

SEX OFFENSE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Stephanie Pitcher

Cosponsor:

Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses sex offense management and treatment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Sex Offense Management Board;
- ▶ describes the duties of the Sex Offense Management Board;
- ▶ clarifies the process the Department of Corrections follows to establish standards for sex offender treatment;
- ▶ includes a sunset date; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

29 **64-13-25**, as last amended by Laws of Utah 2015, Chapter 412

30 **77-18-103**, as last amended by Laws of Utah 2022, Chapter 115

31 ENACTS:

32 **63M-7-801**, Utah Code Annotated 1953

33 **63M-7-802**, Utah Code Annotated 1953

34 **63M-7-803**, Utah Code Annotated 1953

35

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

37 Section 1. Section **63I-1-263** is amended to read:

38 **63I-1-263. Repeal dates: Titles 63A to 63N.**

39 (1) Subsection **63A-5b-405(5)**, relating to prioritizing and allocating capital
40 improvement funding, is repealed July 1, 2024.

41 (2) Section **63A-5b-1003**, State Facility Energy Efficiency Fund, is repealed July 1,
42 2023.

43 (3) Sections **63A-9-301** and **63A-9-302**, related to the Motor Vehicle Review
44 Committee, are repealed July 1, 2023.

45 (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

46 (a) Section **63A-18-102** is repealed;

47 (b) Section **63A-18-201** is repealed; and

48 (c) Section **63A-18-202** is repealed.

49 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
50 1, 2028.

51 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
52 2025.

53 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
54 2024.

55 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
56 repealed July 1, 2023.

57 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
58 July 1, 2023.

59 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
60 repealed July 1, 2026.

61 (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

62 (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

63 (13) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
64 Advisory Board, is repealed July 1, 2026.

65 (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
66 2028.

67 (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
68 2024.

69 (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

70 (17) Subsection [63J-1-602.1\(17\)](#), relating to the Nurse Home Visiting Restricted
71 Account, is repealed July 1, 2026.

72 (18) Subsection [63J-1-602.2\(6\)](#), referring to dedicated credits to the Utah Marriage
73 Commission, is repealed July 1, 2023.

74 (19) Subsection [63J-1-602.2\(7\)](#), referring to the Trip Reduction Program, is repealed
75 July 1, 2022.

76 (20) Subsection [63J-1-602.2\(26\)](#), related to the Utah Seismic Safety Commission, is
77 repealed January 1, 2025.

78 (21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is
79 repealed July 1, 2027.

80 (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on
81 January 1, 2033:

82 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
83 repealed;

84 (b) Section [63M-7-305](#), the language that states "council" is replaced with

85 "commission";

86 (c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

87 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

88 (d) Subsection 63M-7-305(2) is repealed and replaced with:

89 "(2) The commission shall:

90 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
91 Drug-Related Offenses Reform Act; and

92 (b) coordinate the implementation of Section 77-18-104 and related provisions in
93 Subsections 77-18-103(2)(c) and (d)."

94 (23) The Crime Victim Reparations and Assistance Board, created in Section
95 63M-7-504, is repealed July 1, 2027.

96 (24) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1,
97 2026.

98 [~~24~~] (25) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
99 2026.

100 [~~25~~] (26) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is
101 repealed January 1, 2025.

102 [~~26~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

103 [~~27~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed
104 July 1, 2028.

105 [~~28~~] (29) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is
106 repealed July 1, 2027.

107 [~~29~~] (30) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant
108 Program, is repealed July 1, 2025.

109 [~~30~~] (31) In relation to the Rural Employment Expansion Program, on July 1, 2023:

110 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;
111 and

112 (b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion

113 Program, is repealed.

114 ~~[(31)]~~ (32) In relation to the Board of Tourism Development, on July 1, 2025:

115 (a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

116 (b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is
117 repealed and replaced with "Utah Office of Tourism";

118 (c) Subsection 63N-7-101(1), which defines "board," is repealed;

119 (d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive
120 approval from the Board of Tourism Development, is repealed; and

121 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

122 ~~[(32)]~~ (33) Subsection 63N-8-103(3)(c), which allows the Governor's Office of
123 Economic Opportunity to issue an amount of tax credit certificates only for rural productions,
124 is repealed on July 1, 2024.

125 Section 2. Section 63M-7-801 is enacted to read:

126 **Part 8. Sex Offense Management Board**

127 **63M-7-801. Definitions.**

128 As used in this part:

129 (1) "Board" means the Sex Offense Management Board created in Section 63M-7-802.

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

132 (3) "Registry" means the registry established in Title 77, Chapter 41, Sex and Kidnap
133 Offender Registry.

134 Section 3. Section 63M-7-802 is enacted to read:

135 **63M-7-802. Sex Offense Management Board - Creation - Members appointment -**
136 **Qualifications - Terms.**

137 (1) There is created within the commission the Sex Offense Management Board
138 consisting of the following members:

139 (a) the executive director of the Department of Corrections, or the executive director's
140 designee;

- 141 (b) the commissioner of the Department of Public Safety, or the commissioner's
- 142 designee;
- 143 (c) the attorney general, or the attorney general's designee;
- 144 (d) an officer with the adult probation and parole section of the Department of
- 145 Corrections with experience supervising adults convicted of sex offenses, appointed by the
- 146 executive director of the Department of Corrections;
- 147 (e) the executive director of the Department of Health and Human Services, or the
- 148 executive director's designee;
- 149 (f) an individual who represents the Administrative Office of the Courts appointed by
- 150 the state court administrator;
- 151 (g) the director of the Utah Office for Victims of Crime, or the director's designee;
- 152 (h) the director of the Division of Juvenile Justice Services, or the director's designee;
- 153 (i) the chair of the Board of Pardons and Parole, or the chair's designee; and
- 154 (j) nine individuals appointed by the executive director of the commission, including:
- 155 (i) the following two individuals licensed under Title 58, Chapter 60, Mental Health
- 156 Professional Practices Act:
- 157 (A) an individual with experience in the treatment of adults convicted of sex offenses
- 158 in the community;
- 159 (B) an individual with experience in the treatment of juveniles adjudicated of sex
- 160 offenses in the community;
- 161 (ii) an individual who represents an association of criminal defense attorneys;
- 162 (iii) an individual who is a criminal defense attorney experienced in indigent criminal
- 163 defense;
- 164 (iv) an individual who represents an association of prosecuting attorneys;
- 165 (v) an individual who represents law enforcement;
- 166 (vi) an individual who represents an association of criminal justice victim advocates;
- 167 (vii) an individual who is a clinical polygraph examiner experienced in providing
- 168 polygraph examinations to individuals convicted of sex offenses; and

169 (viii) an individual who has been previously convicted of a sex offense and has
170 successfully completed treatment and supervision for the offense.

171 (2) (a) A member described in Subsection (1)(j) shall serve a four-year term.

172 (b) If a vacancy occurs among a member described in Subsection (1)(j), the executive
173 director of the commission may appoint a new individual to fill the remainder of the term.

174 (c) When a term of a member described in Subsection (1)(j) expires, the executive
175 director of the commission shall appoint a new member or reappoint the member whose term
176 has expired to a new four-year term.

177 (3) The members of the board shall vote on a chair and co-chair of the board from
178 among the members described in Subsection (1) to serve a two-year term.

179 (4) A majority of the board constitutes a quorum.

180 (5) A board member may not receive compensation or benefits for the member's
181 service on the board, but may receive per diem and reimbursement for travel expenses incurred
182 as a board member at rates established by the Division of Finance under:

183 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

184 (b) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

185 (6) The commission shall provide staff support to the board.

186 (7) The board shall meet at least six times per year on dates the board sets.

187 Section 4. Section **63M-7-803** is enacted to read:

188 **63M-7-803. Board duties.**

189 The board shall:

190 (1) review research regarding treatment, risk assessment, and supervision practices for
191 individuals on the registry or individuals ordered to complete sex offense treatment;

192 (2) advise and make recommendations to other councils, boards, and offices within the
193 commission regarding evidence-based:

194 (a) sentencing and treatment practices for individuals on the registry or individuals
195 ordered to complete sex offense treatment to reduce recidivism and promote public safety;

196 (b) policies to promote public safety and protect victims of sex offenses; and

197 (c) practices related to the registry that promote public safety, account for risk, and
198 protect the rights of individuals on the registry or individuals ordered to complete sex offense
199 treatment; and

200 (3) advise and make recommendations to the Department of Corrections and the
201 Department of Health and Human Services regarding:

202 (a) evidence-based standards for supervision of individuals on the registry or
203 individuals ordered to complete sex offense treatment;

204 (b) evidence-based standards for training, certification, and evaluation of community
205 treatment providers, polygraph examiners, evaluators, and other professionals who provide
206 treatment and related services to individuals on the registry or individuals ordered to complete
207 sex offense treatment; and

208 (c) implementation of the treatment standards and other duties described in Section
209 64-13-25 related to sex offenses.

210 Section 5. Section **64-13-25** is amended to read:

211 **64-13-25. Standards for programs -- Audits.**

212 (1) (a) To promote accountability and to ensure safe and professional operation of
213 correctional programs, the department shall establish minimum standards for the organization
214 and operation of [its] the department's programs, including collaborating with the Department
215 of Health and Human Services to establish minimum standards for programs providing
216 assistance for individuals involved in the criminal justice system.

217 [~~(a)~~] (b) (i) The department shall promulgate the standards [~~shall be promulgated~~]
218 according to state rulemaking provisions.

219 (ii) Those standards that apply to offenders are exempt from the provisions of Title
220 63G, Chapter 3, Utah Administrative Rulemaking Act.

221 (iii) Offenders are not a class of persons under [~~that act.~~] Title 63G, Chapter 3, Utah
222 Administrative Rulemaking Act.

223 [~~(b)~~] (c) [~~Standards~~] The standards shall provide for inquiring into and processing
224 offender complaints.

225 ~~[(e)(i)]~~ (d) (i) The department shall establish minimum standards and qualifications for
226 treatment programs provided in county jails to which persons committed to the state prison are
227 placed by jail contract under Section 64-13e-103.

228 (ii) In establishing the standards and qualifications for the treatment programs, the
229 department shall:

230 (A) consult and collaborate with the county sheriffs and the ~~[Division of Substance~~
231 ~~Abuse]~~ Office of Substance Use and Mental Health; and

232 (B) include programs demonstrated by recognized scientific research to reduce
233 recidivism by addressing an offender's criminal risk factors as determined by a risk and needs
234 assessment.

235 (iii) All jails contracting to house offenders committed to the state prison shall meet the
236 minimum standards for treatment programs as established under this Subsection ~~[(1)(e)]~~ (1)(d).

237 ~~[(d)]~~

238 ~~[(i)]~~ (e) (i) The department shall establish minimum standards ~~[of treatment for sex~~
239 ~~offenders]~~ for sex offense treatment, which shall include the requirements under Subsection
240 64-13-7.5(3) regarding licensure and competency.

241 (ii) The standards shall require the use of ~~[the most current best practices demonstrated~~
242 ~~by recognized scientific research to address an offender's]~~ evidence-based practices to address
243 criminal risk factors as determined by validated assessments.

244 (iii) The department shall collaborate with the ~~[Division of Substance Abuse]~~ Office of
245 Substance Use and Mental Health to develop and effectively distribute the standards to jails
246 and to mental health professionals who desire to provide mental health treatment for sex
247 offenders.

248 (iv) The department shall establish the standards by administrative rule ~~[pursuant to]~~ in
249 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

250 ~~[(2)]~~ ~~The department shall establish an audit for compliance with standards established~~
251 ~~under this section according to policies and procedures established by the department, for~~
252 ~~continued operation of correctional and treatment programs provided to offenders committed to~~

253 the department's custody, including inmates housed in county jails by contract with the
254 Department of Corrections.]

255 ~~[(a) At least every three years, the department shall internally audit all programs for~~
256 ~~compliance with established standards.]~~

257 ~~[(b) All financial statements and accounts of the department shall be reviewed during~~
258 ~~the audit. Written review shall be provided to the managers of the programs and the executive~~
259 ~~director of the department.]~~

260 ~~[(c) The reports shall be classified as confidential internal working papers and access is~~
261 ~~available at the discretion of the executive director or the governor, or upon court order.]~~

262 ~~[(3)]~~ (2) (a) The department shall establish a certification ~~[program]~~ process for public
263 and private providers of treatment for sex offenders on probation or parole that requires the
264 providers' sex ~~[offender]~~ offense treatment practices meet the standards and practices
265 established under Subsection ~~[(1)(d) to reduce]~~ (1)(e)(i) with the goal of reducing sex offender
266 recidivism.

267 ~~[(a)]~~ (b) The department shall collaborate with the ~~[Division of Substance Abuse]~~
268 Office of Substance Use and Mental Health to develop, coordinate, and implement the
269 certification ~~[program]~~ process.

270 ~~[(b)]~~ (c) The department shall base the certification ~~[program shall be based]~~ process
271 on the standards under Subsection ~~[(1)(d) and shall]~~ (1)(e)(i) and require renewal of
272 certification every two years.

273 ~~[(c)]~~ (d) All public and private providers of sex ~~[offender]~~ offense treatment, including
274 those providing treatment to offenders housed in county jails by contract under Section
275 64-13e-103, shall comply with ~~[these]~~ the standards ~~[on and after July 1, 2016,]~~ in order to
276 begin receiving or continue receiving payment from the department to provide sex ~~[offender~~
277 treatment on or after July 1, 2016] offense treatment.

278 ~~[(d)]~~ (e) The department shall establish the certification program by administrative rule
279 ~~[pursuant to]~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

280 (3) (a) The department shall establish an audit process to ensure compliance with sex

281 offense and substance use treatment standards established under this section in accordance with
282 the department's policies and procedures.

283 (b) At least every three years, the department shall internally audit sex offense and
284 substance use treatment programs for compliance with standards established under this section.

285 (c) The individuals undertaking the audit shall provide a written report to the managers
286 of the programs audited and to the executive director of the department.

287 (d) The department's internal audit reports shall:

288 (i) be classified as confidential internal working papers; and

289 (ii) be accessible at the discretion of the executive director or the governor, or upon
290 court order.

291 (4) The department:

292 (a) shall establish performance goals and outcome measurements for all programs that
293 are subject to the minimum standards established under this section and [shall] collect data to
294 analyze and evaluate whether the goals and measurements are attained[-];

295 ~~[(a)]~~ (b) [The department] shall collaborate with the [Division of Substance Abuse]
296 Office of Substance Use and Mental Health to develop and coordinate the performance goals
297 and outcome measurements, including recidivism rates and treatment success and failure
298 rates[-];

299 ~~[(b)]~~ (c) [The department] may use [these] the data collected under Subsection (4)(b) to
300 make decisions on the use of funds to provide treatment for which standards are established
301 under this section[-];

302 ~~[(c)]~~ (d) [The department] shall collaborate with the [Division of Substance Abuse]
303 Office of Substance Use and Mental Health to track a subgroup of participants to determine if
304 there is a net positive result from the use of treatment as an alternative to incarceration[-];

305 ~~[(d)]~~ (e) [The department] shall collaborate with the [Division of Substance Abuse]
306 Office of Substance Use and Mental Health to evaluate the costs, including any additional
307 costs, and the resources needed to attain the performance goals established for the use of
308 treatment as an alternative to incarceration[-]; and

309 ~~(e)~~ (f) ~~[The department]~~ shall annually provide data collected under this Subsection
310 (4) to the State Commission on Criminal and Juvenile Justice on or before August 31.

311 (5) The ~~[commission]~~ State Commission on Criminal and Juvenile Justice shall
312 compile a written report of the findings based on the data collected under Subsection (4) and
313 ~~[shall]~~ provide the report to the legislative Judiciary Interim Committee, the Health and Human
314 Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee,
315 and the related appropriations subcommittees.

316 Section 6. Section **77-18-103** is amended to read:

317 **77-18-103. Presentence investigation report -- Classification of presentence**
318 **investigation report -- Evidence or other information at sentencing.**

319 (1) Before the imposition of a sentence, the court may:

320 (a) upon agreement of the defendant, continue the date for the imposition of the
321 sentence for a reasonable period of time for the purpose of obtaining a presentence
322 investigation report from the department or a law enforcement agency, or information from any
323 other source about the defendant; and

324 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
325 department or a law enforcement agency prepare a presentence investigation report for the
326 defendant.

327 (2) If a presentence investigation report is required under the standards established by
328 the department described in Section **77-18-109**, the presentence investigation report under
329 Subsection (1) shall include:

330 (a) any impact statement provided by a victim as described in Subsection

331 **77-38b-203(3)(c)**;

332 (b) information on restitution as described in Subsections **77-38b-203(3)(a)** and (b);

333 (c) findings from any screening and any assessment of the defendant conducted under
334 Section **77-18-104**;

335 (d) recommendations for treatment for the defendant; and

336 (e) the number of days since the commission of the offense that the defendant has spent

337 in the custody of the jail and the number of days, if any, the defendant was released to a
338 supervised release program or an alternative incarceration program under Section 17-22-5.5.

339 (3) The department or law enforcement agency shall provide the presentence
340 investigation report to the defendant's attorney, or the defendant if the defendant is not
341 represented by counsel, the prosecuting attorney, and the court for review within three working
342 days before the day on which the defendant is sentenced.

343 (4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is
344 not resolved by the parties and the department or law enforcement agency before sentencing:

345 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing;
346 and

347 (B) the court may grant an additional 10 working days after the day on which the
348 alleged inaccuracy is brought to the court's attention to allow the parties and the department to
349 resolve the alleged inaccuracy in the presentence investigation report.

350 (ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the
351 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is
352 an inaccuracy in the presentence investigation report, the court shall:

353 (A) enter a written finding as to the relevance and accuracy of the challenged portion of
354 the presentence investigation report; and

355 (B) provide the written finding to the Division of Adult Probation and Parole or the
356 law enforcement agency.

357 (b) The Division of Adult Probation and Parole shall attach the written finding to the
358 presentence investigation report as an addendum.

359 (c) If a party fails to challenge the accuracy of the presentence investigation report at
360 the time of sentencing, the matter shall be considered waived.

361 (5) The contents of the presentence investigation report are protected and not available
362 except by court order for purposes of sentencing as provided by rule of the Judicial Council or
363 for use by the department or law enforcement agency.

364 (6) (a) A presentence investigation report is classified as protected in accordance with

365 Title 63G, Chapter 2, Government Records Access and Management Act.

366 (b) Notwithstanding Sections [63G-2-403](#) and [63G-2-404](#), the State Records Committee
367 may not order the disclosure of a presentence investigation report.

368 (7) Except for disclosure at the time of sentencing in accordance with this section, the
369 department or law enforcement agency may disclose a presentence investigation only when:

370 (a) ordered by the court in accordance with Subsection [63G-2-202\(7\)](#);

371 (b) requested by a law enforcement agency or other agency approved by the department
372 for purposes of supervision, confinement, and treatment of a defendant;

373 (c) requested by the board;

374 (d) requested by the subject of the presentence investigation report or the subject's
375 authorized representative;

376 (e) requested by the victim of the offense discussed in the presentence investigation
377 report, or the victim's authorized representative, if the disclosure is only information relating
378 to:

379 (i) statements or materials provided by the victim;

380 (ii) the circumstances of the offense, including statements by the defendant; or

381 (iii) the impact of the offense on the victim or the victim's household; or

382 (f) requested by a sex offender treatment provider:

383 (i) who is certified to provide treatment under the certification program established in
384 Subsection [~~64-13-25(3)~~] [64-13-25\(2\)](#);

385 (ii) who is providing, at the time of the request, sex offender treatment to the offender
386 who is the subject of the presentence investigation report; and

387 (iii) who provides written assurance to the department that the report:

388 (A) is necessary for the treatment of the defendant;

389 (B) will be used solely for the treatment of the defendant; and

390 (C) will not be disclosed to an individual or entity other than the defendant.

391 (8) (a) At the time of sentence, the court shall receive any testimony, evidence, or
392 information that the defendant or the prosecuting attorney desires to present concerning the

393 appropriate sentence.

394 (b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in
395 open court on record and in the presence of the defendant.