13-47, Utah Code Annotated 1953

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

Section 1. Section **64-13-47** is enacted to read:



28 **64-13-47. Prison Sexual Assault Prevention Program.**

29 (1) The department shall, in accordance with Title 63G, Chapter 3, Utah
30 Administrative Rulemaking Act, make rules establishing policies and procedures regarding
31 sexual assaults that occur in correctional facilities.

32 (2) The rules described in Subsection (1) shall:

33 (a) require education and training, including:

34 (i) providing to inmates, at intake and periodically, department-approved,
35 easy-to-understand information developed by the department on sexual assault prevention,
36 treatment, reporting, and counseling in consultation with community groups with expertise in
37 sexual assault prevention, treatment, reporting, and counseling; and

38 (ii) providing sexual-assault-specific training to department mental health professionals
39 and all employees who have direct contact with inmates regarding treatment and methods of
40 prevention and investigation;

41 (b) require reporting of sexual assault, including:

42 (i) ensuring the confidentiality of inmate sexual assault complaints and the protection
43 of inmates who make complaints of sexual assault; and

44 (ii) prohibiting retaliation and disincentives for reporting sexual assault;

45 (c) require safety and care for victims, including:

46 (i) providing, in situations in which there is reason to believe that a sexual assault has
47 occurred, reasonable and appropriate measures to ensure the victim's safety by separating the
48 victim from the assailant, if known;

49 (ii) providing acute trauma care for sexual assault victims, including treatment of
50 injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

51 (iii) providing confidential mental health counseling for victims of sexual assault,
52 including access to outside community groups or victim advocates that have expertise in sexual
53 assault counseling, and enable confidential communication between inmates and those
54 organizations and advocates; and

55 (iv) monitoring victims of sexual assault for suicidal impulses, post-traumatic stress
56 disorder, depression, and other mental health consequences resulting from the sexual assault;

57 (d) require investigations and staff discipline, including:

58 (i) requiring all employees to report any knowledge, suspicion, or information

59 regarding an incident of sexual assault to the executive director or designee, and require
60 disciplinary action for employees who fail to report as required;
61 (ii) requiring investigations described in Subsection (3);
62 (iii) requiring corrections investigators to submit all completed sexual assault
63 allegations to the executive director or the executive director's designee, who must then submit
64 any substantiated findings that may constitute a crime under state law to the district attorney
65 with jurisdiction over the facility in which the alleged sexual assault occurred; and
66 (iv) requiring employees to be subject to disciplinary sanctions up to and including
67 termination for violating agency sexual assault policies, with termination the presumptive
68 disciplinary sanction for employees who have engaged in sexual assault, consistent with
69 constitutional due process protections and state personnel laws and rules;
70 (e) require data collection and reporting, including as provided in Subsection (4); and
71 (f) implement any additional rules including those consistent with the National
72 Standards to Prevent, Detect, and Respond to Prison Rape under the Prison Rape Elimination
73 Act, 28 C.F.R. Part 115, made under the federal Prison Rape Elimination Act, 32 U.S.C. Sec.
74 30301 et seq.
75 (3) (a) An investigator trained in the investigation of sex crimes shall conduct the
76 investigation of a sexual assault involving an inmate.
77 (b) The investigation shall include:
78 (i) using a forensic rape kit;
79 (ii) questioning suspects and witnesses; and
80 (iii) gathering and preserving relevant evidence.
81 (4) The department shall:
82 (a) collect and report data regarding all allegations of sexual assault from each
83 correctional facility in accordance with the federal "Prison Rape Elimination Act of 2003,"
84 Pub. L 108-79, as amended; and
85 (b) annually report the data described in Subsection (3)(a) to the Law Enforcement and
86 Criminal Justice Interim Committee.