{deleted text} shows text that was in SB0188S01 but was deleted in SB0188S02.

inserted text shows text that was not in SB0188S01 but was inserted into SB0188S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Luz EscamillaRepresentative Ryan D. Wilcox proposes the following substitute bill:

INMATE AMENDMENTS

2023 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: \(\) Melissa G. Ballard

LONG TITLE

General Description:

This bill amends and enacts provisions related to inmates in correctional facilities.

Highlighted Provisions:

This bill:

- defines terms;
- changes the words "inmate" and "prisoner" to "incarcerated individual" throughout
 the Utah Code;
- requires the Department of Health and Human Services to establish a pilot program for medical monitoring; and
 - requires the notification of an inmate's designated medical contact in certain circumstances \{\frac{1}{2}, \text{ and}\}.

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← makes technical and conforming changes.
†Money Appropriated in this Bill:
      None
Other Special Clauses:
     This bill provides revisor instructions.
                                                 None
Utah Code Sections Affected:
AMENDS:
     10-8-58.5, as last amended by Laws of Utah 2010, Chapter 378
      13-26-11, as last amended by Laws of Utah 2022, Chapter 324
      13-45-301, as enacted by Laws of Utah 2006, Chapter 344
      17-18a-506, as enacted by Laws of Utah 2021, Chapter 142
      17-22-2, as last amended by Laws of Utah 2022, Chapter 335
     17-22-2.5, as last amended by Laws of Utah 2018, Chapter 86
      17-22-3, as Utah Code Annotated 1953
     17-22-5, as last amended by Laws of Utah 2004, Chapter 301
     17-22-5.5, as last amended by Laws of Utah 2022, Chapter 115
      17-22-6, as last amended by Laws of Utah 2011, Chapter 297
     17-22-7, as last amended by Laws of Utah 1993, Chapter 227
      17-22-8, as last amended by Laws of Utah 2022, Chapter 123
      17-22-9, as Utah Code Annotated 1953
      17-22-19, as Utah Code Annotated 1953
      17-22-28, as enacted by Laws of Utah 1996, Chapter 94
      17-22-29, as enacted by Laws of Utah 1996, Chapter 237
      17-22-32, as last amended by Laws of Utah 2022, Chapter 187
      17-22-33, as enacted by Laws of Utah 2020, Chapter 65
      17-25-3, as renumbered and amended by Laws of Utah 2001, Chapter 46
      17-50-319, as last amended by Laws of Utah 2021, Chapter 260
      17-53-311, as last amended by Laws of Utah 2011, Chapter 297
      17D-1-201, as last amended by Laws of Utah 2021, Chapter 339
      26-18-3, as last amended by Laws of Utah 2021, Chapter 422
      26-18-421, as enacted by Laws of Utah 2020, Chapter 159
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26-40-105, as last amended by Laws of Utah 2019, Chapter 393
31A-35-701, as last amended by Laws of Utah 2016, Chapter 234
34-40-104, as last amended by Laws of Utah 2008, Chapter 382
35A-4-205, as last amended by Laws of Utah 2006, Chapter 22
39A-5-111, as renumbered and amended by Laws of Utah 2022, Chapter 373
39A-5-112, as renumbered and amended by Laws of Utah 2022, Chapter 373
51-7-4, as last amended by Laws of Utah 2020, Chapter 365
53-2a-602, as last amended by Laws of Utah 2016, Chapters 83, 134
53-10-404, as last amended by Laws of Utah 2021, Chapter 262
53-13-104, as last amended by Laws of Utah 2022, Chapter 10
53B-7-103, as last amended by Laws of Utah 2022, Chapter 421
58-37-8, as last amended by Laws of Utah 2022, Chapters 116, 415 and 430
59-12-402.1, as last amended by Laws of Utah 2017, Chapter 422
62A-2-120, as last amended by Laws of Utah 2022, Chapters 185, 335, 430, and 468
62A-15-103, as last amended by Laws of Utah 2022, Chapters 187, 255 and 415
62A-15-605.5, as renumbered and amended by Laws of Utah 2002, Fifth Special
    Session, Chapter 8
62A-15-902, as last amended by Laws of Utah 2011, Chapter 366
63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
    Coordination Clause, Laws of Utah 2022, Chapter 390
63A-17-301, as last amended by Laws of Utah 2022, Chapter 209
63A-17-307, as last amended by Laws of Utah 2022, Chapters 169, 209
63B-6-502, as last amended by Laws of Utah 2021, Chapter 280
63B-12-301, as enacted by Laws of Utah 2003, Chapter 302
63G-2-301, as last amended by Laws of Utah 2020, Chapters 255, 399
63G-3-201, as last amended by Laws of Utah 2020, Chapter 408
63G-4-102, as last amended by Laws of Utah 2022, Chapter 307
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415,
    and 451
63M-7-204, as last amended by Laws of Utah 2022, Chapter 187
63M-7-526, as enacted by Laws of Utah 2020, Chapter 230
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64-9b-1, as last amended by Laws of Utah 2011, Chapter 366
      64-9b-2, as last amended by Laws of Utah 1999, Chapter 21
      64-9b-3, as last amended by Laws of Utah 1997, Chapter 158
      64-9b-4, as last amended by Laws of Utah 1997, Chapter 158
      64-9b-5, as last amended by Laws of Utah 1997, Chapter 158
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       64-13-1, as last amended by Laws of Utah 2021, Chapters 85, 246 and 260
      64-13-14.5, as last amended by Laws of Utah 2015, Chapter 412
      64-13-15, as last amended by Laws of Utah 1991, Chapter 124
     64-13-16, as last amended by Laws of Utah 1997, Chapters 10, 375
     64-13-17, as last amended by Laws of Utah 2008, Chapter 382
      64-13-21, as last amended by Laws of Utah 2022, Chapter 187
      64-13-25, as last amended by Laws of Utah 2015, Chapter 412
      64-13-30, as last amended by Laws of Utah 2016, Chapter 243
      64-13-30.5, as enacted by Laws of Utah 2009, Chapter 258
      64-13-32, as last amended by Laws of Utah 1993, Chapter 49
      64-13-34, as last amended by Laws of Utah 1987, Chapter 116
      64-13-36, as last amended by Laws of Utah 1994, Chapters 12, 148
      64-13-38, as last amended by Laws of Utah 2012, Chapter 21
      64-13-39.5, as last amended by Laws of Utah 2009, Chapter 355
      64-13-40, as enacted by Laws of Utah 1996, Chapter 88
      64-13-42, as last amended by Laws of Utah 2018, Chapter 415
      64-13-43, as enacted by Laws of Utah 2008, Chapter 368
      64-13-44, as enacted by Laws of Utah 2013, Chapter 256
      64-13-45, as last amended by Laws of Utah 2019, Chapters 311, 385
      64-13-46, as enacted by Laws of Utah 2019, Chapter 385
      64-13-47, as enacted by Laws of Utah 2021, Chapter 44
      64-13-48, as enacted by Laws of Utah 2022, Chapter 144
      64-13d-103, as enacted by Laws of Utah 1999, Chapter 288
      64-13d-104, as enacted by Laws of Utah 1999, Chapter 288
      64-13d-105, as enacted by Laws of Utah 1999, Chapter 288
      64-13d-106, as enacted by Laws of Utah 1999, Chapter 288
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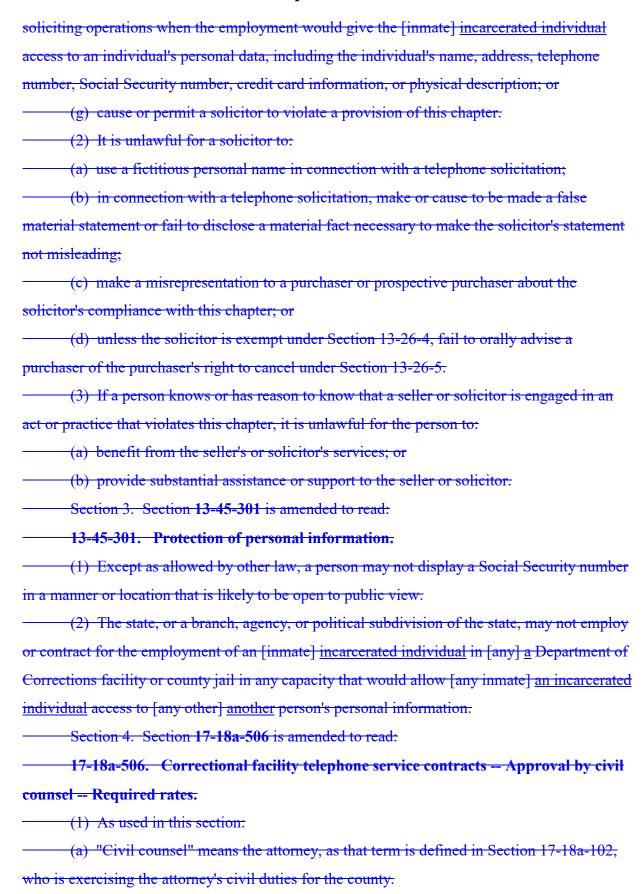
64-13d-107, as enacted by Laws of Utah 1999, Chapter 288
64-13e-102, as last amended by Laws of Utah 2022, Chapter 370
64-13e-103, as last amended by Laws of Utah 2022, Chapter 187
64-13e-103.2, as enacted by Laws of Utah 2021, Chapter 366
64-13e-104, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
64-13e-105, as last amended by Laws of Utah 2021, Chapters 366, 382
64-13g-101, as enacted by Laws of Utah 2022, Chapter 393
76-3-201, as repealed and reenacted by Laws of Utah 2021, Chapter 260 and last
amended by Coordination Clause, Laws of Utah 2021, Chapter 261
76-3-202, as last amended by Laws of Utah 2022, Chapter 181
76-3-203.5, as last amended by Laws of Utah 2022, Chapters 181, 185 and 418
76-3-203.6, as last amended by Laws of Utah 2022, Chapter 181
76-3-403, as last amended by Laws of Utah 1998, Chapter 91
76-3-403.5, as last amended by Laws of Utah 2007, Chapter 148
76-5-101, as last amended by Laws of Utah 2022, Chapter 181
76-5-102.5, as last amended by Laws of Utah 2022, Chapter 181
76-5-102.6, as last amended by Laws of Utah 2022, Chapter 181
76-5-102.7, as last amended by Laws of Utah 2022, Chapters 117, 181
76-5-103.5, as last amended by Laws of Utah 2022, Chapter 181
76-5-412, as last amended by Laws of Utah 2022, Chapter 181
76-8-309, as last amended by Laws of Utah 2022, Chapter 181
76-8-311.3, as last amended by Laws of Utah 2020, Chapters 302, 347
76-8-318, as last amended by Laws of Utah 2022, Chapters 181, 335
77-16b-102, as last amended by Laws of Utah 2021, Chapter 262
77-16b-103, as enacted by Laws of Utah 2012, Chapter 355
77-16b-104, as enacted by Laws of Utah 2012, Chapter 355
77-18-112, as renumbered and amended by Laws of Utah 2021, Chapter 260
77-18a-1, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4
77-19-3, as last amended by Laws of Utah 2007, Chapter 148
77-19-4, as last amended by Laws of Utah 2007, Chapters 148, 306
77-19-5, as enacted by Laws of Utah 1980, Chapter 15

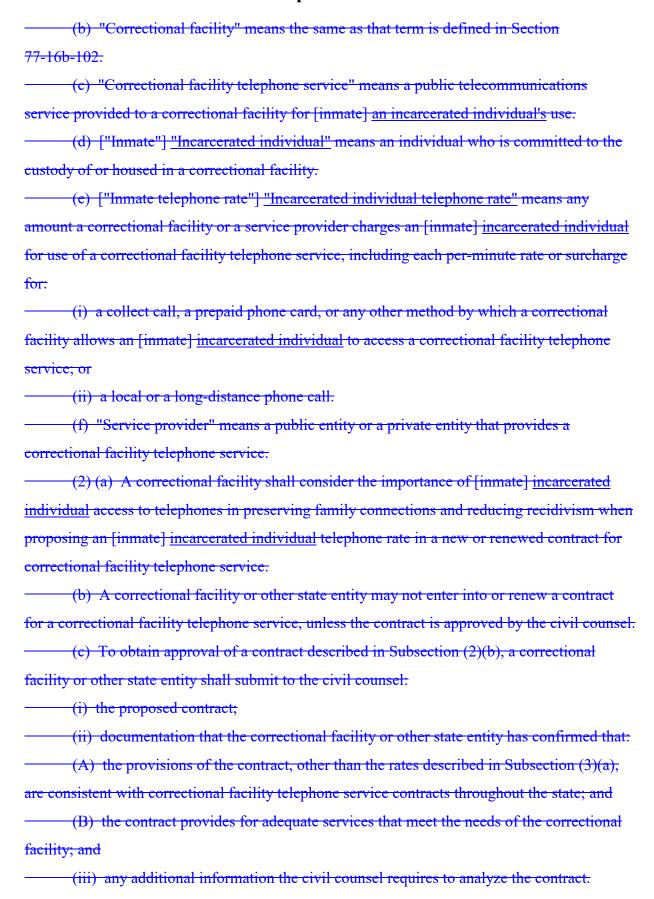
77-19-201, as last amended by Laws of Utah 2005, Chapter 71
77-19-202, as last amended by Laws of Utah 2008, Chapter 382
77-19-203, as enacted by Laws of Utah 2004, Chapter 137
77-19-204, as enacted by Laws of Utah 2004, Chapter 137
77-19-205, as enacted by Laws of Utah 2004, Chapter 137
77-19-206, as enacted by Laws of Utah 2004, Chapter 137
77-23-301, as enacted by Laws of Utah 2008, Chapter 357
77-27-1, as last amended by Laws of Utah 2021, Chapters 21, 260
77-27-1.5, as enacted by Laws of Utah 2010, Chapter 110
77-27-5.3, as last amended by Laws of Utah 2011, Chapter 366
77-27-8, as last amended by Laws of Utah 2010, Chapter 110
77-27-9, as last amended by Laws of Utah 2022, Chapter 430
77-27-10, as last amended by Laws of Utah 2022, Chapter 430
77-28b-5, as enacted by Laws of Utah 1990, Chapter 324
77-28b-6, as enacted by Laws of Utah 1990, Chapter 324
77-28b-7, as enacted by Laws of Utah 1990, Chapter 324
77-28b-8, as enacted by Laws of Utah 1990, Chapter 324
77-28b-9, as enacted by Laws of Utah 1990, Chapter 324
77-30-10, as enacted by Laws of Utah 1980, Chapter 15
77-30-12, as enacted by Laws of Utah 1980, Chapter 15
77-30-18, as last amended by Laws of Utah 2018, Chapter 281
77-33-2, as enacted by Laws of Utah 1980, Chapter 15
77-33-6, as enacted by Laws of Utah 1980, Chapter 15
77-38-2, as last amended by Laws of Utah 1997, Chapter 103
77-38-4, as last amended by Laws of Utah 2011, Chapter 28
78A-2-302, as last amended by Laws of Utah 2022, Chapter 272
78A-2-305, as last amended by Laws of Utah 2022, Chapter 272
78B-2-302, as last amended by Laws of Utah 2017, Chapter 204
78B-6-603, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-8-401, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16
78B-8-402, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16

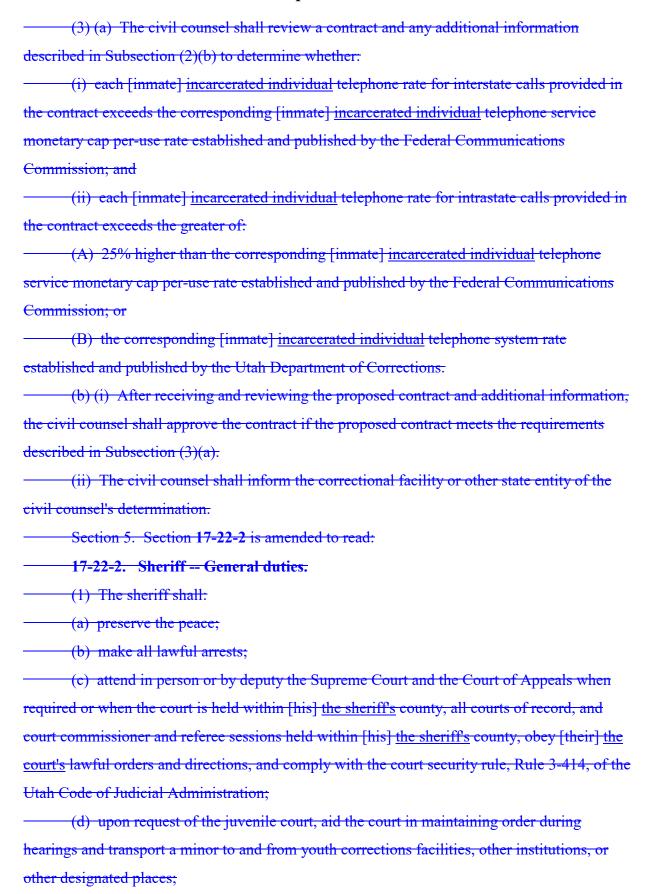
- 78B-22-404, as last amended by Laws of Utah 2022, Chapter 451
 78B-22-452, as last amended by Laws of Utah 2021, Chapter 228
 78B-22-454, as last amended by Laws of Utah 2022, Chapter 451
 78B-22-455, as last amended by Laws of Utah 2022, Chapter 451
 78B-22-701, as last amended by Laws of Utah 2022, Chapter 281, 451
 80-6-204, as renumbered and amended by Laws of Utah 2021, Chapter 261
 †ENACTS:
 26B-4-301, Utah Code Annotated 1953
 64-13-49, Utah Code Annotated 1953
 {REPEALS:
 77-16b-101, as enacted by Laws of Utah 2012, Chapter 355
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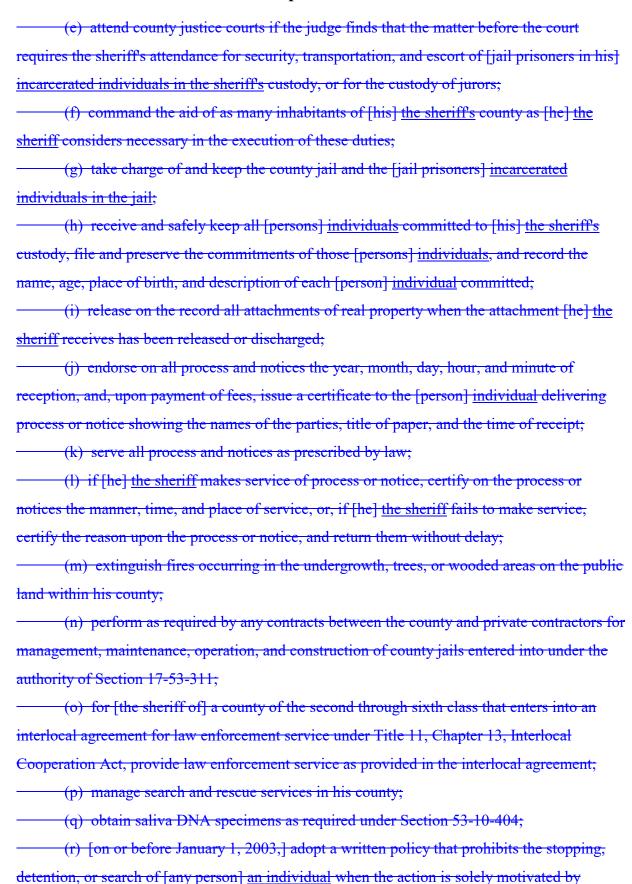
 Be it enacted by the Legislature of the state of Utah:
 Section 1. {Section 10-8-58.5 is amended to read:
 10-8-58.5. Contracting for management, maintenance, operation, or construction of jails.
- (1) (a) The governing body of a city or town may contract with private contractors for management, maintenance, operation, and construction of city jails.
- (b) The governing body may include a provision in the contract that requires that any jail facility meet any federal, state, or local standards for the construction of jails.
- (2) If the governing body contracts only for the management, maintenance, or operation of a jail, the governing body shall include provisions in the contract that:
- (a) require the private contractor to post a performance bond in the amount set by the governing body;
 - (b) establish training standards that shall be met by jail personnel;
- (c) require the private contractor to provide and fund training for jail personnel so that the personnel meet the standards established in the contract and any other federal, state, or local standards for the operation of jails and the treatment of [jail prisoners] an incarcerated individual;
- (d) require the private contractor to indemnify the city or town for errors, omissions, defalcations, and other activities committed by the private contractor that result in liability to

the city or town; (e) require the private contractor to show evidence of liability insurance protecting the city or town and its officers, employees, and agents from liability arising from the construction, operation, or maintenance of the jail, in an amount not less than those specified in Title 63G, Chapter 7, Governmental Immunity Act of Utah; (f) require the private contractor to: (i) receive all [prisoners] incarcerated individuals committed to the jail by competent authority; and (ii) provide them with necessary food, clothing, and bedding in the manner prescribed by the governing body; and (g) prohibit the use of [inmates] incarcerated individuals by the private contractor for private business purposes of any kind. (3) A contractual provision requiring the private contractor to maintain liability insurance in an amount not less than the liability limits established by Title 63G, Chapter 7, Governmental Immunity Act of Utah, may not be construed as waiving the limitation on damages recoverable from a governmental entity or its employees established by that chapter. Section 2. Section 13-26-11 is amended to read: 13-26-11. Prohibited practices. (1) It is unlawful for a seller to: (a) solicit a prospective purchaser if the seller is not registered with the division or exempt from registration under this chapter; (b) in connection with a telephone solicitation or a filing with the division, make or cause to be made a false material statement or fail to disclose a material fact necessary to make the seller's statement not misleading; (c) make or authorize the making of a misrepresentation to a purchaser or prospective purchaser about the seller's compliance with this chapter; (d) fail to refund within 30 days any amount due a purchaser who exercises the right to cancel under Section 13-26-5; (e) unless the seller is exempt under Section 13-26-4, fail to orally advise a purchaser of the purchaser's right to cancel under Section 13-26-5; (f) employ an [inmate] incarcerated individual in a correctional facility for telephone

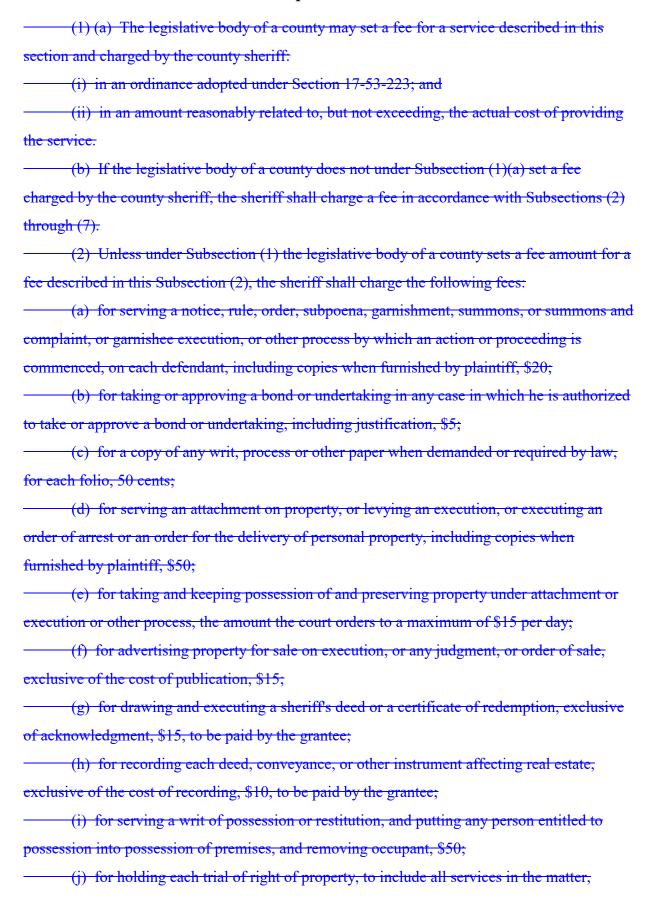


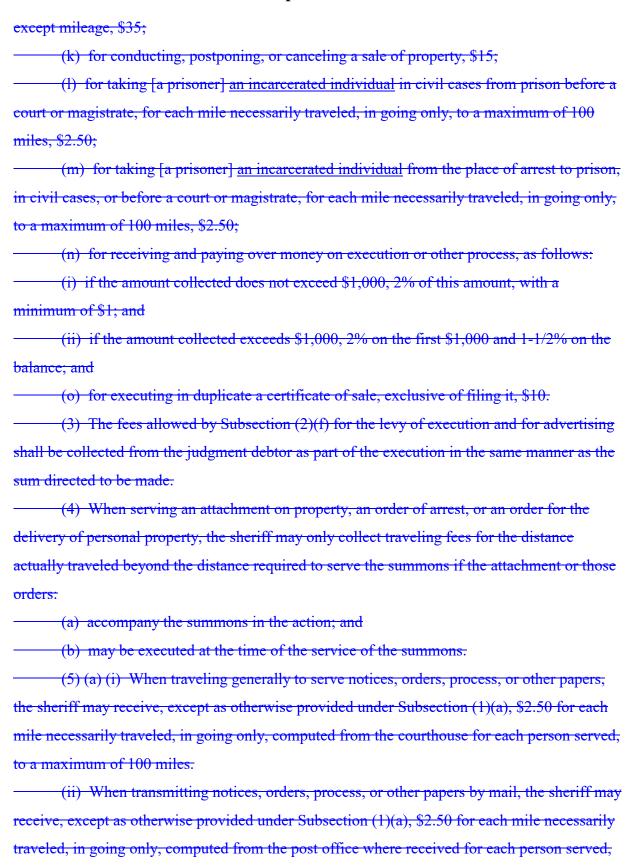






considerations of race, color, ethnicity, age, or gender; (s) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 80-1-102; and (t) perform any other duties that are required by law. (2) (a) Violation of Subsection (1)(j) is a class C misdemeanor. (b) Violation of any other subsection under Subsection (1) is a class A misdemeanor. (3) (a) As used in this Subsection (3): (i) "Police interlocal entity" has the same meaning as defined in Sections 17-30-3 and 17-30a-102. (ii) "Police local district" has the same meaning as defined in Section 17-30-3. (b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within [its] the county boundary a police local district or police interlocal entity, or both: (i) serves as the chief executive officer of each police local district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police local district or police interlocal entity, respectively; and (ii) is subject to the direction of the police local district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police local district or police interlocal entity, respectively, and the sheriff. (c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police interlocal entity or police local district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff: (i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and (ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement. Section 6. Section 17-22-2.5 is amended to read: 17-22-2.5. Fees of sheriff.

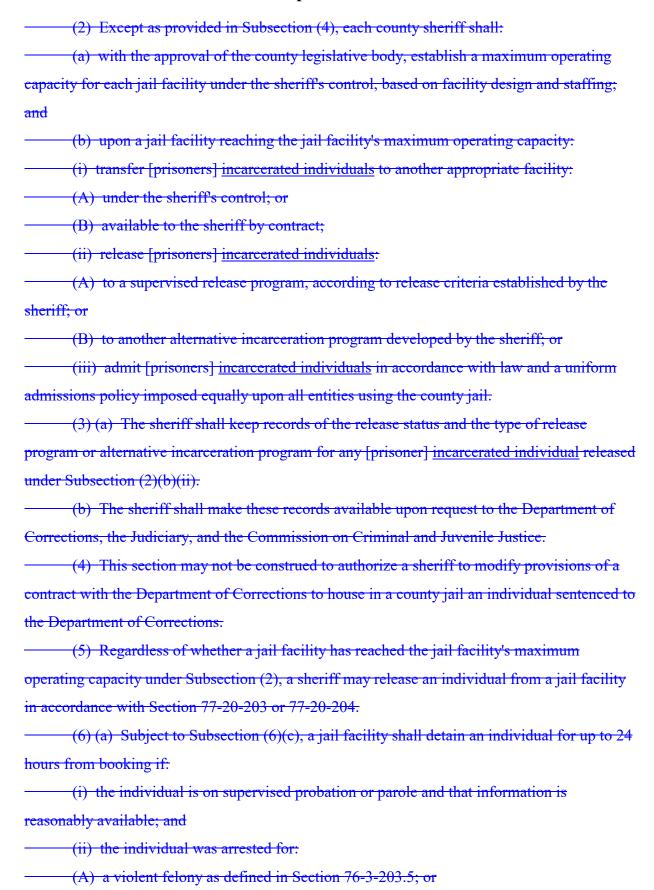


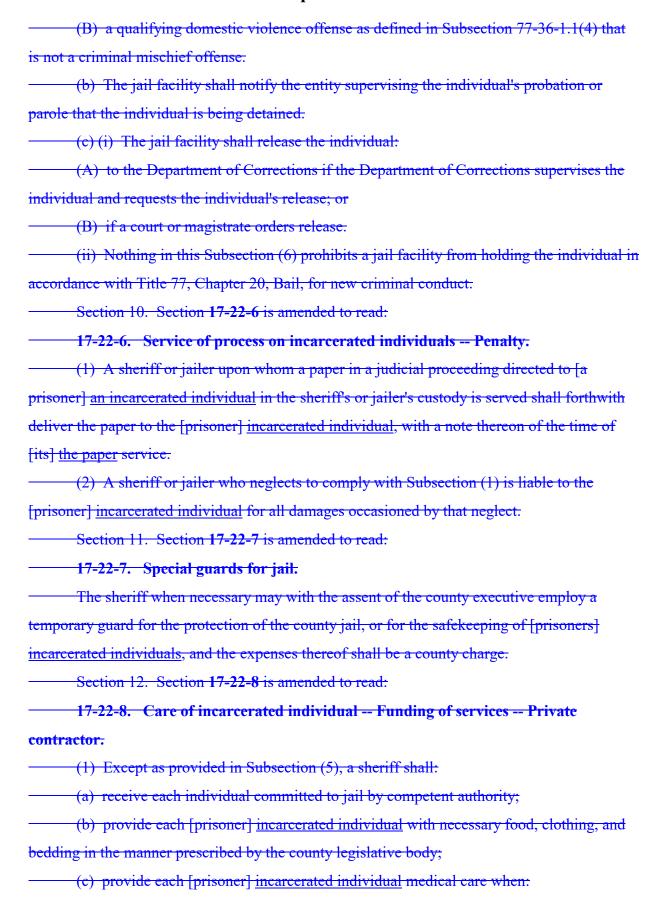


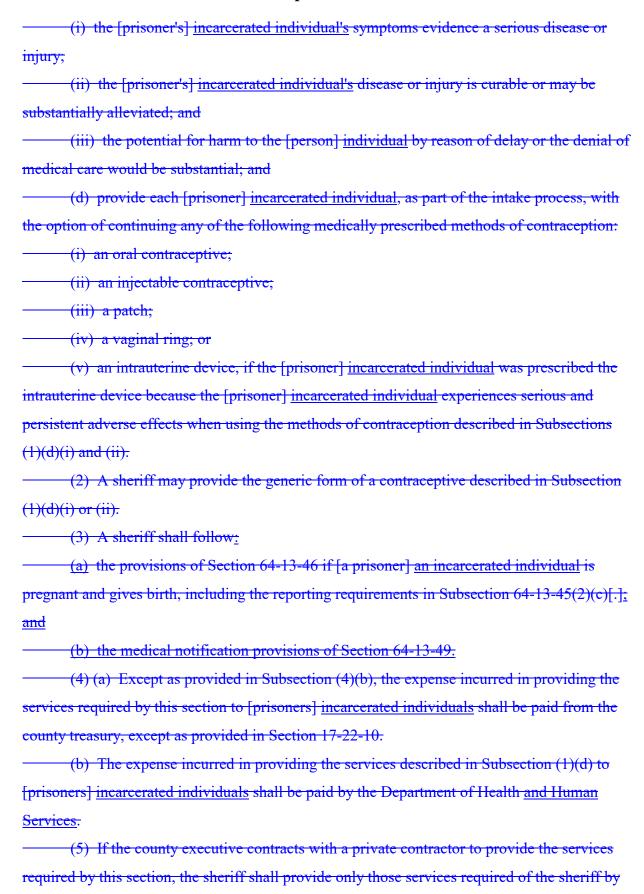
to a maximum of 100 miles.

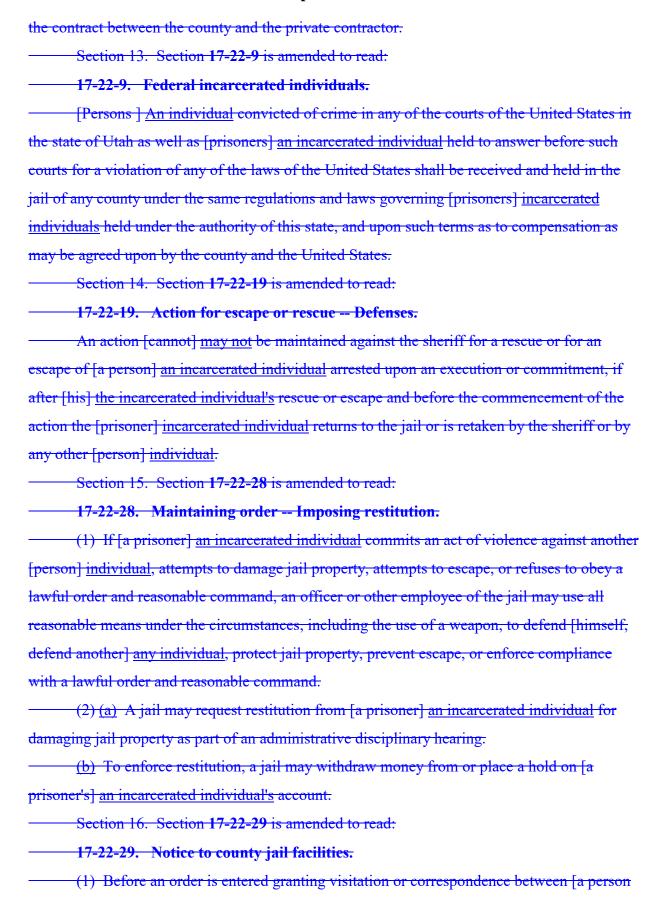
(b) The sheriff may only charge one mileage fee if any two or more papers are required to be served in the same action or proceeding at the same time and at the same address. (c) If it is necessary to make more than one trip to serve any notice, order, process, or other paper, the sheriff may not collect more than two additional mileage charges. (6) (a) For transporting a patient to the Utah State Hospital or to or from a hospital or a mental health facility, as defined in Section 62A-15-602, when the cost of transportation is payable by private individuals, the sheriff may collect, except as otherwise provided under Subsection (1)(a), \$2.50 for each mile necessarily traveled, in going only, to a maximum of 100 miles. (b) If the sheriff requires assistance to transport the person, the sheriff may also charge the actual and necessary cost of that assistance. (7) (a) Subject to Subsection (7)(b), for obtaining a saliva DNA specimen under Section 53-10-404, the sheriff shall collect the fee of \$150 in accordance with Section 53-10-404. (b) The fee amount described in Subsection (7)(a) may not be changed by a county legislative body under Subsection (1). Section 7. Section 17-22-3 is amended to read: 17-22-3. Transfer of incarcerated individuals to state prison. The sheriff of the county in which [a criminal] an individual is sentenced to confinement in the state prison, or is sentenced to death, shall cause [such convict] the incarcerated individual to be removed from the county jail within five days after the sentence and conveyed to the state prison and delivered to the warden thereof. Section 8. Section 17-22-5 is amended to read: 17-22-5. Sheriff's classification of jail incarcerated individuals -- Classification criteria -- Alternative incarceration programs -- Limitation. (1) (a) Except as provided in Subsection (4), the sheriff shall adopt and implement written policies for admission of [prisoners] incarcerated individuals to the county jail and the classification of [persons] individuals incarcerated in the jail which shall provide for the separation of [prisoners] incarcerated individuals by gender and by such other factors as may reasonably provide for the safety and well-being of [inmates] incarcerated individuals and the community.



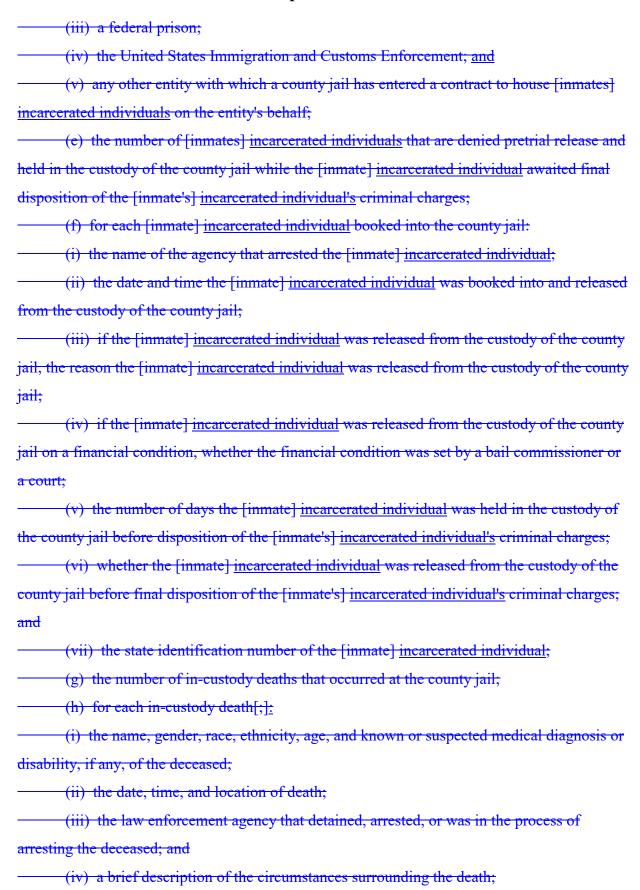


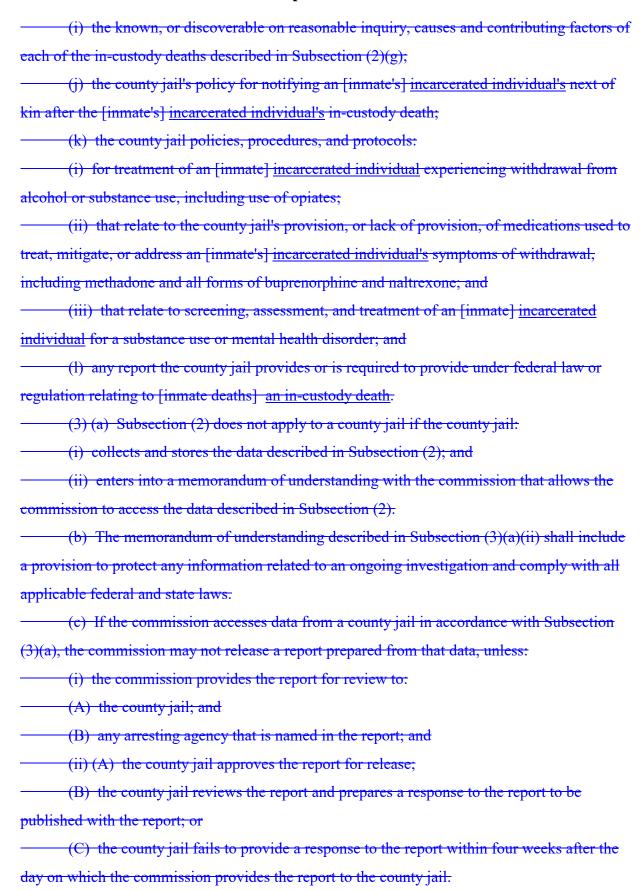


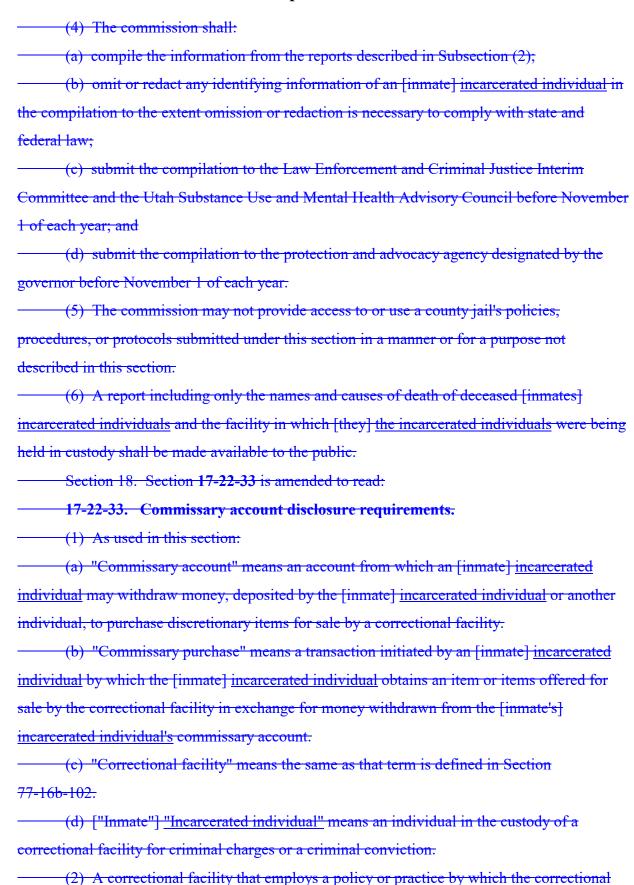




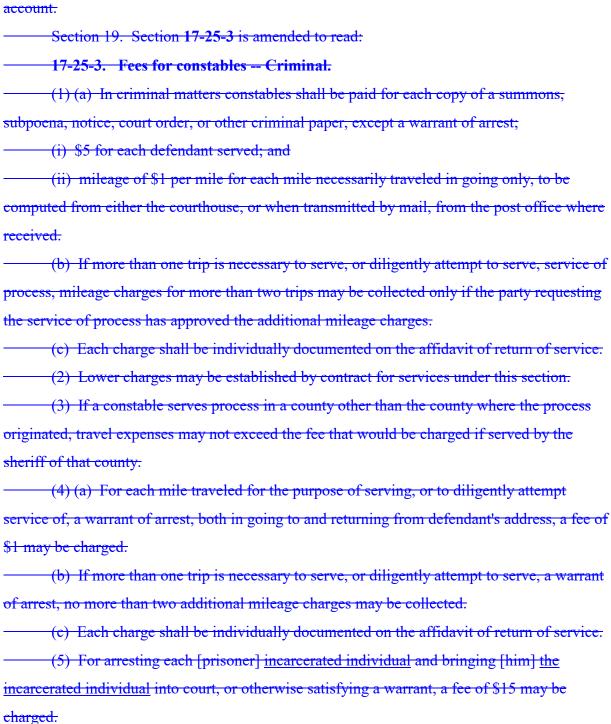
and a prisoner] an individual and an incarcerated individual, the moving party shall provide
notice to the facility administrator.
(2) The court shall:
(a) provide an opportunity to the facility representative to respond before the order is
granted; and
(b) consider facility policy.
Section 17. Section 17-22-32 is amended to read:
17-22-32. County jail reporting requirements.
(1) As used in this section:
(a) "Commission" means the State Commission on Criminal and Juvenile Justice
created in Section 63M-7-201.
(b) (i) "In-custody death" means [an inmate] the death of an incarcerated individual
that occurs while the [inmate] incarcerated individual is in the custody of a county jail.
(ii) "In-custody death" includes [an inmate] the death of an incarcerated individual that
occurs while the [inmate] incarcerated individual is:
(A) being transported for medical care; or
(B) receiving medical care outside of a county jail.
(c) ["Inmate"] "Incarcerated individual" means an individual who is processed or
booked into custody or housed in a county jail in the state.
(d) "Opiate" means the same as that term is defined in Section 58-37-2.
(2) Each county jail shall submit a report to the commission before June 15 of each
year that includes, for the preceding calendar year:
(a) the average daily [inmate] incarcerated individual population each month;
(b) the number of [inmates] incarcerated individuals in the county jail on the last day
each month who identify as each race or ethnicity included in the Standards for Transmitting
Race and Ethnicity published by the Untied States Federal Bureau of Investigation;
(c) the number of [inmates] incarcerated individuals booked into the county jail;
(d) the number of [inmates] incarcerated individuals held in the county jail each mont
on behalf of each of the following entities:
(i) the Bureau of Indian Affairs;
(ii) a state prison;

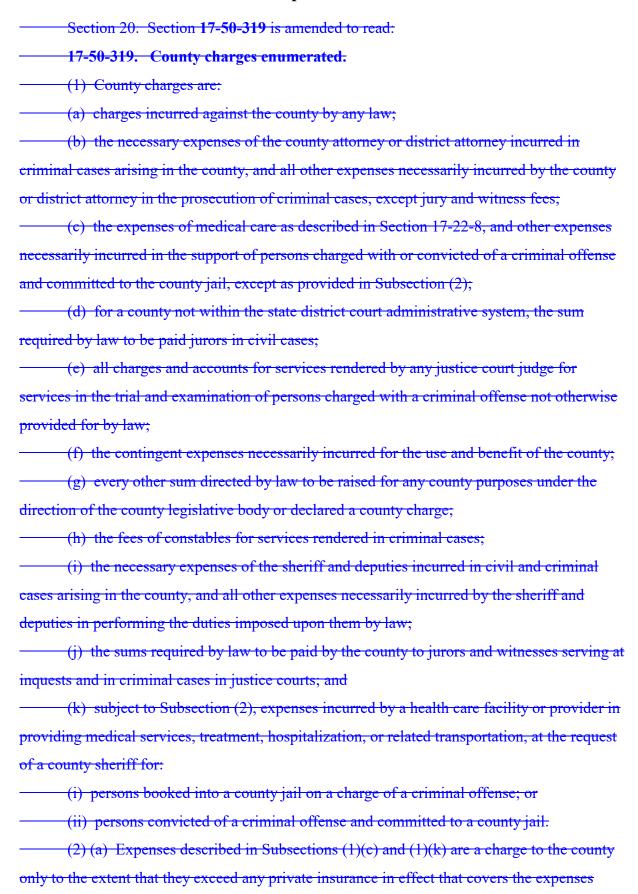






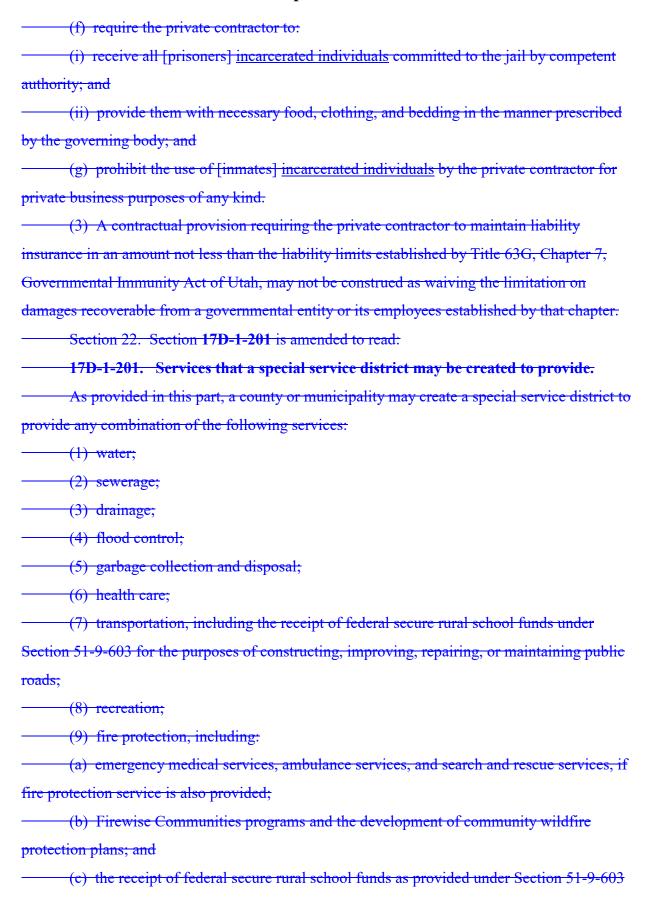
facility withdraws money from an [inmate's] <u>incarcerated individual's</u> commissary account, for any purpose other than a commissary purchase, must disclose that policy or practice to the [inmate] <u>incarcerated individual</u> or any other individual seeking to make a deposit of money into the [inmate's] <u>incarcerated individual's</u> commissary account before the correctional facility may accept and deposit the money into the [inmate's] <u>incarcerated individual's</u> commissary



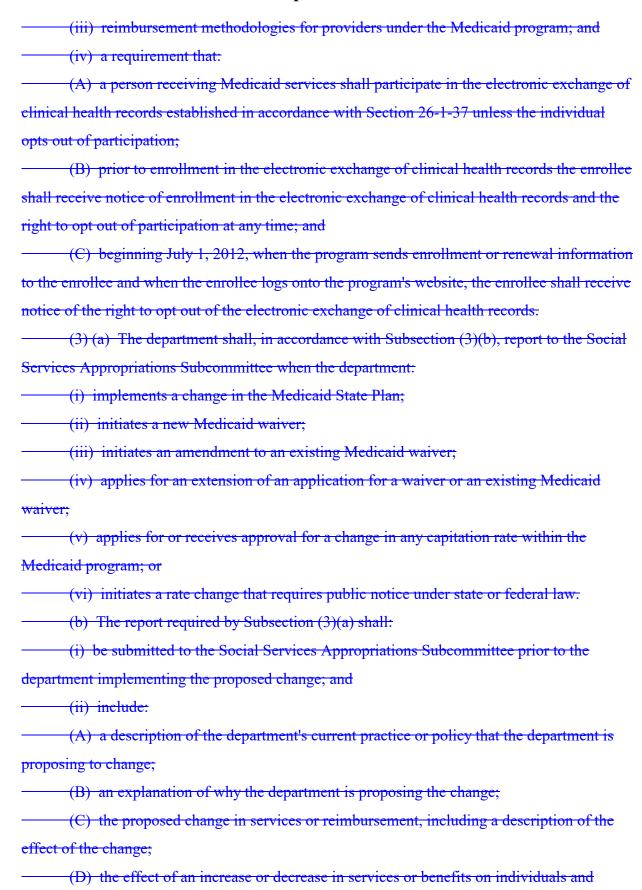


described in Subsections (1)(c) and (1)(k). (b) The county may collect costs of medical care, treatment, hospitalization, and related transportation provided to the person described in Subsection (1)(k) who has the resources or the ability to pay, subject to the following priorities for payment: (i) first priority shall be given to restitution; and (ii) second priority shall be given to family support obligations. (c) A county may seek reimbursement from a person described in Subsection (1)(k) for expenses incurred by the county in behalf of the [inmate] incarcerated individual for medical care, treatment, hospitalization, or related transportation by: (i) deducting the cost from the [inmate's] incarcerated individual's cash account on deposit with the detention facility during the [inmate's] incarcerated individual's incarceration or during a subsequent incarceration if the subsequent incarceration occurs within the same county and the incarceration is within 10 years of the date of the expense in behalf of the **finmatel** incarcerated individual; (ii) placing a lien for the amount of the expense against the [inmate's] incarcerated individual's personal property held by the jail; and (iii) adding the amount of expenses incurred to any other amount owed by the [inmate] incarcerated individual to the jail upon the [inmate's] incarcerated individual's release in accordance with Subsection 76-3-201(4)(d). (d) An [inmate] incarcerated individual who receives medical care, treatment, hospitalization, or related transportation shall cooperate with the jail facility seeking payment or reimbursement under this section for the [inmate's] incarcerated individual's expenses. (e) If there is no contract between a county jail and a health care facility or provider that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k) shall be commensurate with: (i) for a health care facility, the current noncapitated state Medicaid rates; and (ii) for a health care provider, 65% of the amount that would be paid to the health care provider: (A) under the Public Employees' Benefit and Insurance Program, created in Section 49-20-103; and (B) if the person receiving the medical service were a covered employee under the

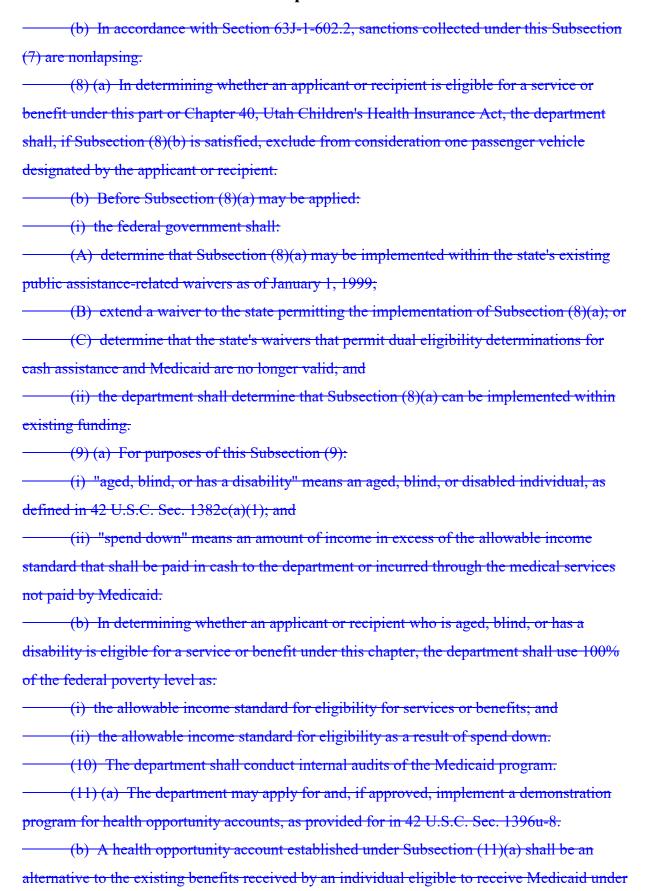
Public Employees' Benefit and Insurance Program. (f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the request of an agency of the United States. (g) A county that receives information from the Public Employees' Benefit and Insurance Program to enable the county to calculate the amount to be paid to a health care provider under Subsection (2)(e)(ii) shall keep that information confidential. Section 21. Section 17-53-311 is amended to read: 17-53-311. Contracting for management, maintenance, operation, or construction of jails. (1) (a) With the approval of the sheriff, a county executive may contract with private contractors for management, maintenance, operation, and construction of county jails. (b) A county executive may include a provision in the contract that allows use of a building authority created under the provisions of Title 17D, Chapter 2, Local Building Authority Act, to construct or acquire a jail facility. (c) A county executive may include a provision in the contract that requires that any jail facility meet any federal, state, or local standards for the construction of jails. (2) If a county executive contracts only for the management, maintenance, or operation of a jail, the county executive shall include provisions in the contract that: (a) require the private contractor to post a performance bond in the amount set by the county legislative body; (b) establish training standards that shall be met by jail personnel; (c) require the private contractor to provide and fund training for jail personnel so that the personnel meet the standards established in the contract and any other federal, state, or local standards for the operation of jails and the treatment of [jail prisoners] incarcerated individuals; (d) require the private contractor to indemnify the county for errors, omissions, defalcations, and other activities committed by the private contractor that result in liability to the county; (e) require the private contractor to show evidence of liability insurance protecting the county and its officers, employees, and agents from liability arising from the construction, operation, or maintenance of the jail, in an amount not less than those specified in Title 63G, Chapter 7, Governmental Immunity Act of Utah;

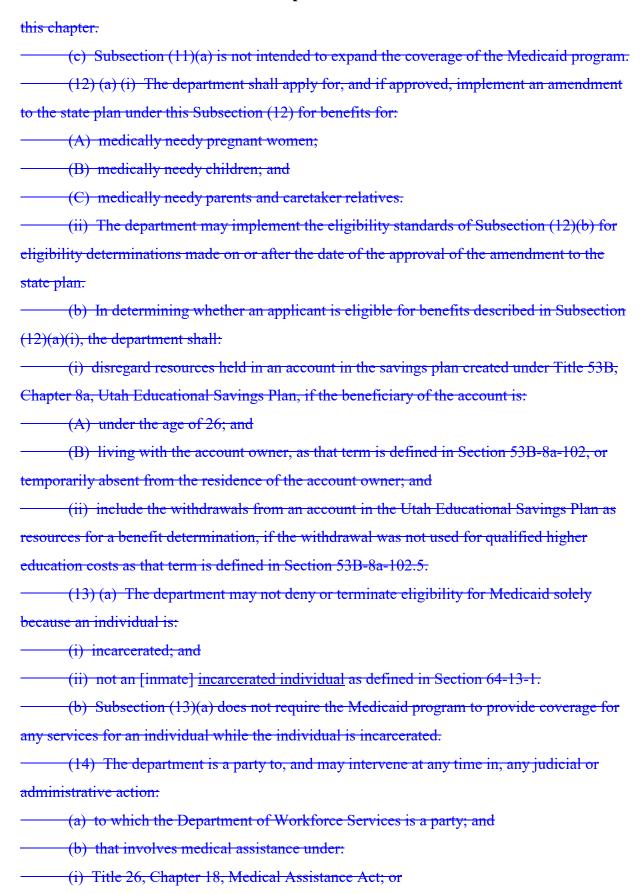


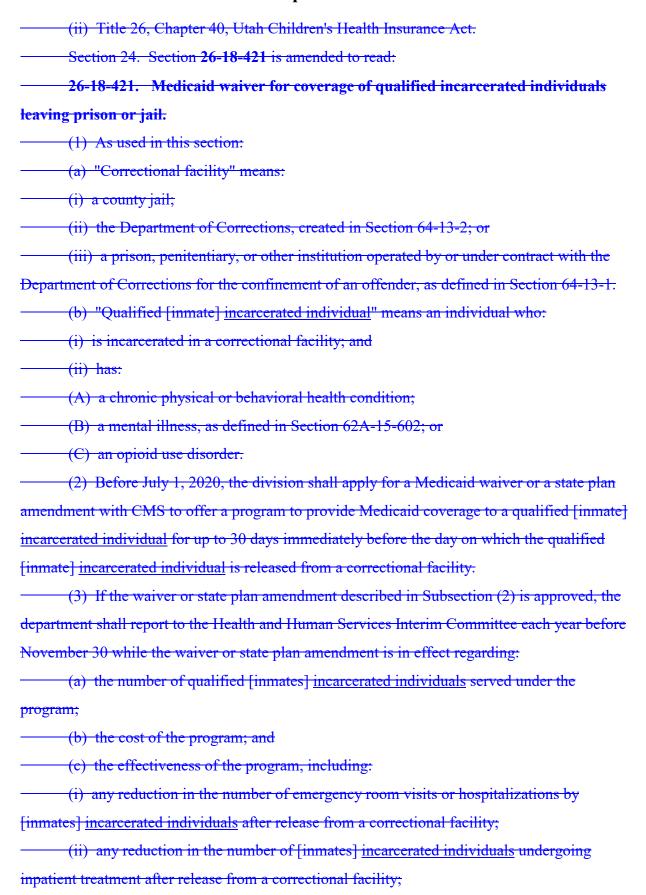
for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9); (10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and [prisoners] incarcerated individuals; (11) street lighting; (12) consolidated 911 and emergency dispatch; (13) animal shelter and control; (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to be used in accordance with state and federal law; (15) in a county of the first class, extended police protection; (16) control or abatement of earth movement or a landslide; (17) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or (18) cemetery. Section 23. Section 26-18-3 is amended to read: 26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts. (1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act. (2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations. (b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program: (i) the standards used by the department for determining eligibility for Medicaid services; (ii) the services and benefits to be covered by the Medicaid program;



families; (E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and (F) the fiscal impact of the proposed change, including: (I) the effect of the proposed change on current or future appropriations from the Legislature to the department; (II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program; (III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and (IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget. (4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502. (5) The department may, in its discretion, contract with the Department of Health and Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including: (a) the determination of the eligibility of individuals for the program; (b) recovery of overpayments; and (c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws. (6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond: (a) termination from the program; (b) recovery of claim reimbursements incorrectly paid; and (c) those specified in Section 1919 of Title XIX of the federal Social Security Act. (7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.









- (i) document the reason for the delay in the applicant's case record; and
 - (ii) inform the applicant of the status of the application and time frame for completion.
- (4) The department may not close enrollment in the program for a child who is eligible to enroll in the program under the provisions of Subsection (1).
 - (5) The program shall:
- (a) apply for grants to make technology system improvements necessary to implement a simplified enrollment and renewal process in accordance with Subsection (5)(b); and
 - (b) if funding is available, implement a simplified enrollment and renewal process.
- Section 26. Section 26B-4-301 is enacted to read:

<u>26B-4-301.</u> Medical care for {incarcerated individuals} inmates -- Reporting of statistics.

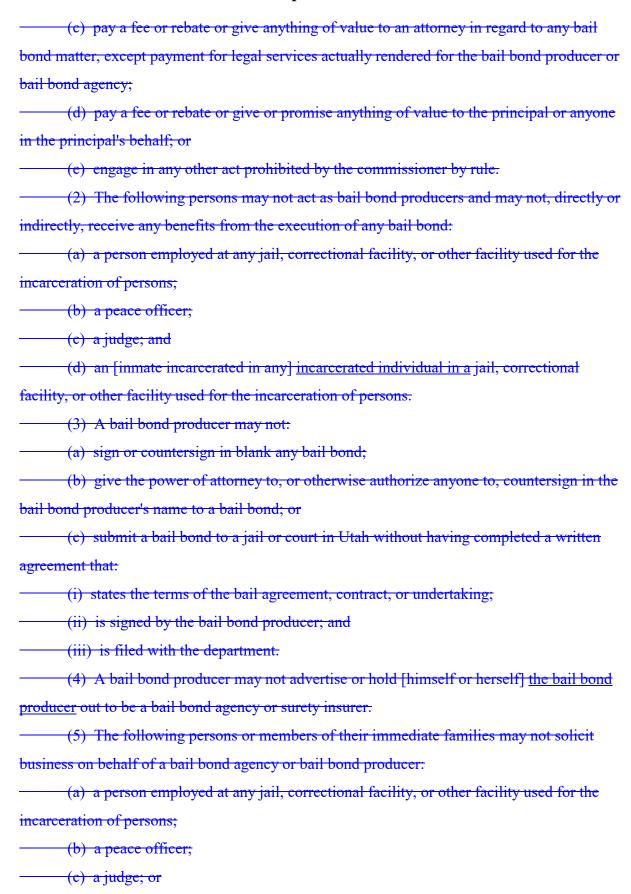
As used in this section:

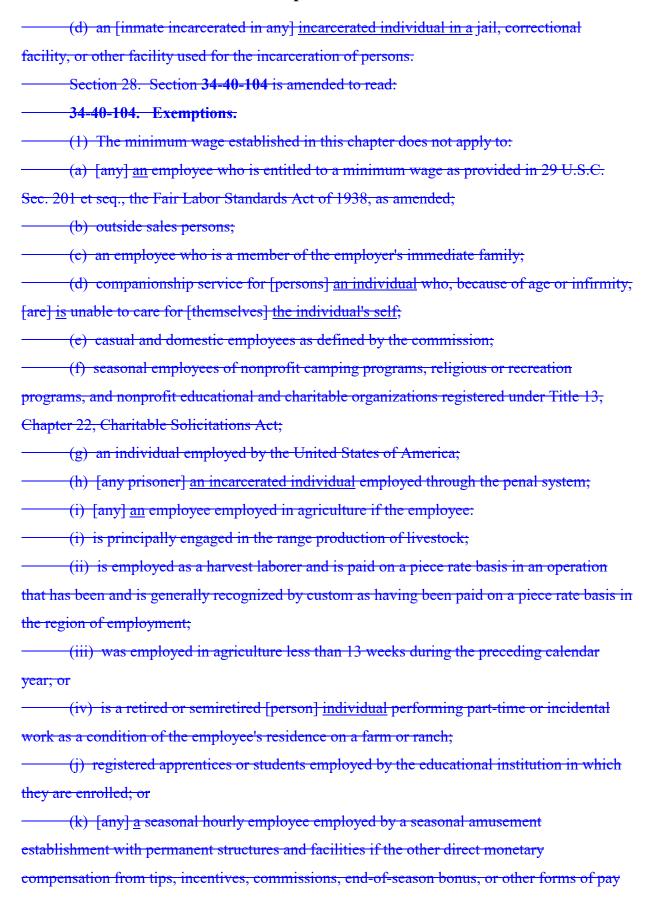
- (1) "Correctional facility" means a facility operated to house \{\frac{\text{incarcerated}}{\text{individuals}\}\)inmates in a secure or nonsecure setting:
 - (a) by the Department of Corrections; or
 - (b) under a contract with the Department of Corrections.
 - (2) "Health care facility" means the same as that term is defined in Section 26-21-2.
 - (3) "{Incarcerated individual}Inmate" means an individual who is:
 - (a) committed to the custody of the Department of Corrections; and
- (b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.
- (4) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.
 - (5) "Terminally ill" means the same as that term is defined in Section 31A-36-102.
 - (6) The department shall:
- (a) for each health care facility owned or operated by the Department of Corrections, assist the Department of Corrections in complying with Section 64-13-39;
- (b) create policies and procedures for providing services to {incarcerated individuals} inmates; and

- (c) in coordination with the Department of Corrections, develop standard population indicators and performance measures relating to the health of {incarcerated individuals} inmates.
 - (7) Beginning July 1, 2023, and ending June 30, 2024, the department shall:
- (a) evaluate and study the use of medical monitoring technology and create a plan for a pilot program that identifies:
- (i) the types of medical monitoring technology that will be used during the pilot program; and
 - (ii) eligibility for participation in the pilot program; and
- (b) make the indicators and performance measures described in Subsection (6)(c) available to the public through the Department of Corrections and the department websites.
- (8) Beginning July 1, 2024, and ending June 30, 2029, the department shall implement the pilot program.
- (9) The department shall submit to the Health and Human Services Interim Committee and the Law Enforcement and Criminal Justice Interim Committee:
- (a) a report on or before October 1 of each year regarding the costs and benefits of the pilot program;
- (b) a report that summarizes the indicators and performance measures described in Subsection (6)(c) on or before October 1, 2024; and
- (c) an updated report before October 1 of each year that compares the indicators and population measures of the most recent year to the initial report described in Subsection (9)(b).

Section $\frac{(27)}{2}$. Section $\frac{(31A-35-70)}{64-13-1}$ is amended to read:

- 31A-35-701. Prohibited acts.
- (1) A bail bond producer or bail bond agency may not:
- (a) solicit business in or about:
- (i) any place where persons in the custody of the state or any local law enforcement or correctional agency are confined; or
- (ii) any court;
- (b) pay a fee or rebate or give or promise anything of value to any person in order to secure a settlement, compromise, remission, or reduction of the amount of any undertaking or bail bond;





is sufficient to cause the average hourly rate of total compensation for the season of seasonal hourly employees who continue to work to the end of the operating season to equal the applicable minimum wage if the seasonal amusement establishment: (i) does not operate for more than seven months in any calendar year; or (ii) during the preceding calendar year its average receipts for any six months of that year were not more than 33-1/3% of its average receipts for the other six months of that year. (2) (a) Persons with a disability whose earnings or productive capacities are impaired by age, physical or mental deficiencies, or injury may be employed at wages that are lower than the minimum wage, provided the wage is related to the employee's productivity. (b) The commission may establish and regulate the wages paid or wage scales for persons with a disability. (3) The commission may establish or may set a lesser minimum wage for learners not to exceed the first 160 hours of employment. (4) (a) An employer of a tipped employee shall pay the tipped employee at least the minimum wage established by this chapter. (b) In computing a tipped employee's wage under this Subsection (4), an employer of a tipped employee: (i) shall pay the tipped employee at least the cash wage obligation as an hourly wage; and (ii) may compute the remainder of the tipped employee's wage using the tips or gratuities the tipped employee actually receives. (c) An employee shall retain all tips and gratuities except to the extent that the employee participates in a bona fide tip pooling or sharing arrangement with other tipped employees. (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule establish the cash wage obligation in conjunction with its review of the minimum wage under Section 34-40-103. Section 29. Section 35A-4-205 is amended to read: 35A-4-205. Exempt employment. (1) If the services are also exempted under the Federal Unemployment Tax Act, as amended, employment does not include:

(a) service performed in the employ of the United States Government or an instrumentality of the United States immune under the United States Constitution from the contributions imposed by this chapter, except that, to the extent that the Congress of the United States shall permit, this chapter shall apply to those instrumentalities and to services performed for the instrumentalities to the same extent as to all other employers, employing units, individuals and services; provided, that if this state is not certified for any year by the Secretary of Labor under Section 3304 of the Federal Internal Revenue Code of 1954, 26 U.S.C. 3304, the payments required of the instrumentalities with respect to that year shall be refunded by the division from the fund in the same manner and within the same period as is provided in Subsection 35A-4-306(5) with respect to contributions erroneously collected; (b) service performed by an individual as an employee or employee representative as defined in Section 1 of the Railroad Unemployment Insurance Act, 45 U.S.C., Sec. 351; (c) agricultural labor as defined in Section 35A-4-206; (d) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in Subsection 35A-4-204(2)(k): (e) (i) service performed in the employ of a school, college, or university, if the service is performed: (A) by a student who is enrolled and is regularly attending classes at that school, college, or university; or (B) by the spouse of the student, if the spouse is advised, at the time the spouse commences to perform that service, that the employment of that spouse to perform that service is provided under a program to provide financial assistance to the student by the school, college, or university, and that the employment will not be covered by any program of unemployment insurance; (ii) service performed by an individual who is enrolled at a nonprofit or public educational institution, that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at the institution, that combines academic instruction with work experience, if the service is an integral part of

the program and the institution has so certified to the employer, but this Subsection (1) does

not apply to service performed in a program established for or on behalf of an employer or

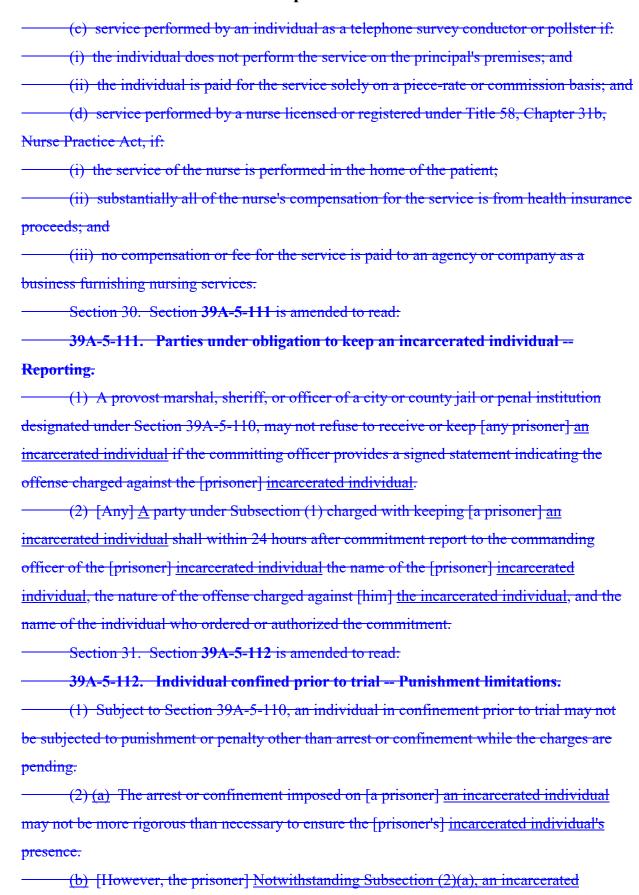
group of employers;
(iii) service performed in the employ of a hospital, if the service is performed by a
patient of the hospital; or
(iv) service performed as a student nurse in the employ of a hospital or a nurses'
training school by an individual who is enrolled and is regularly attending classes in a nurses'
training school chartered or approved under state law;
(f) service performed by an individual in the employ of the individual's son, daughter,
or spouse, and service performed by a child under the age of 21 in the employ of the child's
parent;
(g) for the purposes of Subsections 35A-4-204(2)(d) and (e), service performed:
(i) in the employ of:
(A) a church or convention or association of churches; or
(B) an organization that is operated primarily for religious purposes and that is
operated, supervised, controlled, or principally supported by a church or convention or
association of churches;
(ii) by a duly ordained, commissioned, or licensed minister of a church in the exercise
of the minister's ministry or by a member of a religious order in the exercise of duties required
by the order;
(iii) in the employ of a governmental entity or Indian tribe referred to in Subsection
35A-4-204(2)(d) if the service is performed by an individual in the exercise of the individual's
duties:
(A) as an elected official;
(B) as a member of a legislative body or the judiciary;
(C) as a member of the National Guard or Air National Guard;
(D) as an employee serving on a temporary basis in case of fire, storm, snow,
earthquake, flood, or similar emergency;
(E) in an advisory position or a policymaking position the performance of the duties of
which ordinarily does not require more than eight hours per week; or
(F) as an election official or election worker if the amount of remuneration received by
the individual during the calendar year for services as an election official or election worker is
less than \$1,000;

(iv) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, injury, or providing a remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving that rehabilitation or remunerative work; (v) as part of an unemployment work-relief or work-training program, assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision of the state or of an Indian tribe, by an individual receiving the work-relief or work-training; and (vi) by an [inmate] incarcerated individual of a custodial or penal institution; (h) casual labor not in the course of the employing unit's trade or business; (i) service performed in any calendar quarter in the employ of any organization exempt from income tax under Subsection 501(a), Internal Revenue Code, other than an organization described in Subsection 401(a) or Section 521 Internal Revenue Code, if the remuneration for the service is less than \$50: (j) service performed in the employ of a foreign government, including service as a consular or other officer, other employee, or a nondiplomatic representative; (k) service performed in the employ of an instrumentality wholly owned by a foreign government: (i) if the service is of a character similar to that performed in foreign countries by employees of the United States government or its instrumentalities; and (ii) if the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government with respect to whose instrumentality exemption is claimed grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and its instrumentalities; (1) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all the service performed by the individual for that person is performed for remuneration solely by way of commission; (m) service performed by an individual in the delivery or distribution of newspapers or

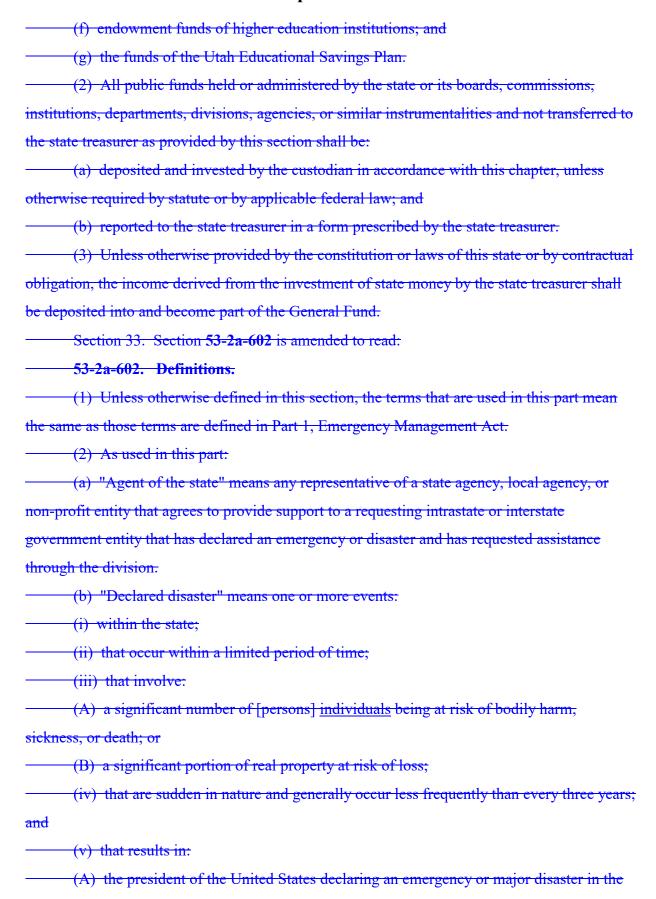
shopping news, not including delivery or distribution to any point for subsequent delivery or

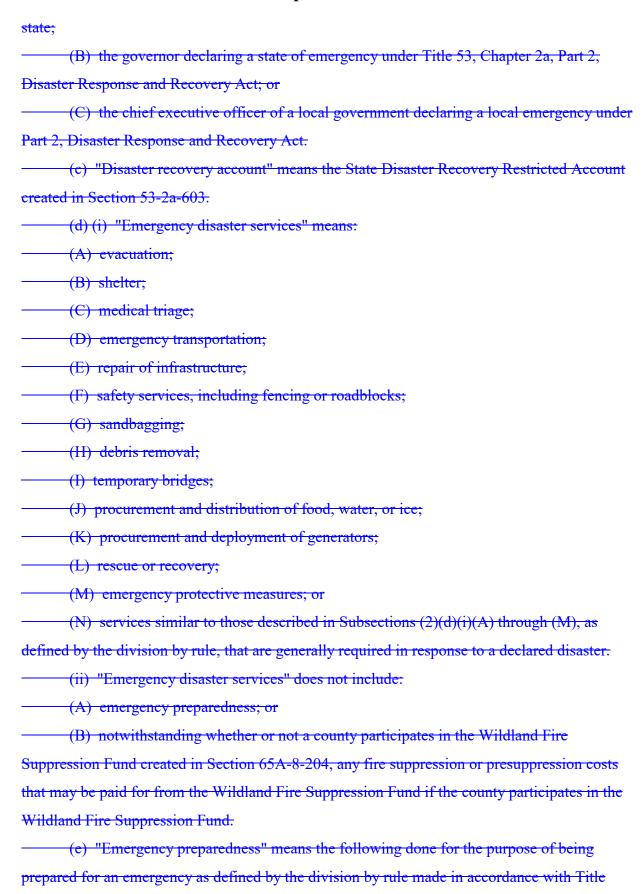
- distribution; (n) service covered by an arrangement between the division and the agency charged with the administration of any other state or federal unemployment compensation law under which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are considered to be performed entirely within the agency's state or under the federal law; (o) service performed by lessees engaged in metal mining under lease agreements, unless the individual lease agreement, or the practice in actual operation under the agreement, is such as would constitute the lessees' employees of the lessor at common law; and (p) services as an outside salesman paid solely by way of commission if the services were performed outside of all places of business of the enterprises for which the services are performed except: (i) as provided in Subsection 35A-4-204(2)(i); or (ii) if the services would constitute employment at common law. (2) (a) "Included and excluded service" means if the services performed during 1/2 or more of any pay period by an individual for the person employing the individual constitute employment, all the services of the individual for the period are considered to be employment. (b) If the services performed during more than 1/2 of any pay period by an individual for the person employing the individual do not constitute employment, then none of the
- for the person employing the individual do not constitute employment, then none of the services of the individual for the period are considered to be employment.

 (c) As used in this Subsection (2), "pay period" means a period of not more than 31
- (c) As used in this Subsection (2), "pay period" means a period of not more than 31 consecutive days for which payment of remuneration is ordinarily made to the individual by the person employing the individual.
- (3) The following services are exempt employment under the Utah Employment Security Act:
- (a) service performed by an individual as a licensed real estate agent or salesman, if all the service performed by the individual is performed for remuneration solely by way of commission;
- (b) service performed by an individual as a licensed securities agent or salesman or a registered representative, if all the service performed by the individual is performed for remuneration solely by way of commission;

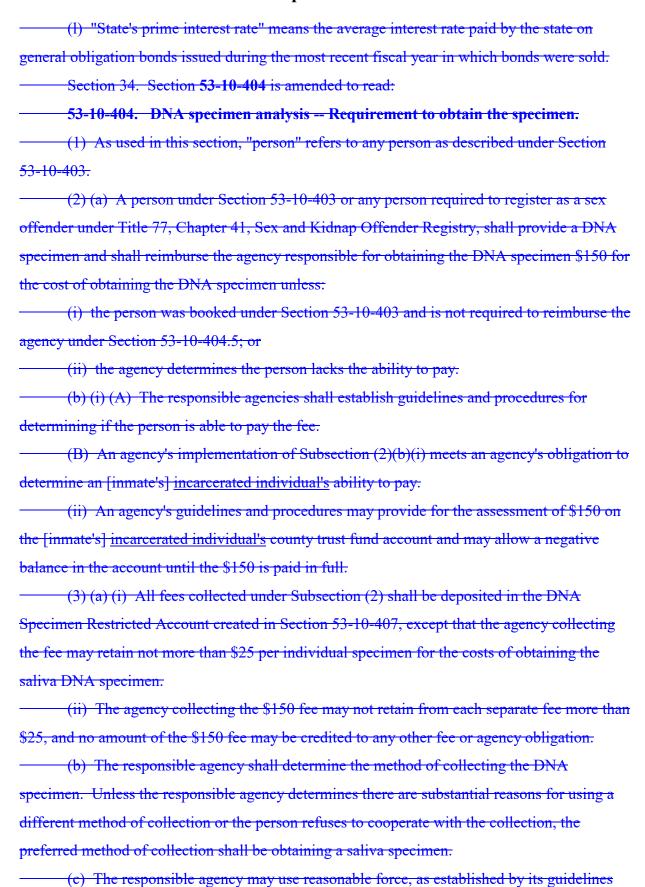


individual may be: [(a)] (i) subjected to minor punishment during that period for discipline violations; and [(b)] (ii) required to perform labor as necessary for the policing and sanitation of the [prisoner's] incarcerated individual's living conditions, immediately adjacent areas, or as otherwise designated by regulations governing the housing of [a prisoner] an incarcerated individual. Section 32. Section 51-7-4 is amended to read: 51-7-4. Transfer of functions, powers, and duties relating to public funds to state treasurer -- Exceptions -- Deposit of income from investment of state money. (1) Unless otherwise required by the Utah Constitution or applicable federal law, the functions, powers, and duties vested by law in each state officer, board, commission, institution, department, division, agency, or other similar instrumentality relating to the deposit, investment, or reinvestment of public funds, and the purchase, sale, or exchange of investments or securities of, or for, funds or accounts under the control and management of each of these instrumentalities, are transferred to and shall be exercised by the state treasurer, except: (a) funds assigned to the Utah State Retirement Board for investment under Section 49-11-302; (b) funds of member institutions of the state system of higher education: (i) acquired by gift, devise, or bequest, or by federal or private contract or grant; (ii) derived from student fees or from income from operations of auxiliary enterprises, which fees and income are pledged or otherwise dedicated to the payment of interest and principal of bonds issued by an institution of higher education; (iii) subject to rules made by the council, under Section 51-7-18, deposited in a foreign depository institution as defined in Section 7-1-103; and (iv) other funds that are not included in the institution's work program as approved by the Utah Board of Higher Education; (c) [inmate] incarcerated individual funds as provided in Section 64-13-23 or in [Title 64, Chapter 9b, Work Programs for Prisoners Title 64, Chapter 9b, Work Programs for **Incarcerated Individuals**; (d) trust funds established by judicial order; (e) funds of the Utah Housing Corporation;

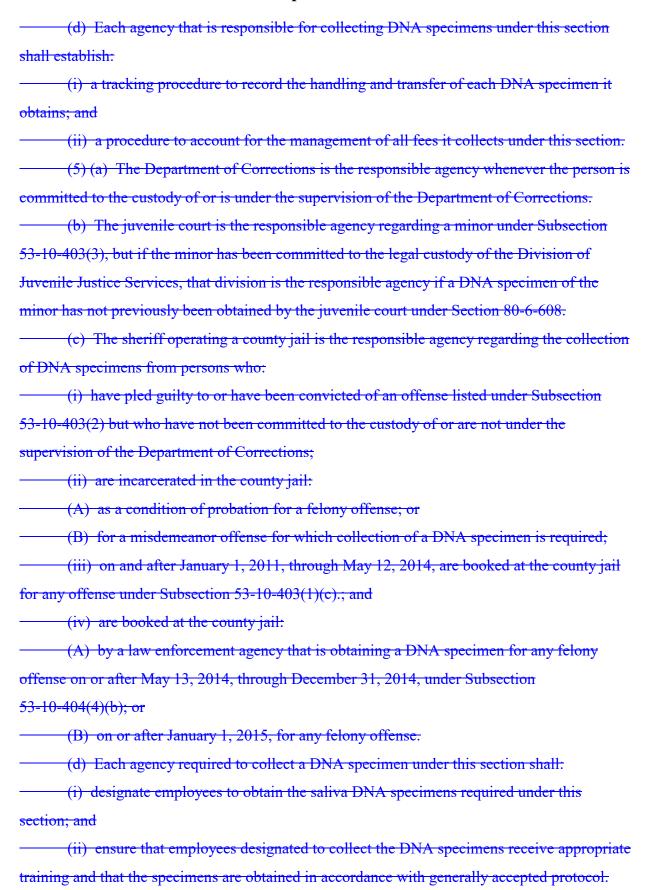


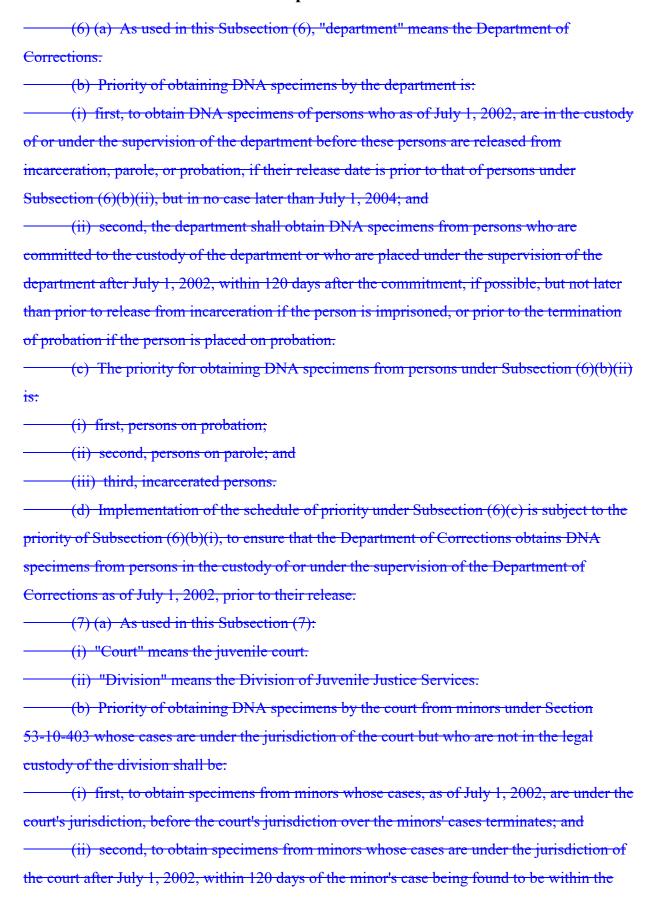


63G, Chapter 3, Utah Administrative Rulemaking Act:	
(i) the purchase of equipment;	
(ii) the training of personnel; or	
(iii) the obtaining of a certification.	
(f) "Governing body" means:	
(i) for a county, city, or town, the legislative body of the county, city, or town;	
(ii) for a local district, the board of trustees of the local district; and	
(iii) for a special service district:	
(A) the legislative body of the county, city, or town that established the special servi	C
district, if no administrative control board has been appointed under Section 17D-1-301; or	
(B) the administrative control board of the special service district, if an administrative	νe
control board has been appointed under Section 17D-1-301.	
(g) "Local district" means the same as that term is defined in Section 17B-1-102.	
(h) "Local fund" means a local government disaster fund created in accordance with	•
Section 53-2a-605.	
(i) "Local government" means:	
(i) a county;	
(ii) a city or town; or	
(iii) a local district or special service district that:	
(A) operates a water system;	
(B) provides transportation service;	
(C) provides, operates, and maintains correctional and rehabilitative facilities and	
programs for municipal, state, and other detainees and [prisoners] incarcerated individuals;	
(D) provides consolidated 911 and emergency dispatch service;	
(E) operates an airport; or	
(F) operates a sewage system.	
(j) "Special fund" means a fund other than a general fund of a local government that	is
created for a special purpose established under the uniform system of budgeting, accounting	-
and reporting.	
(k) "Special service district" means the same as that term is defined in Section	
17D-1-102.	

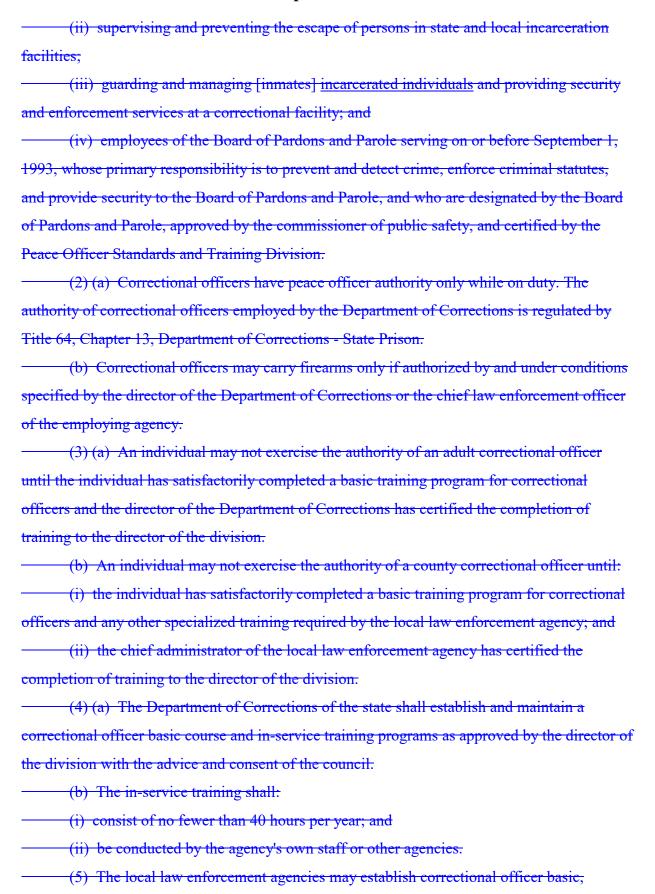


and procedures, to collect the DNA sample if the person refuses to cooperate with the collection. (d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation. (e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section. (ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis. (iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section. (f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407. (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety: (i) after a conviction or a finding of jurisdiction by the juvenile court; (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and (iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii). (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i). (c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible: (i) obtain and transmit an additional DNA specimen; or (ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.





court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates. (c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be: (i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and (ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case. (8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens. (b) (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section. (ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol. (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405. Section 35. Section 53-13-104 is amended to read: 53-13-104. Correctional officer. (1) (a) "Correctional officer" means a sworn and certified officer employed by the Department of Corrections, any political subdivision of the state, or any private entity which contracts with the state or [its] the state's political subdivisions to incarcerate[inmates] individuals who [is] are charged with the primary duty of providing community protection. (b) "Correctional officer" includes an individual assigned to carry out any of the following types of functions: (i) controlling, transporting, supervising, and taking into custody of persons arrested or convicted of crimes;

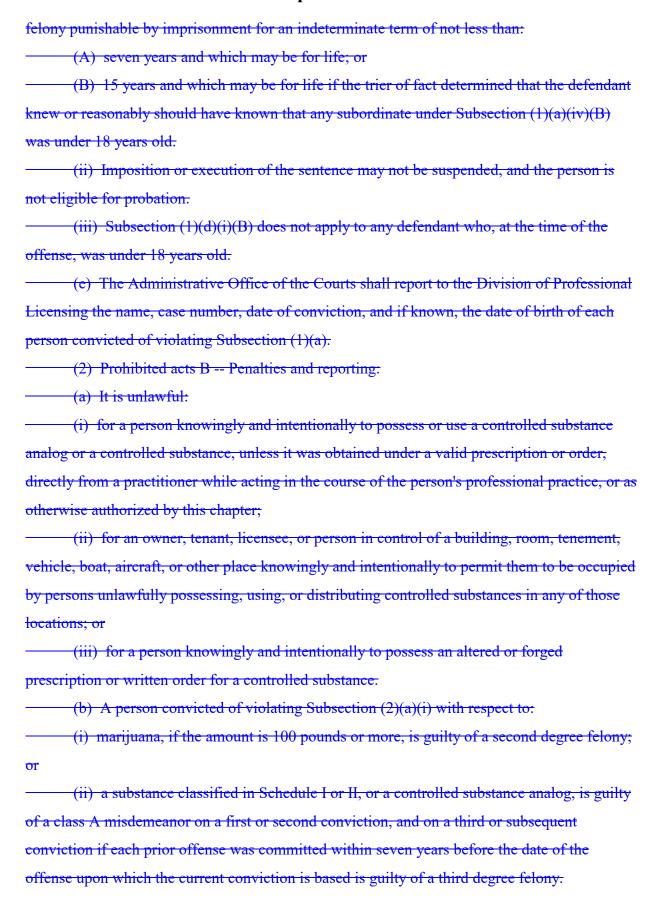


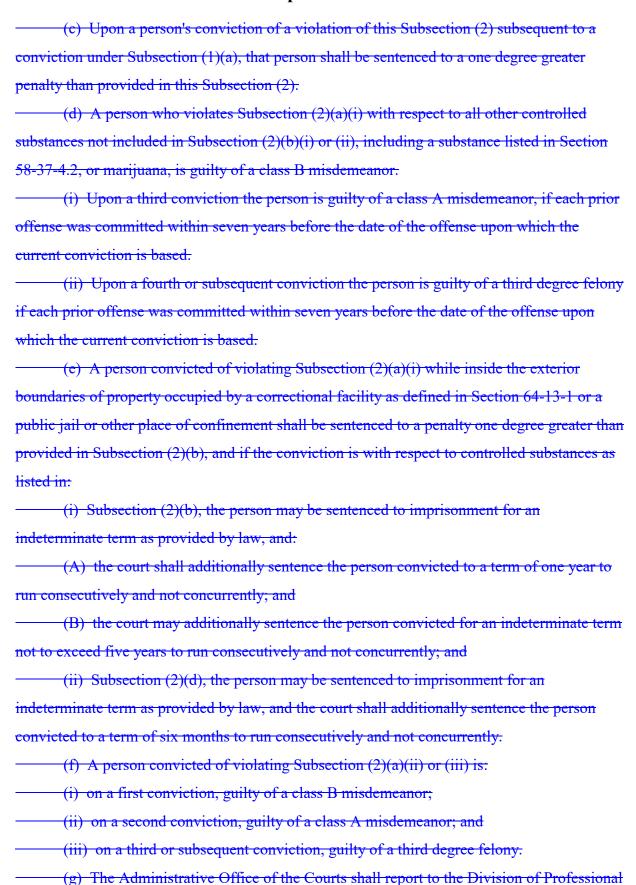
advanced, or in-service training programs as approved by the director of the division with the

advice and consent of the council. (6) An individual shall be 19 years old or older before being certified or employed as a correctional officer under this section. Section 36. Section 53B-7-103 is amended to read: 53B-7-103. Board designated state educational agent for federal contracts and aid -- Individual research grants -- Powers of institutions or foundations under authorized programs. (1) (a) The board is the designated state educational agency authorized to negotiate and contract with the federal government and to accept financial or other assistance from the federal government or any of its agencies in the name of and in behalf of the state of Utah, under terms and conditions as may be prescribed by congressional enactment designed to further higher education. (b) Nothing in this chapter alters or limits the authority of the Division of Facilities Construction and Management to act as the designated state agency to administer programs on behalf of and accept funds from federal, state, and other sources, for capital facilities for the benefit of higher education. (2) (a) Subject to policies and procedures established by the board, an institution of higher education and the institution of higher education's employees may apply for and receive grants or research and development contracts within the educational role of the recipient institution. (b) A program described in Subsection (2)(a) may be conducted by and through the institution, or by and through any foundation or organization that is established for the purpose of assisting the institution in the accomplishment of the institution's purposes. (3) An institution or the institution's foundation or organization engaged in a program authorized by the board may do the following: (a) enter into contracts with federal, state, or local governments or their subsidiary agencies or departments, with private organizations, companies, firms, or industries, or with individuals for conducting the authorized programs; (b) subject to the approval of the controlling state agency, conduct authorized programs within any of the penal, corrective, or custodial institutions of this state and engage the

voluntary participation of [inmates] an incarcerated individual in those programs; (c) accept contributions, grants, or gifts from, and enter into contracts and cooperative agreements with, any private organization, company, firm, industry, or individual, or any governmental agency or department, for support of authorized programs within the educational role of the recipient institution, and may agree to provide matching funds with respect to those programs from resources available to the institution; and (d) retain, accumulate, invest, commit, and expend the funds and proceeds from programs funded under Subsection (3)(c), including the acquisition of real and personal property reasonably required for their accomplishment, except that no portion of the funds and proceeds may be diverted from or used for purposes other than those authorized or undertaken under Subsection (3)(c), or may ever become a charge upon or obligation of the state of Utah or the general funds appropriated for the normal operations of the institution unless otherwise permitted by law. (4) (a) Except as provided in Subsection (4)(b), all contracts and research or development grants or contracts requiring the use or commitment of facilities, equipment, or personnel under the control of an institution of higher education are subject to the approval of the board. (b) (i) The board may delegate the approval of a contract or grant described in Subsection (4)(a) to an institution of higher education board of trustees. (ii) If the board makes a delegation described in Subsection (4)(b)(i), the board of trustees shall annually report to the board on all approved contracts or grants. Section 37. Section 58-37-8 is amended to read: 58-37-8. Prohibited acts -- Penalties. (1) Prohibited acts A -- Penalties and reporting: (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally: (i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance; (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance; (iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where: (A) the person participates, directs, or engages in conduct that results in a violation of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and (B) the violation is a part of a continuing series of two or more violations of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management. (b) A person convicted of violating Subsection (1)(a) with respect to: (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony; (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony. (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently. (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree



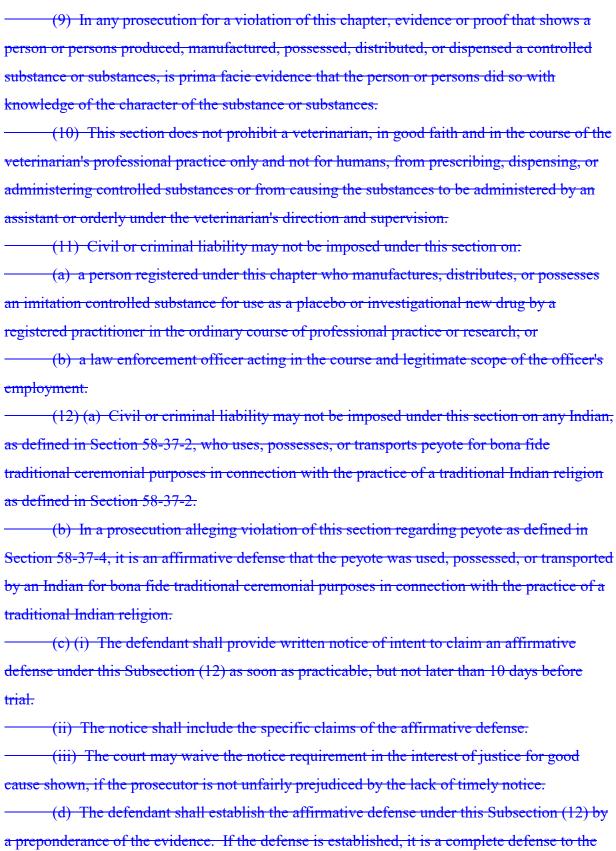


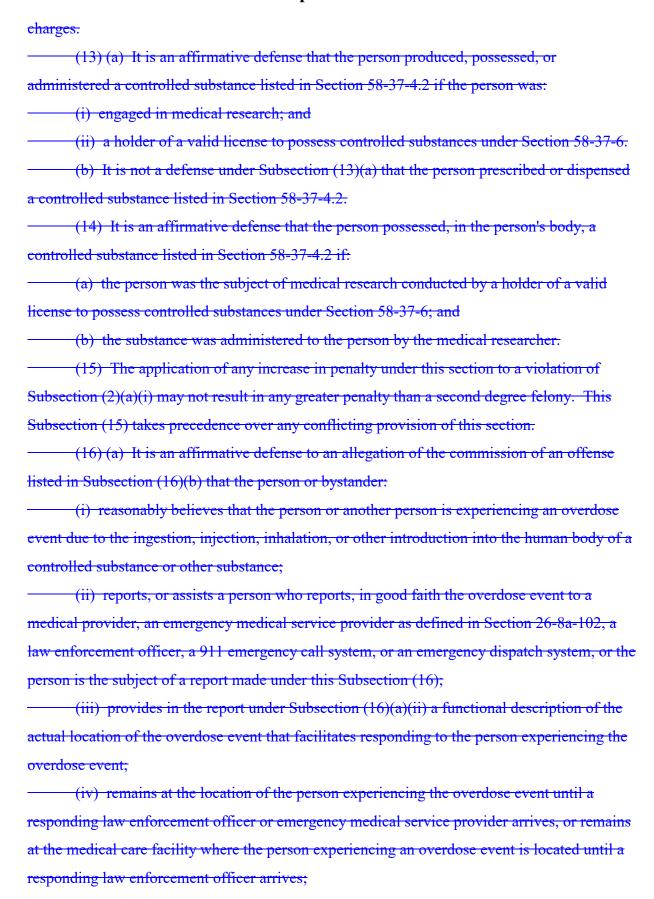
Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a). (3) Prohibited acts C -- Penalties: (a) It is unlawful for a person knowingly and intentionally: (i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person; (ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address; (iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance. (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor. (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony. (c) A violation of Subsection (3)(a)(iv) is a third degree felony. (4) Prohibited acts D -- Penalties: (a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier

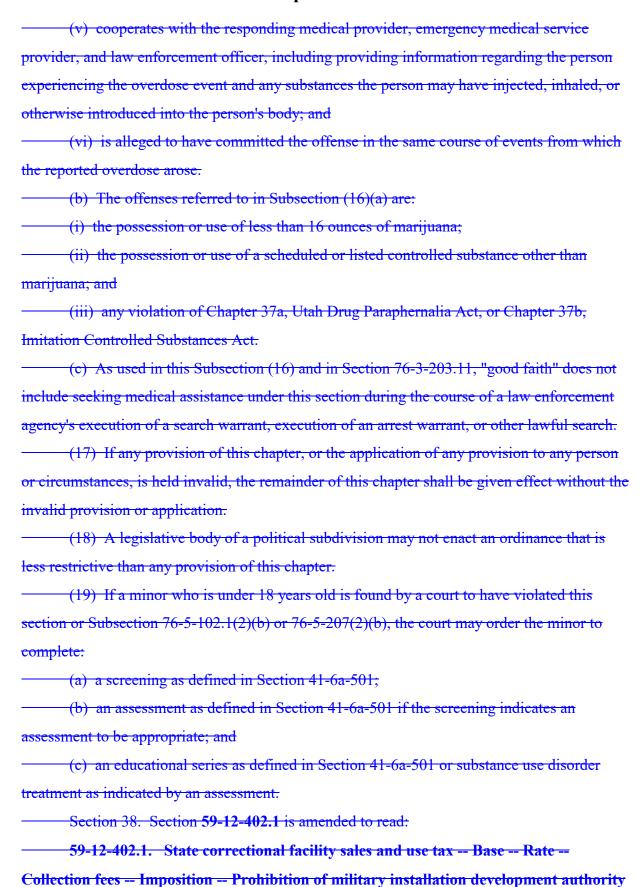
of fact finds the act is committed: (i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.; (ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.; (iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation; (iv) in a public park, amusement park, areade, or recreation center when the public or amusement park, areade, or recreation center is open to the public; (v) in or on the grounds of a house of worship as defined in Section 76-10-501; (vi) in or on the grounds of a library when the library is open to the public; (vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi); (viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an [inmate] incarcerated individual or on the grounds of a correctional facility as defined in Section 76-8-311.3. (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony. (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation. (c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. (d) (i) If the violation is of Subsection (4)(a)(ix): (A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of

one year to run consecutively and not concurrently; and (B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix). (e) It is not a defense to a prosecution under this Subsection (4) that: (i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or (ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a). (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor. (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement. (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is: (i) from a separate criminal episode than the current charge; and (ii) from a conviction that is separate from any other conviction used to enhance the current charge. (7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter. (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law. (b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to

prosecution in this state.



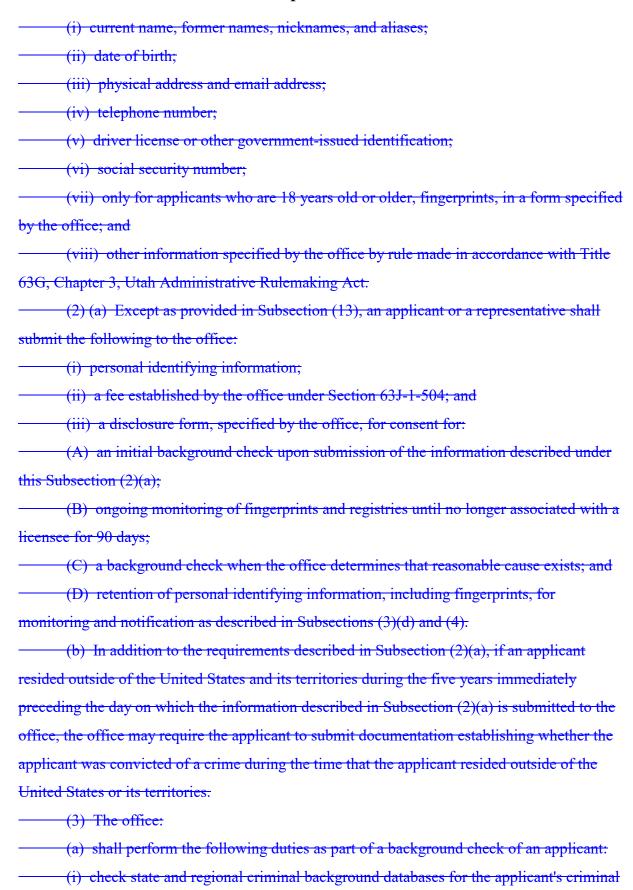


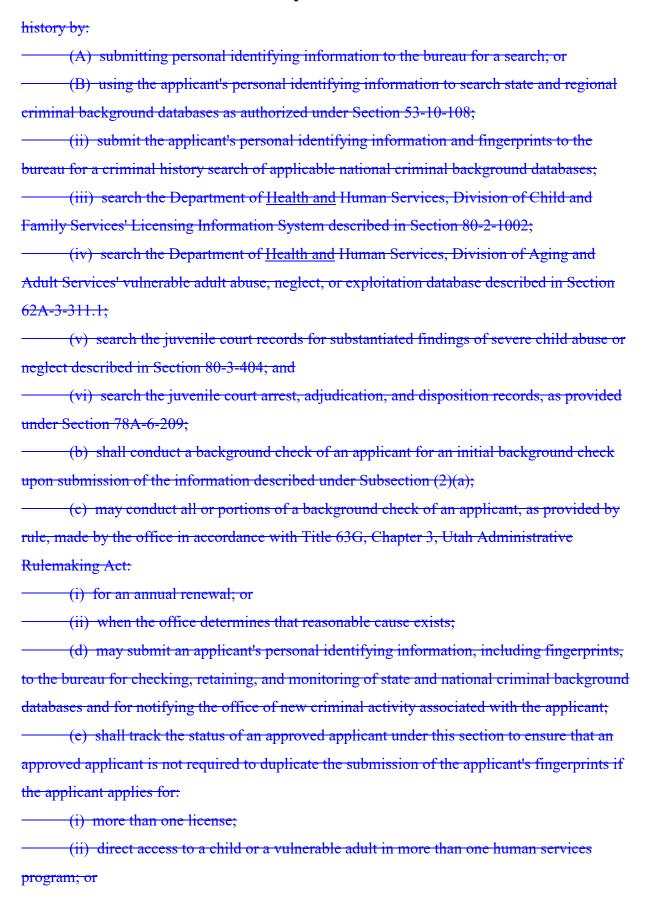


imposition of tax. (1) As used in this section, "new state correctional facility" means a new prison in the state: (a) that is operated by the Department of Corrections; (b) the construction of which begins on or after May 12, 2015; and (c) that provides a capacity of 2,500 or more [inmate] beds for incarcerated individuals. (2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town. (3) For purposes of this section, the tax rate may not exceed .5%. (4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town. (5) A city or town may not impose a tax under this section on: (a) the sale of: (i) a motor vehicle; (ii) an aircraft; (iii) a watercraft; (iv) a modular home; (v) a manufactured home; or (vi) a mobile home; (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; and (c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients. (6) For purposes of this section, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215. (7) A city or town that imposes a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(8) A city or town may impose a tax under this section by majority vote of the

members of the city or town legislative body. (9) A city or town that imposes a tax under this section is not subject to Section 59-12-405. (10) A military installation development authority may not impose a tax under this section. Section 39. Section 62A-2-120 is amended to read: 62A-2-120. Background check -- Direct access to children or vulnerable adults. (1) As used in this section: (a) (i) "Applicant" means: (A) the same as that term is defined in Section 62A-2-101; (B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult; (C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion; (D) a department contractor; (E) an individual who transports a child for a youth transportation company; (F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or (G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D). (ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services. (b) "Application" means a background screening application to the office. (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201. (d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child. (e) "Personal identifying information" means:

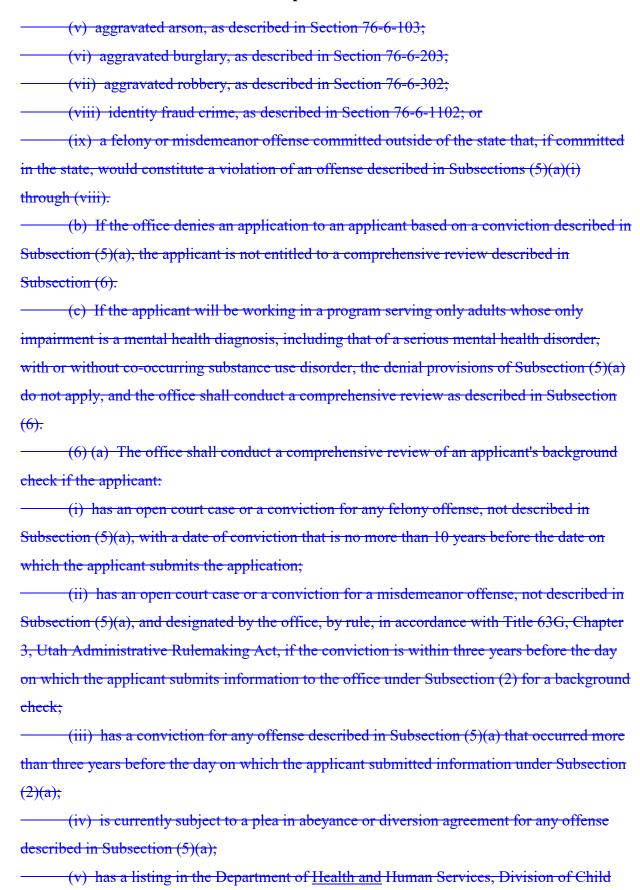




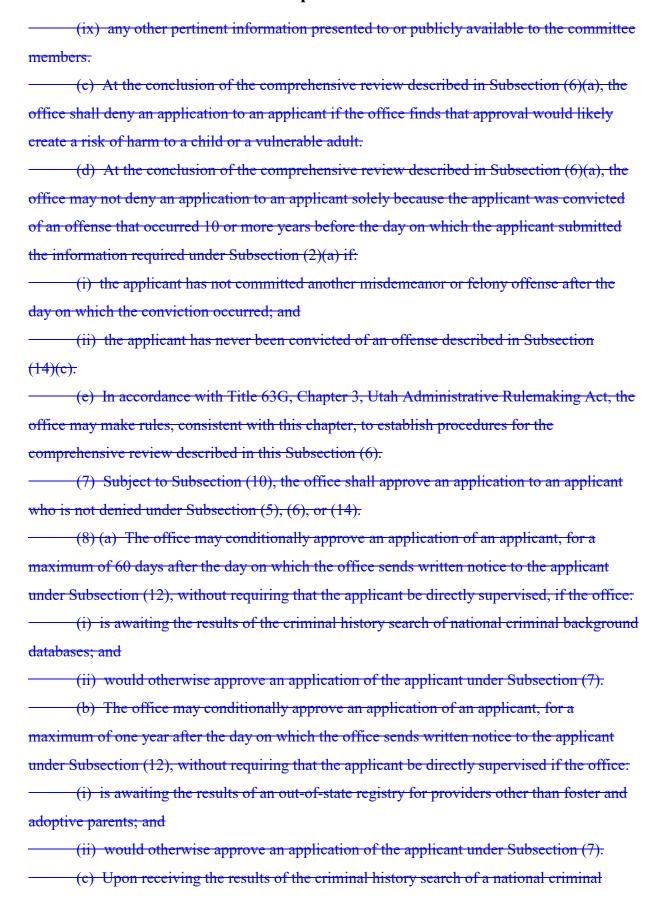
- (iii) direct access to a child or a vulnerable adult under a contract with the department; (f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases; (g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3); (h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall: (i) search the Department of Health and Human Services, Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks. (4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history. (b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history. (c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall: (i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and (ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of

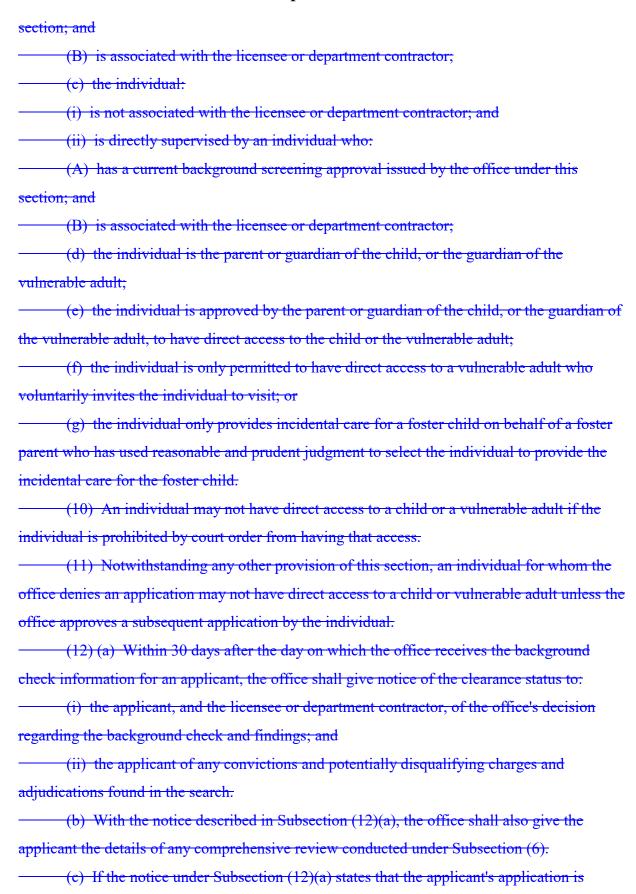
Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of: (i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and (ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant. (e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant. (f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall: (i) discard and destroy any retained fingerprints; and (ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System. (5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction: (i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality; (ii) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor; (iii) prostitution; (iv) an offense included in: (A) Title 76, Chapter 5, Offenses Against the Individual; (B) Section 76-5b-201, Sexual Exploitation of a Minor; (C) Section 76-5b-201.1, Aggravated Sexual Exploitation of a Minor; or (D) Title 76, Chapter 7, Offenses Against the Family;



and Family Services' Licensing Information System described in Section 80-2-1002; (vi) has a listing in the Department of Health and Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1; (vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404; (viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is: (A) under 28 years old; or (B) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a); (ix) has a pending charge for an offense described in Subsection (5)(a); or (x) is an applicant described in Subsection (5)(c). (b) The comprehensive review described in Subsection (6)(a) shall include an examination of: (i) the date of the offense or incident; (ii) the nature and seriousness of the offense or incident; (iii) the circumstances under which the offense or incident occurred; (iv) the age of the perpetrator when the offense or incident occurred; (v) whether the offense or incident was an isolated or repeated incident; (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including: (A) actual or threatened, nonaccidental physical, mental, or financial harm; (B) sexual abuse; (C) sexual exploitation; or (D) negligent treatment; (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; (viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and



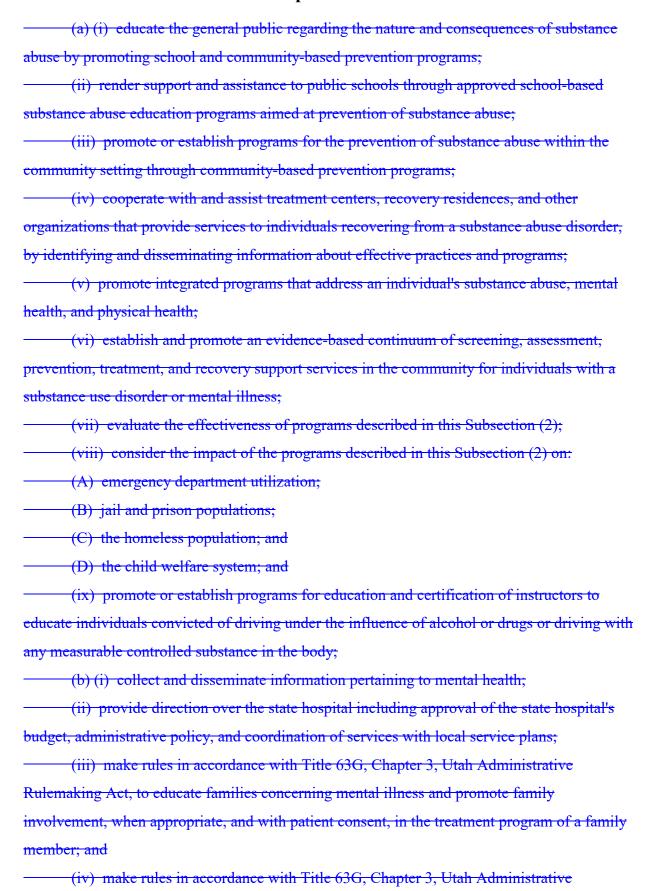
background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7). (9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10): (a) the individual is associated with the licensee or department contractor and: (i) the individual's application is approved by the office under this section; (ii) the individual's application is conditionally approved by the office under Subsection (8); or (iii) (A) the individual has submitted the background check information described in Subsection (2) to the office; (B) the office has not determined whether to approve the applicant's application; and (C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor; (b) (i) the individual is associated with the licensee or department contractor; (ii) the individual has a current background screening approval issued by the office under this section; (iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual: (A) the individual was charged with an offense described in Subsection (5)(a); (B) the individual is listed in the Licensing Information System, described in Section 80-2-1002: (C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1; (D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or (E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and (iv) the individual is directly supervised by an individual who: (A) has a current background screening approval issued by the office under this



denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision. (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter: (i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and (ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections. (13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program. (14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall: (i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and (ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect. (b) The requirements described in Subsection (14)(a) do not apply to the extent that: (i) federal law or rule permits otherwise; or (ii) the requirements would prohibit the Division of Child and Family Services or a

court from placing a child with: (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5). (c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of: (i) a felony involving conduct that constitutes any of the following: (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3; (B) commission of domestic violence in the presence of a child, as described in Section 76-5-114: (C) abuse or neglect of a child with a disability, as described in Section 76-5-110; (D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5; (E) aggravated murder, as described in Section 76-5-202; (F) murder, as described in Section 76-5-203; (G) manslaughter, as described in Section 76-5-205; (H) child abuse homicide, as described in Section 76-5-208; (I) homicide by assault, as described in Section 76-5-209; (J) kidnapping, as described in Section 76-5-301; (K) child kidnapping, as described in Section 76-5-301.1; (L) aggravated kidnapping, as described in Section 76-5-302; (M) human trafficking of a child, as described in Section 76-5-308.5; (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; (O) sexual exploitation of a minor, as described in Section 76-5b-201; (P) aggravated exploitation of a minor, as described in Section 76-5b-201.1; (Q) aggravated arson, as described in Section 76-6-103; (R) aggravated burglary, as described in Section 76-6-203; (S) aggravated robbery, as described in Section 76-6-302; or (T) domestic violence, as described in Section 77-36-1; or (ii) an offense committed outside the state that, if committed in the state, would

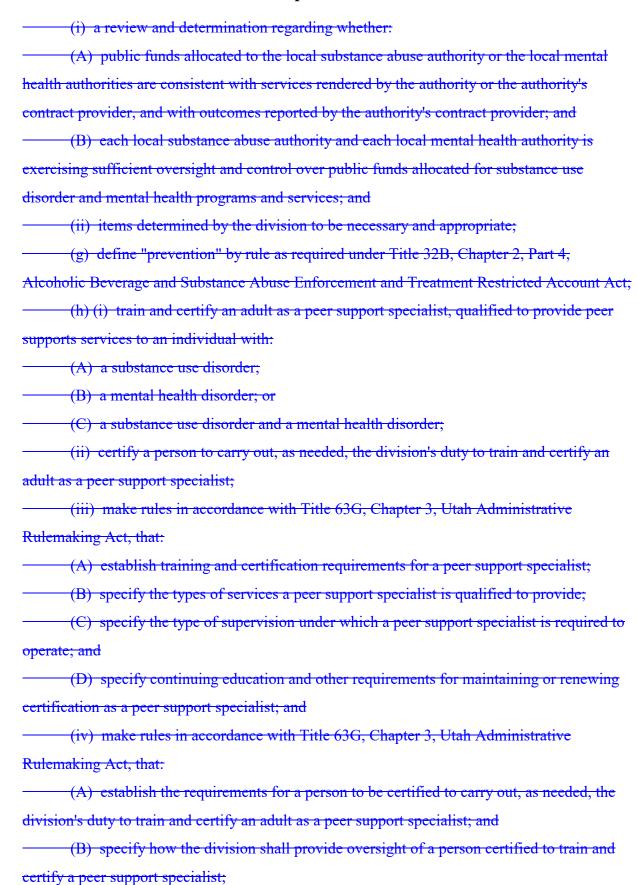
constitute a violation of an offense described in Subsection (14)(c)(i). (d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following: (i) aggravated assault, as described in Section 76-5-103; (ii) aggravated assault by [a prisoner] an incarcerated individual, as described in Section 76-5-103.5; (iii) mayhem, as described in Section 76-5-105; (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act; (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act; (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act; (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act. (e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102. Section 40. Section 62A-15-103 is amended to read: 62A-15-103. Division -- Creation -- Responsibilities. (1) (a) The division shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. (b) The division is the substance abuse authority and the mental health authority for this state. (2) The division shall:

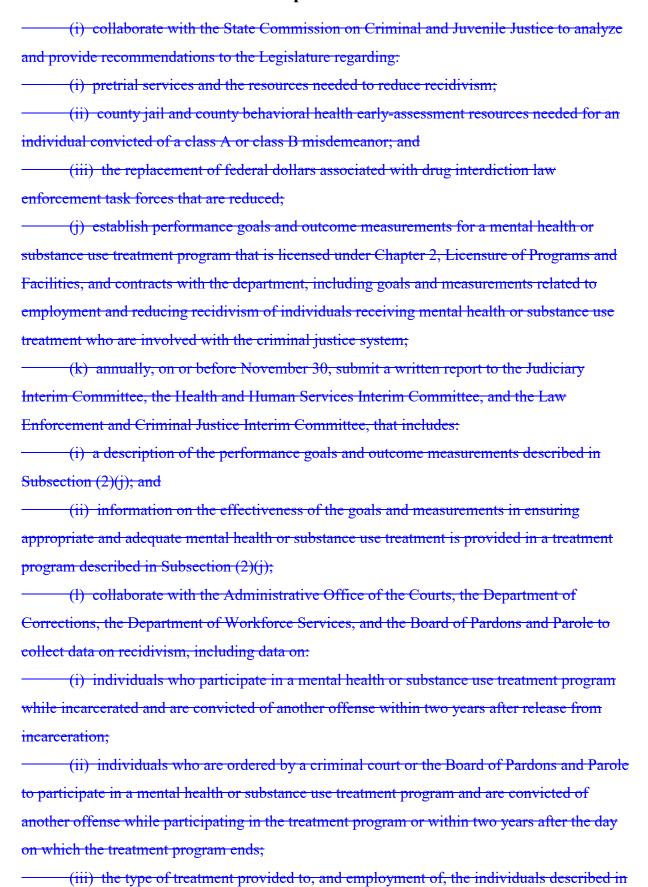


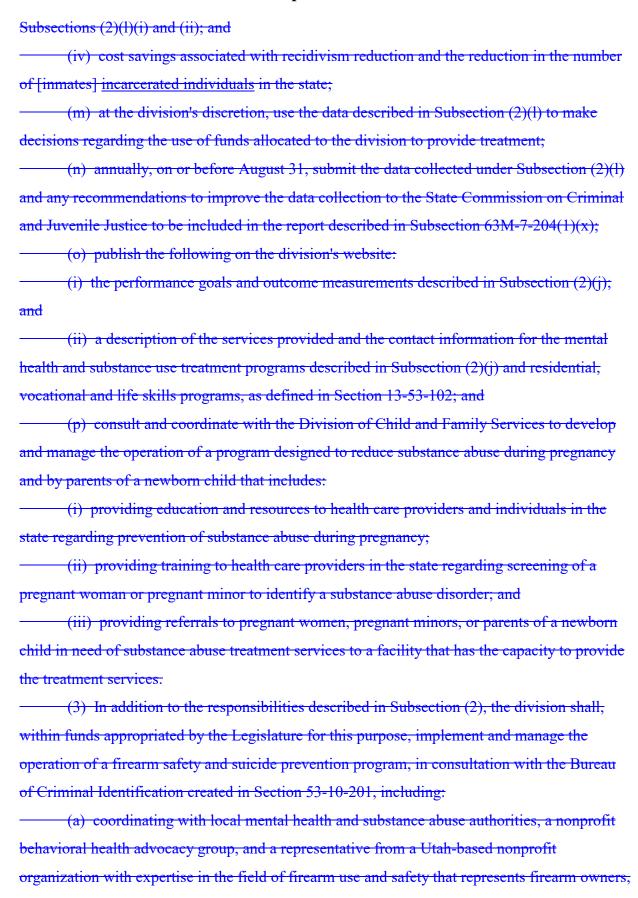
Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002; (c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services; (ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues; (iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups; (iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation; (v) receive, distribute, and provide direction over public funds for substance abuse and mental health services; (vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities; (vii) examine expenditures of local, state, and federal funds; (viii) monitor the expenditure of public funds by: (A) local substance abuse authorities; (B) local mental health authorities; and (C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority; (ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan; (x) contract with private and public entities for special statewide or nonclinical

services, or services for individuals involved in the criminal justice system, according to

division rules; (xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure: (A) a statewide comprehensive continuum of substance abuse services; (B) a statewide comprehensive continuum of mental health services; (C) services result in improved overall health and functioning; (D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system; (E) compliance, where appropriate, with the certification requirements in Subsection (2)(i); and (F) appropriate expenditure of public funds; (xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy; (xiii) monitor and ensure compliance with division rules and contract requirements; and (xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money; (d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state; (e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year; (f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

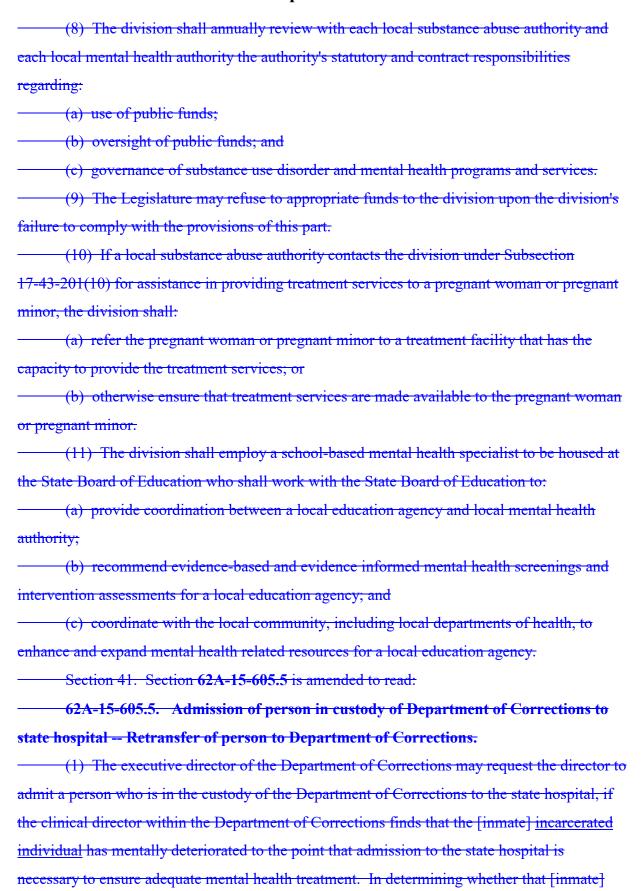




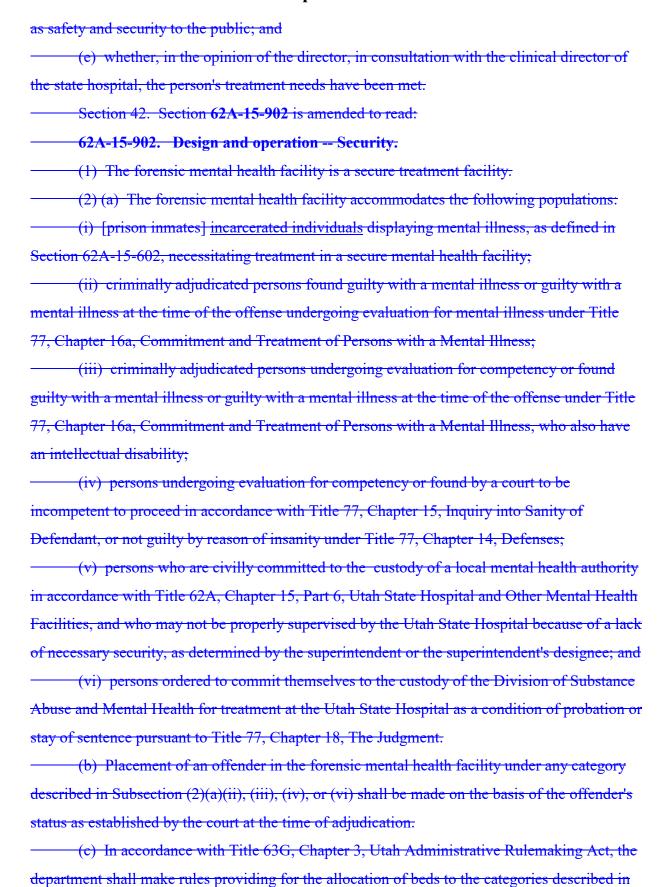


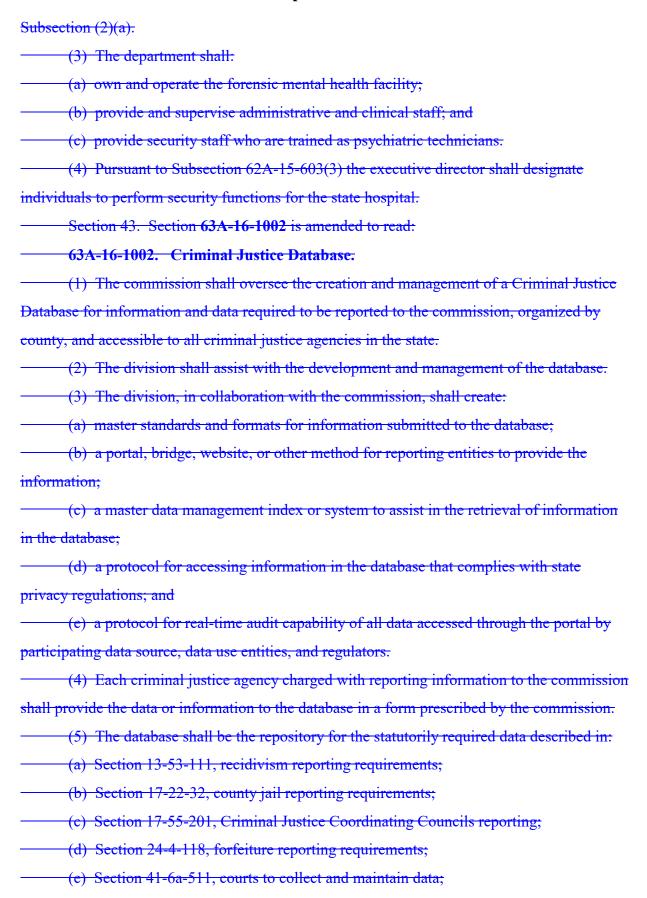
to: (i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes: (A) information on safe handling, storage, and use of firearms in a home environment; (B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms; (C) information about suicide prevention awareness; and (D) information about the availability of firearm safety packets; (ii) procure cable-style gun locks for distribution under this section; (iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and (iv) create a suicide prevention education course that: (A) provides information for distribution regarding firearm safety education; (B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and (C) provides information regarding crisis intervention resources; (b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge: (i) health care providers, including emergency rooms; (ii) mobile crisis outreach teams; (iii) mental health practitioners; (iv) other public health suicide prevention organizations; (v) entities that teach firearm safety courses; (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and (vii) firearm dealers to be distributed in accordance with Section 76-10-526; (c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

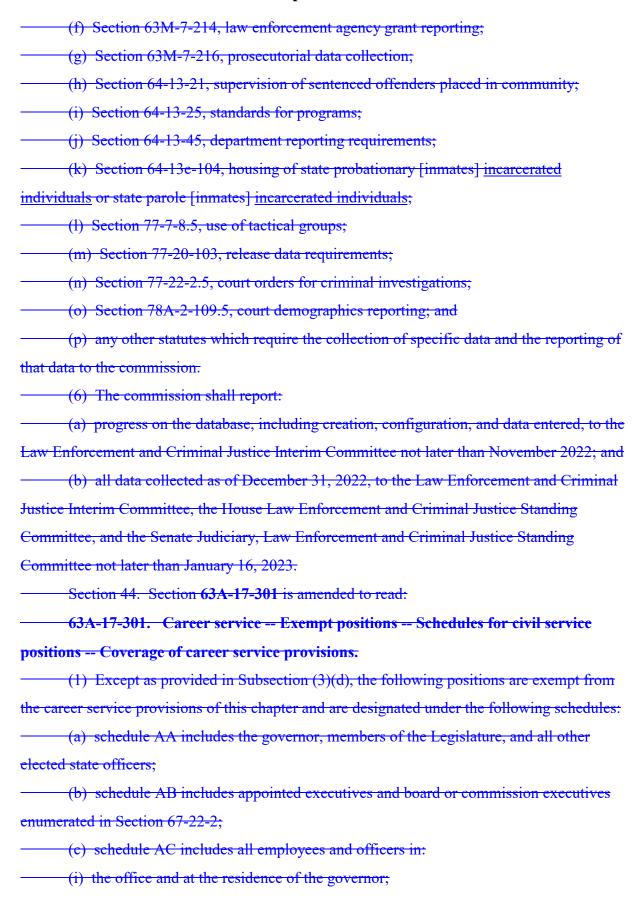
making rules that establish procedures for: (i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets; (ii) procuring the cable-style gun locks for distribution; and (iii) administering the rebate program; and (e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year. (4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law. (b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy. (5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203. (6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide. (7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

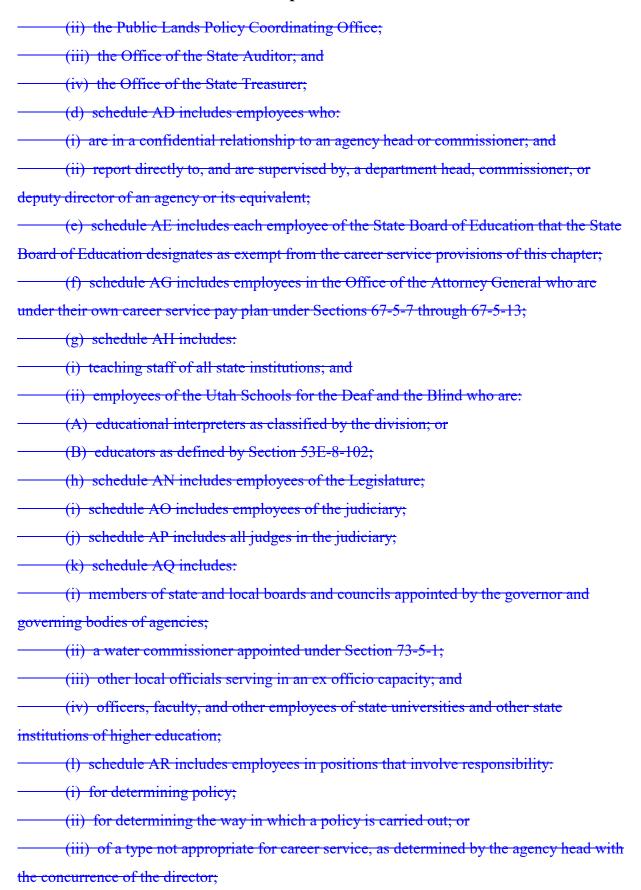


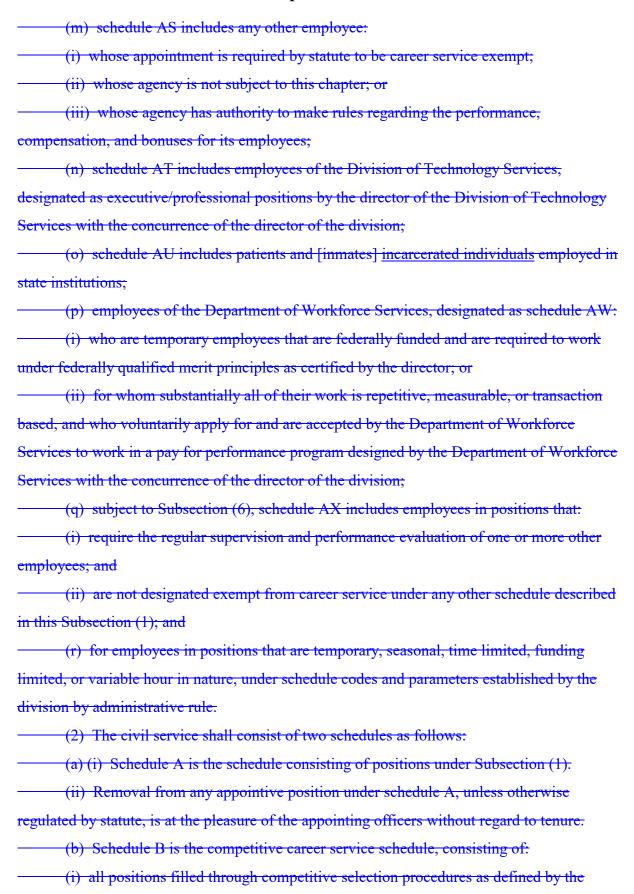
incarcerated individual should be placed in the state hospital, the director of the division shall consider: (a) the mental health treatment needs of the [inmate] incarcerated individual; (b) the treatment programs available at the state hospital; and (c) whether the [inmate] incarcerated individual meets the requirements of Subsection 62A-15-610(2). (2) If the director denies the admission of an [inmate] incarcerated individual as requested by the clinical director within the Department of Corrections, the Board of Pardons and Parole shall determine whether the [inmate] incarcerated individual will be admitted to the state hospital. The Board of Pardons and Parole shall consider: (a) the mental health treatment needs of the [inmate] incarcerated individual; (b) the treatment programs available at the state hospital; and (c) whether the [inmate] incarcerated individual meets the requirements of Subsection 62A-15-610(2). (3) The state hospital shall receive any person in the custody of the Department of Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody of the Department of Corrections, and the state hospital shall act solely as the agent of the Department of Corrections. (4) [Inmates] Incarcerated individuals transferred to the state hospital pursuant to this section shall be transferred back to the Department of Corrections through negotiations between the director and the director of the Department of Corrections. If agreement between the director and the director of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall have final authority in determining whether a person will be transferred back to the Department of Corrections. In making that determination, that board shall consider: (a) the mental health treatment needs of the [inmate] incarcerated individual; (b) the treatment programs available at the state hospital; (c) whether the person continues to meet the requirements of Subsection 62A-15-610(2); (d) the ability of the state hospital to provide adequate treatment to the person, as well











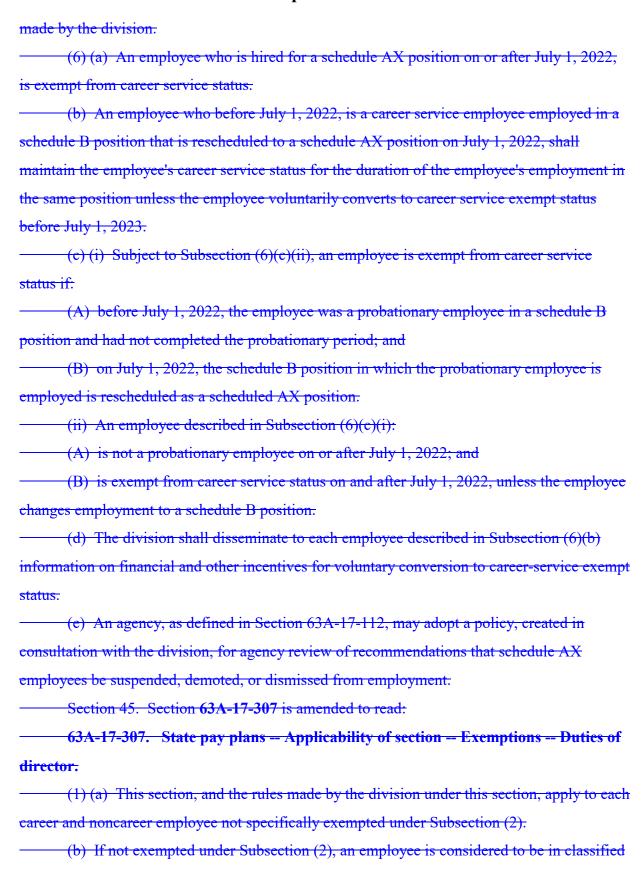
SB0188S02 compared with SB0188S01 director; or (ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, Veterans Preference. (3) (a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section. (b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position. (c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final. (d) (i) An agency may file with the division a request to reschedule a position that would otherwise be scheduled as a schedule A position. (ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law. (4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7. (b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107. (c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education. (d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.

(5) An employee who is in a position designated schedule AC and who holds career

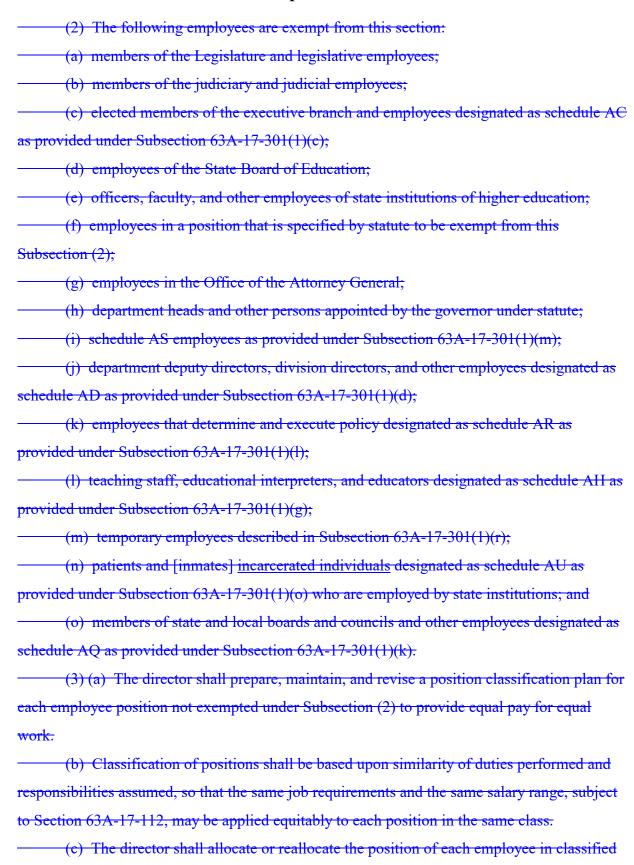
(b) does not elect to convert to career service exempt status in accordance with a rule

service status on June 30, 2010, shall retain the career service status if the employee:

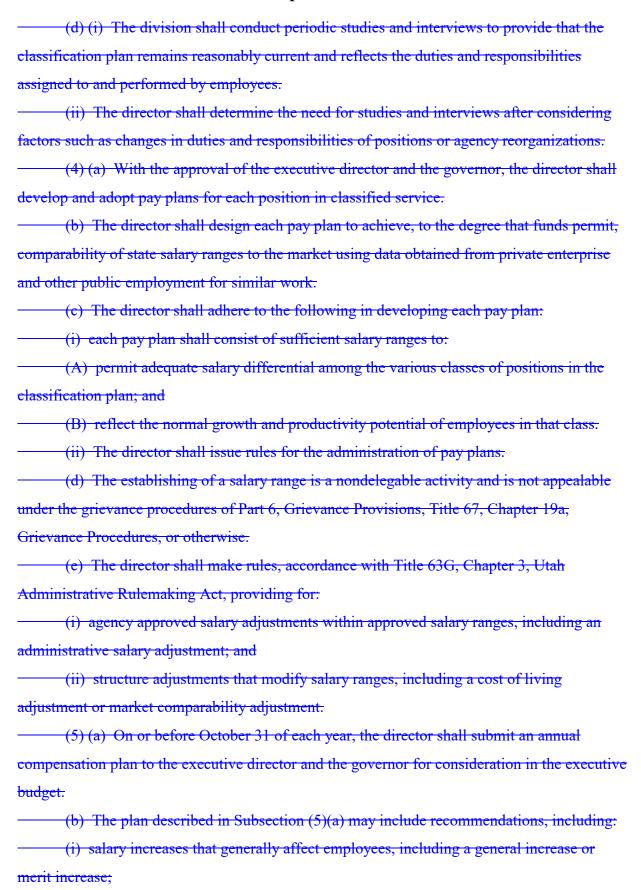
(a) remains in the position that the employee is in on June 30, 2010; and

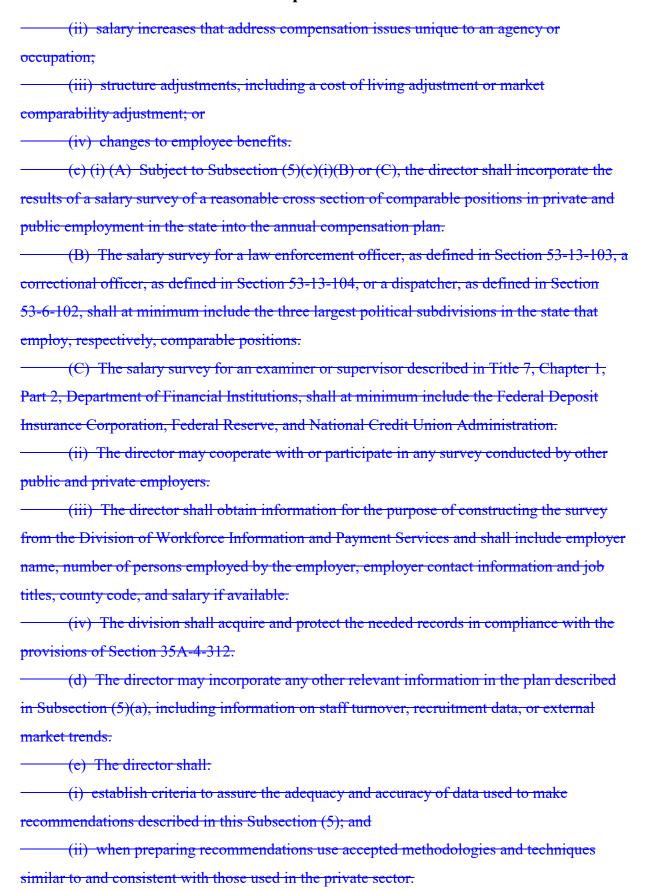


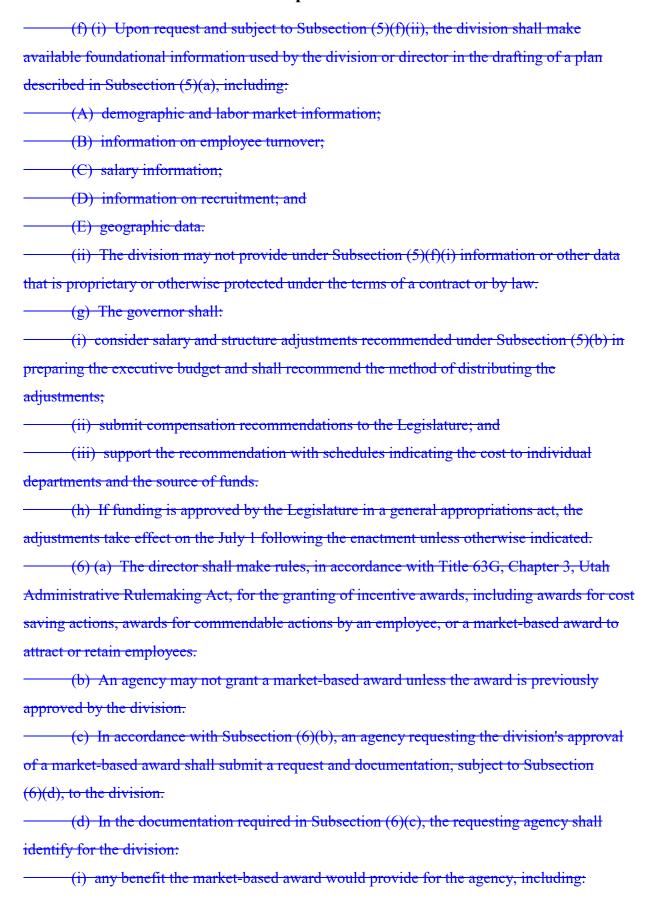
service.

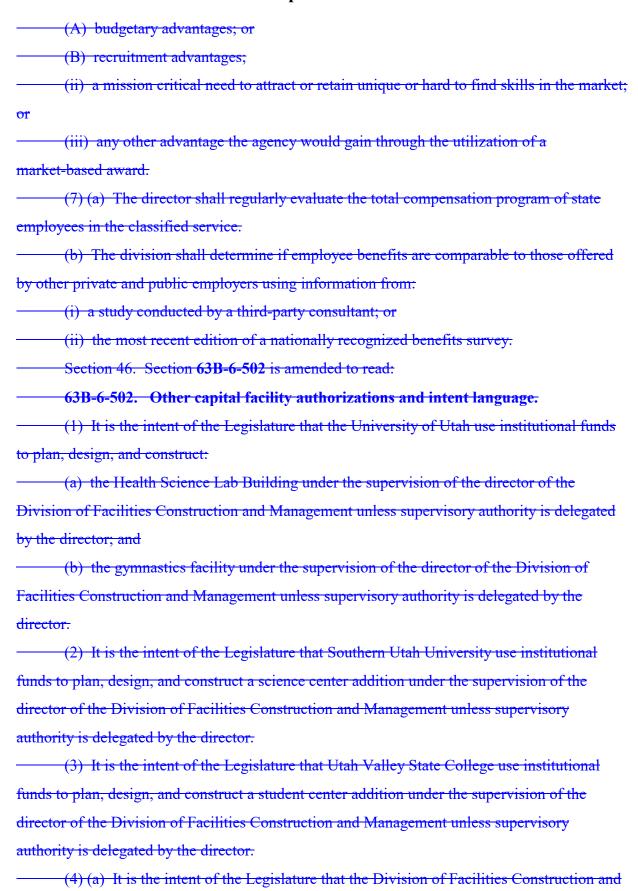


service to one of the classes in the classification plan.







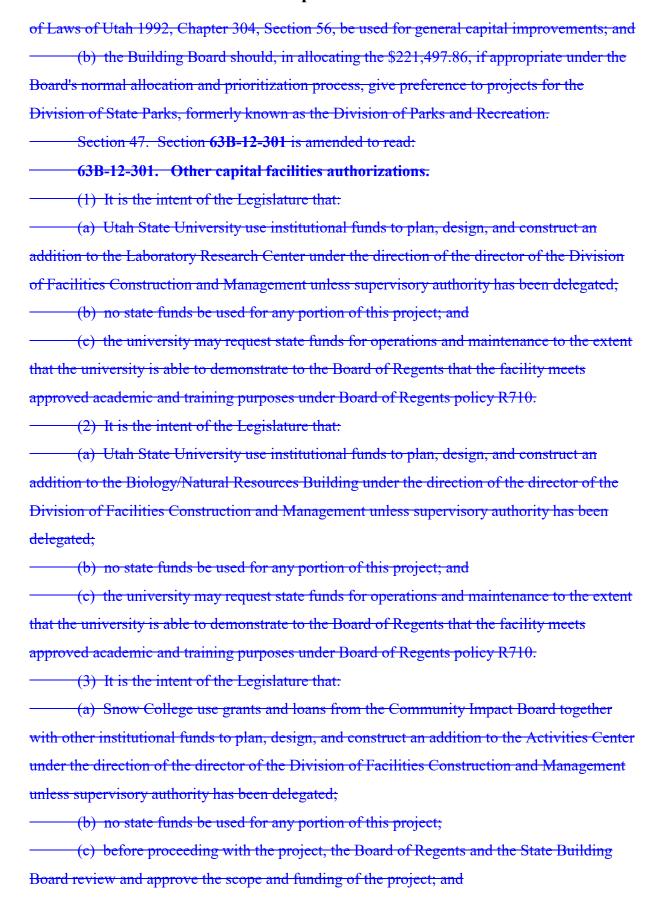


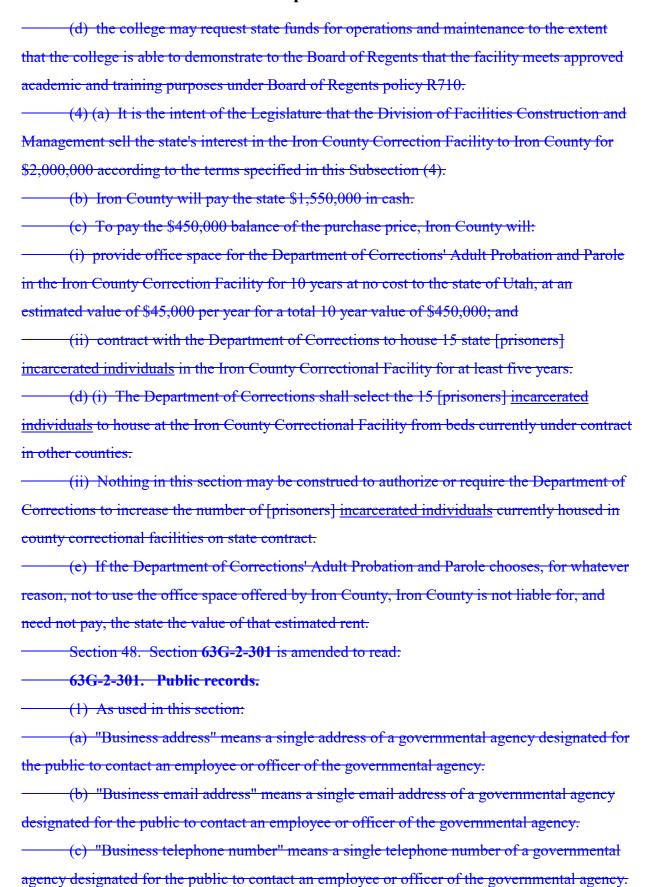
Management lease property at the Draper Prison to an entity for the purpose of constructing recycling and transfer facilities to employ [inmates] incarcerated individuals if the following conditions are satisfactorily met: (i) the entity assures continuous employment of state [inmates] incarcerated individuals; (ii) the lease with the entity provides an appropriate return to the state; (iii) the lease has an initial term of not to exceed 20 years; (iv) the lease protects the state from all liability; (v) the entity guarantees that no adverse environmental impact will occur; (vi) the state retains the right to: (A) monitor the types of wastes that are processed; and (B) prohibit the processing of types of wastes that are considered to be a risk to the state or surrounding property uses; (vii) the lease provides for adequate security arrangements; (viii) the entity assumes responsibility for any taxes or fees associated with the facility; and (ix) the entity assumes responsibility for bringing utilities to the site and any state expenditures for roads, etc. are considered in establishing the return to the state. (b) Except as provided in Subsections (4)(c) and (d), the facility may be constructed without direct supervision by the Division of Facilities Construction and Management. (c) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and Management shall: (i) review the design, plans, and specifications of the project; and (ii) approve them if they are appropriate. (d) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and Management may: (i) require that the project be submitted to the local building official for plan review and inspection; and

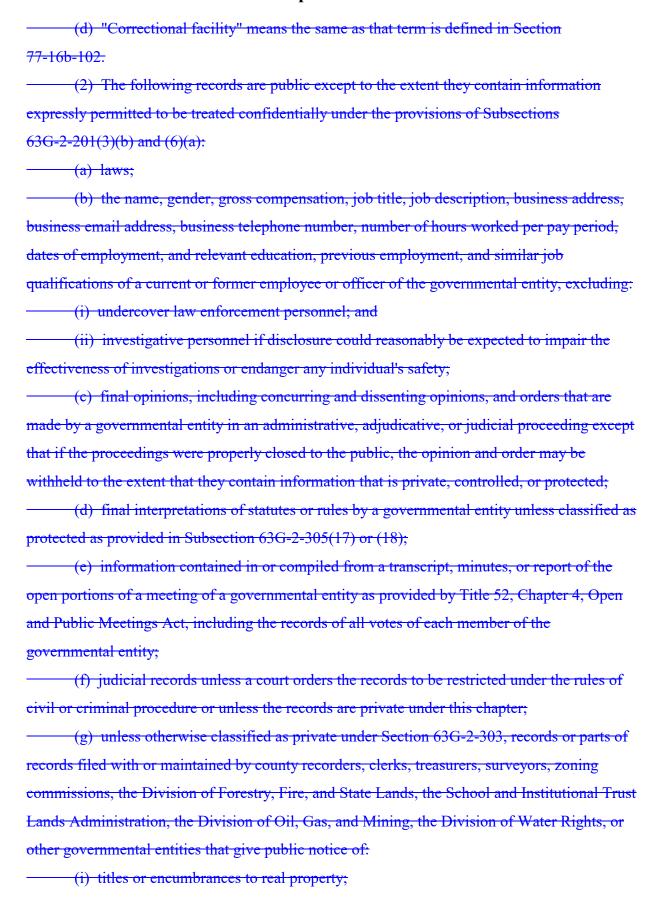
(a) the \$221,497.86 authorized for the Capitol Hill Day Care Center in Subsection (4)

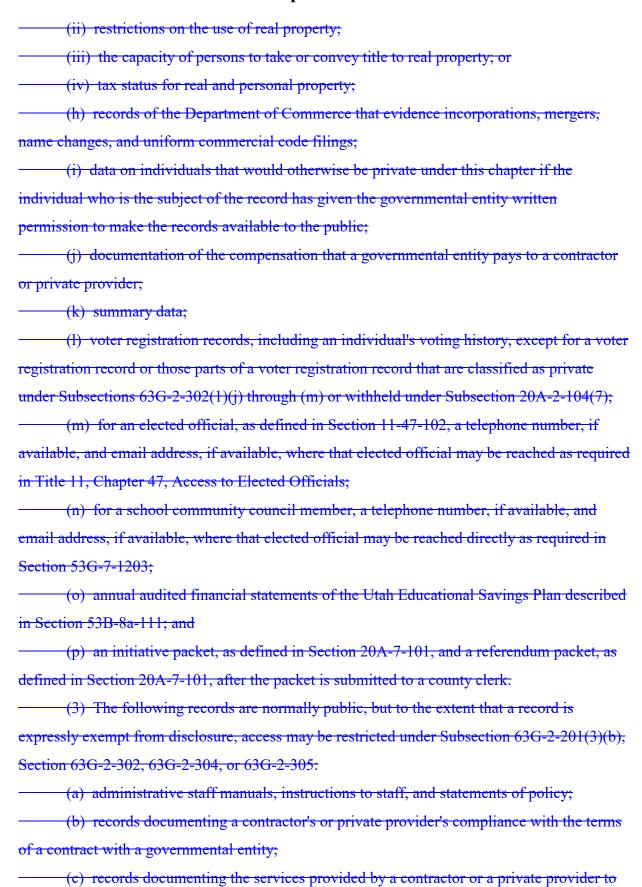
(ii) inspect the project.

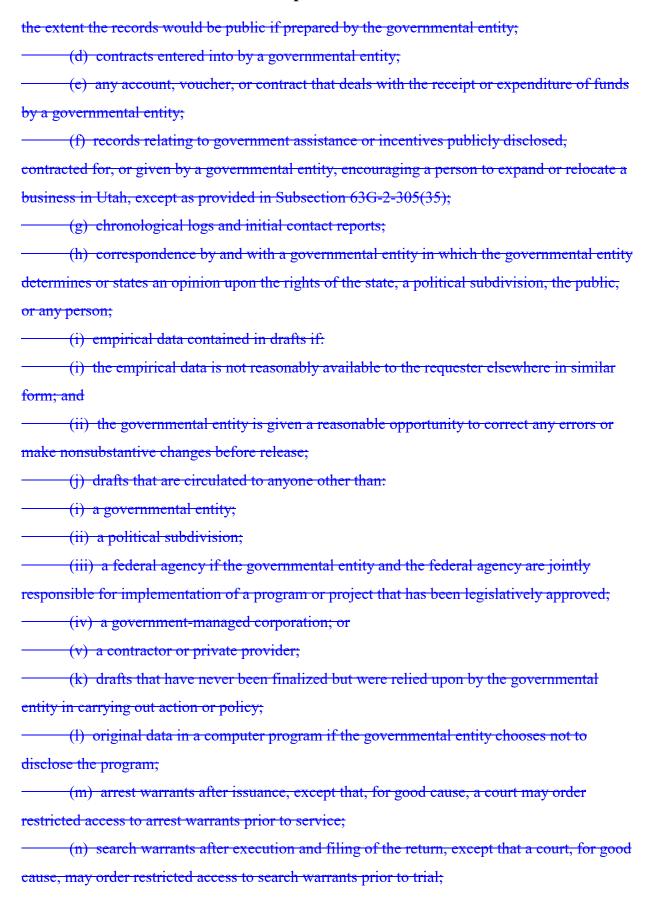
(5) It is the intent of the Legislature that:

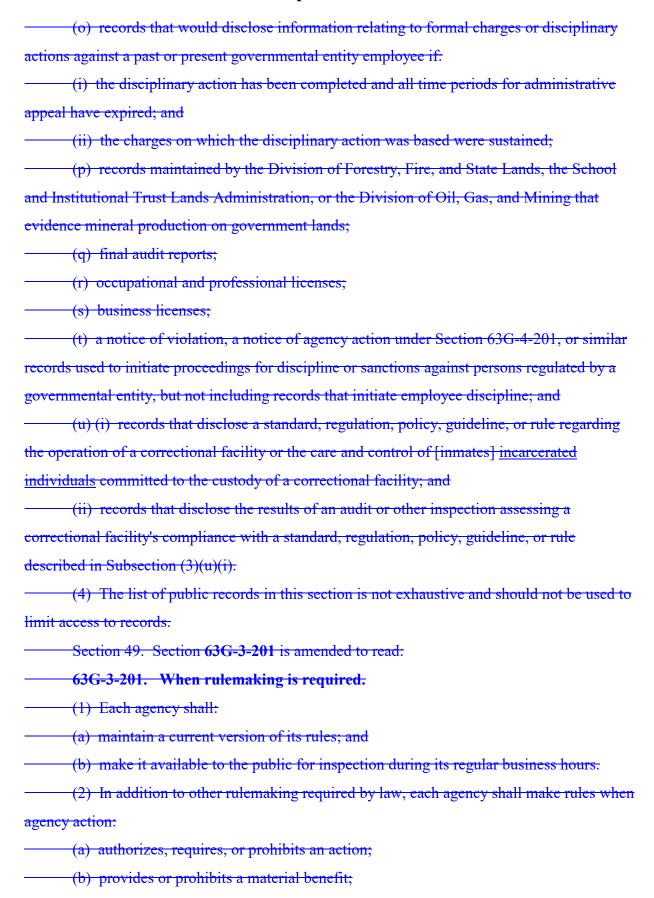


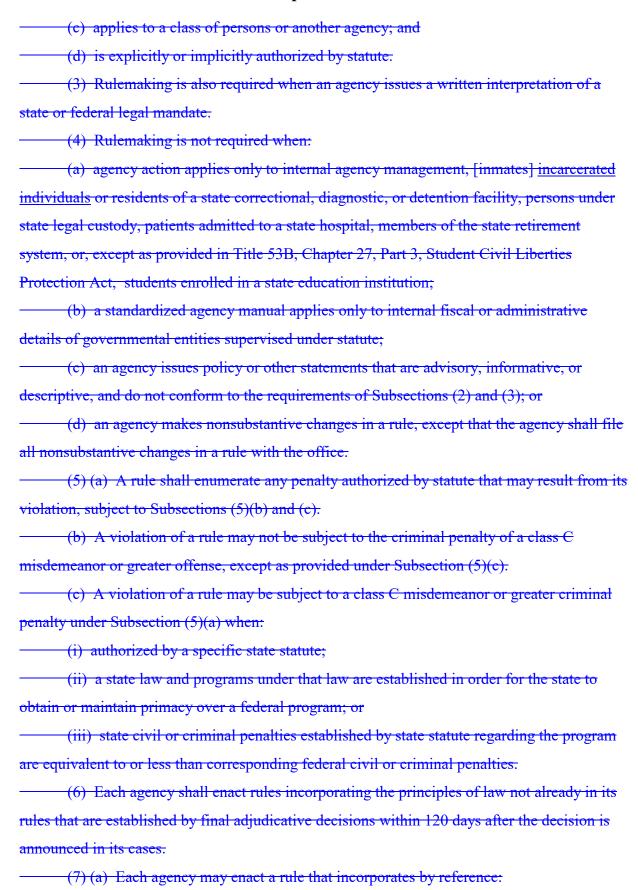


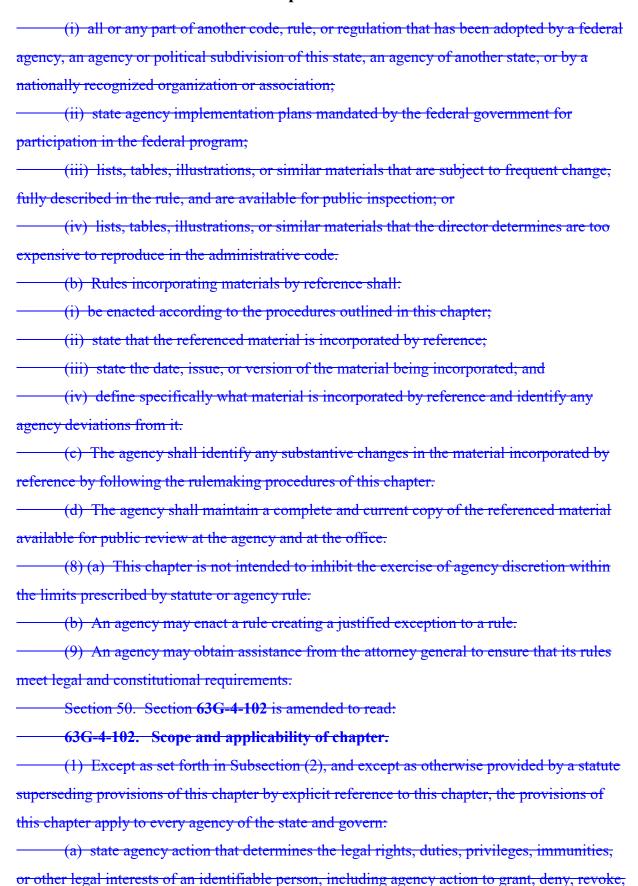


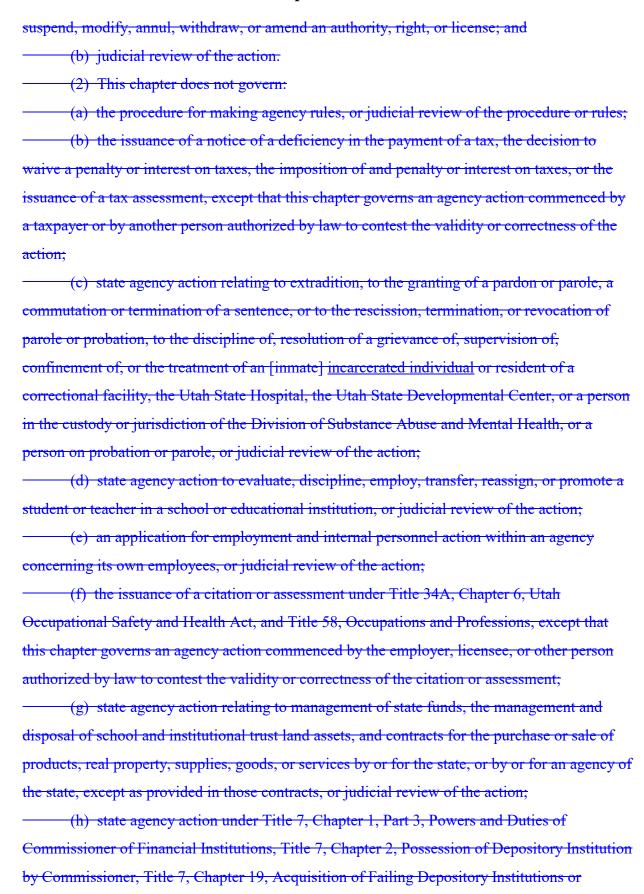




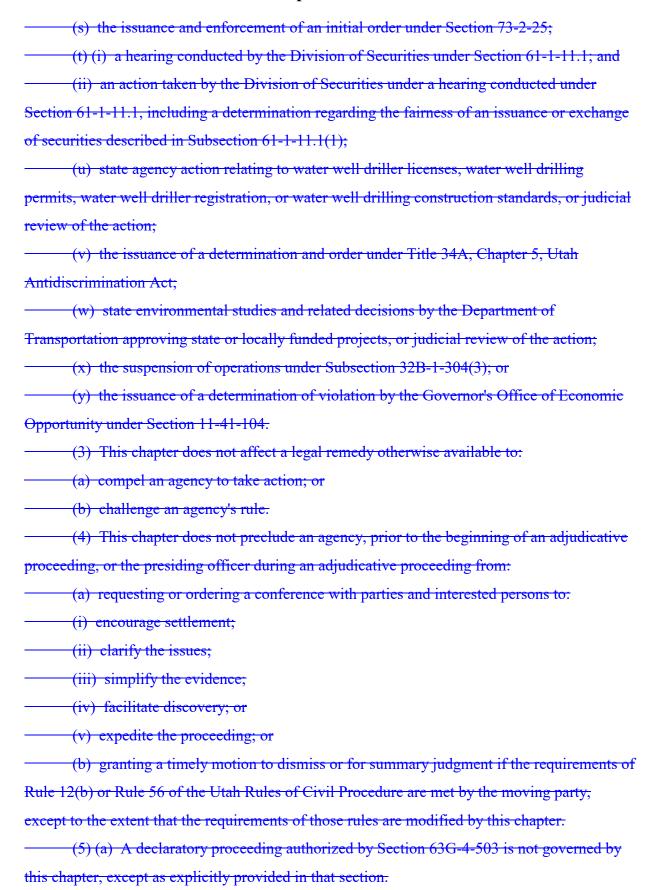


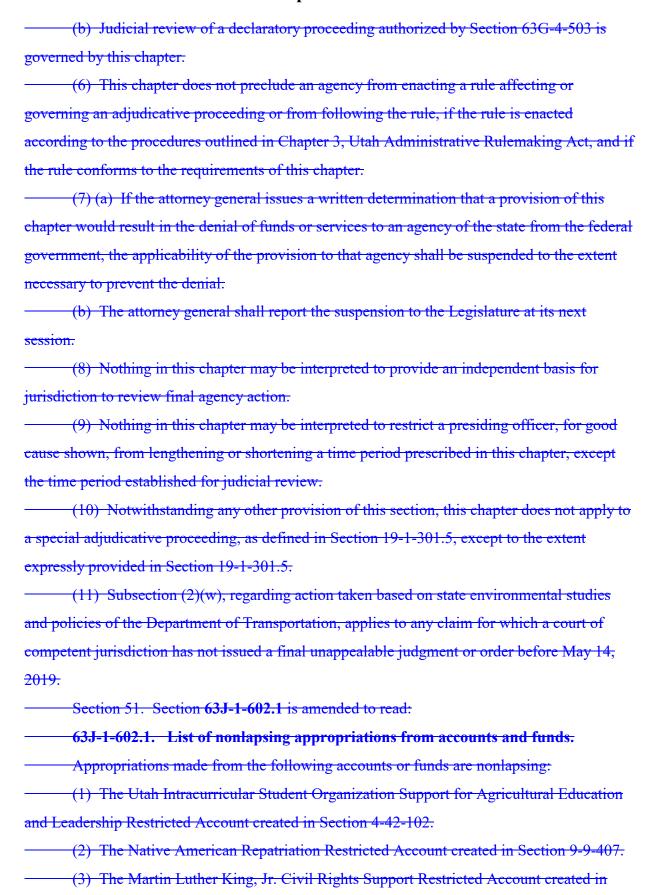




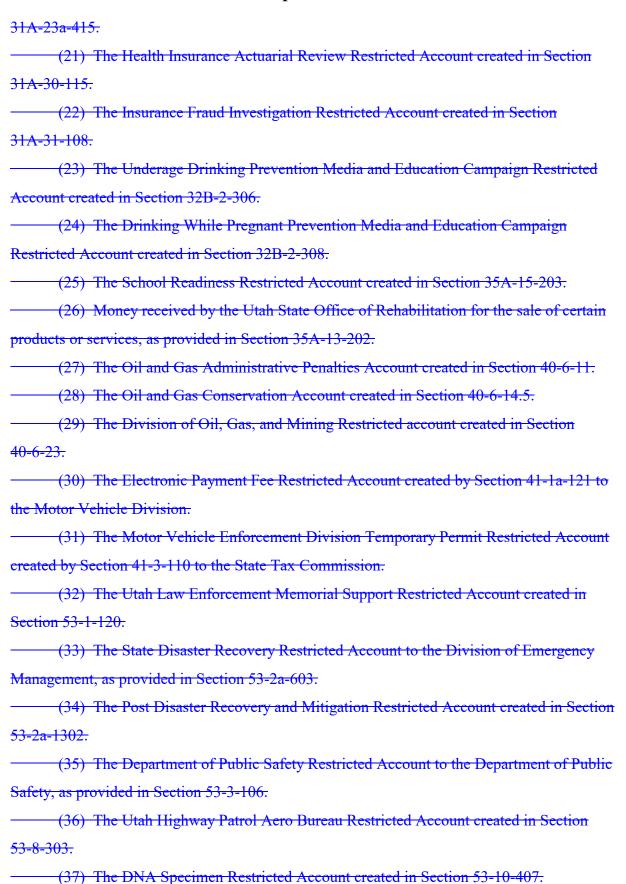


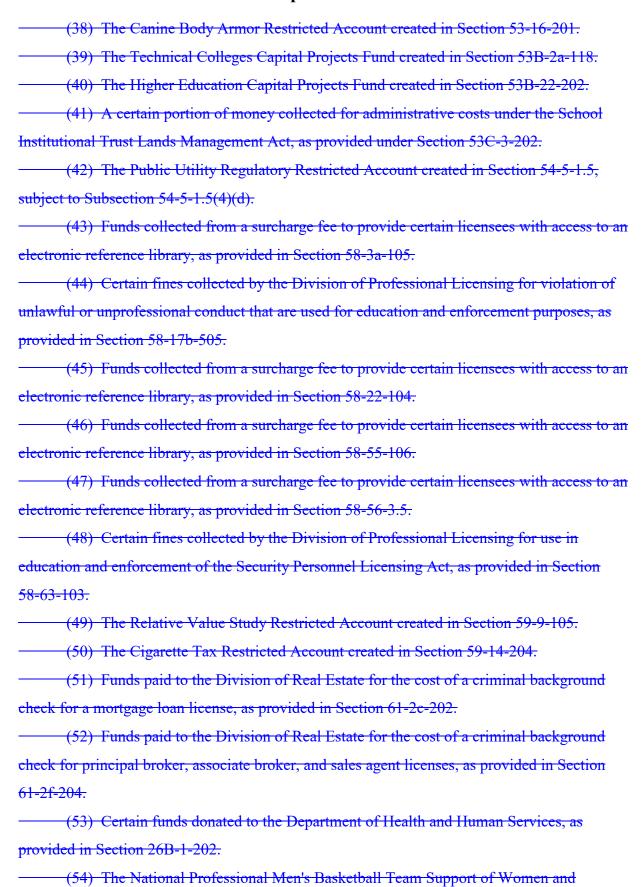
Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action; (i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability; (j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action; (k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order; (1) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures; (m) the initial determination of a person's eligibility for government or public assistance benefits; (n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration; (o) a license for use of state recreational facilities; (p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603; (q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action; (r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

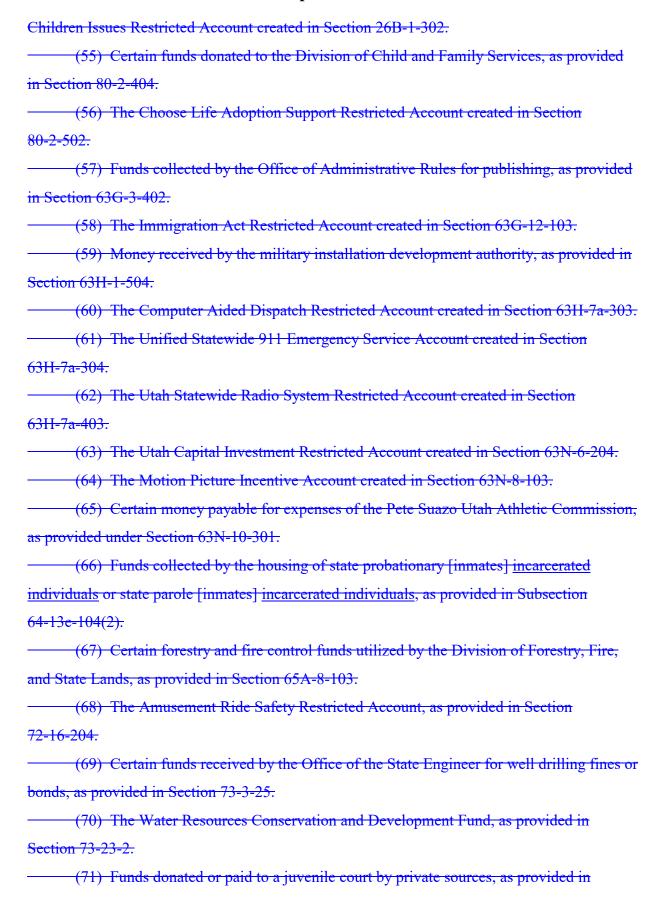


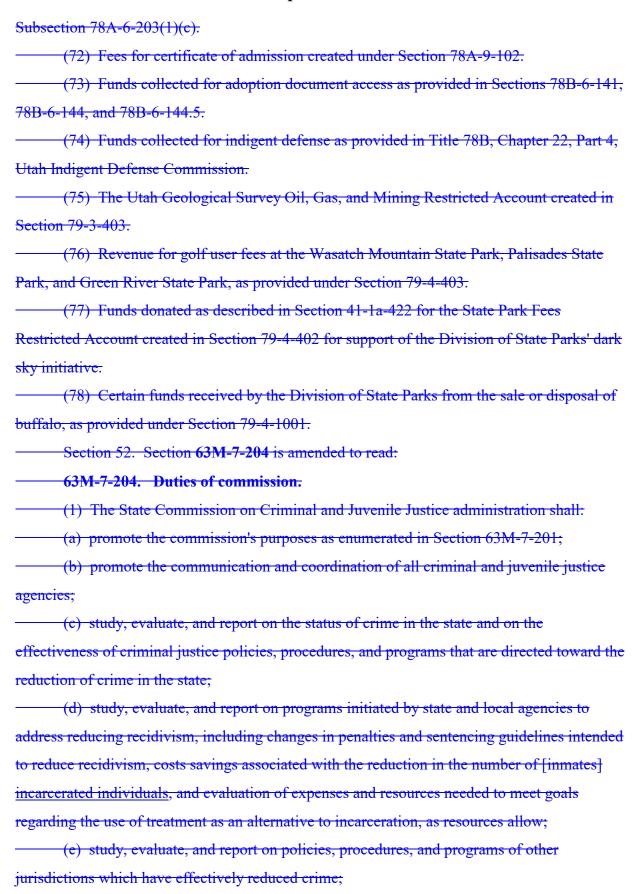


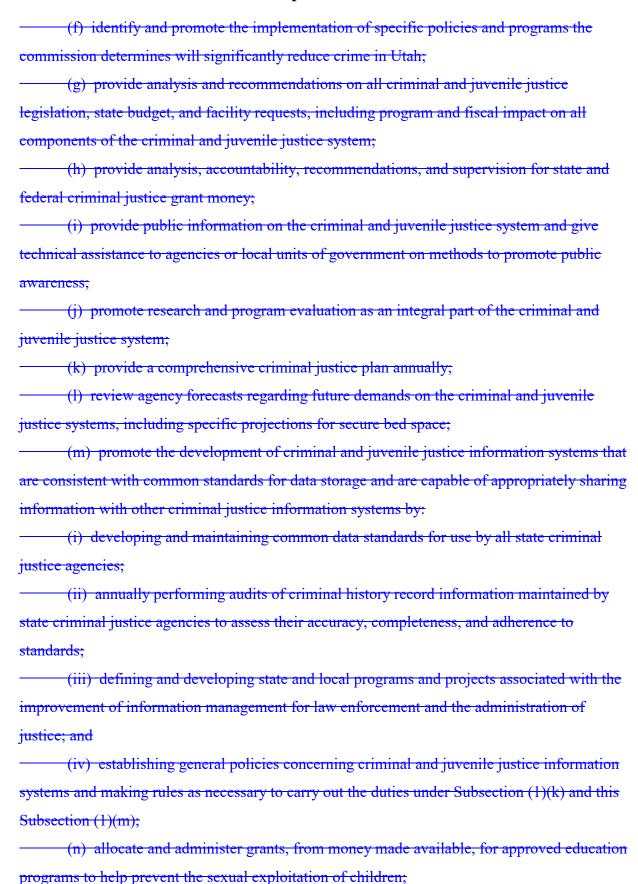
Section 9-18-102. (4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102. (5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106. (6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105. (7) The "Latino Community Support Restricted Account" created in Section 13-1-16. (8) The Clean Air Support Restricted Account created in Section 19-1-109. (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106. (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126. (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5. (12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117. (13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38. (14) The Children with Cancer Support Restricted Account created in Section 26-21a-304. (15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108. (16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102. (17) The Technology Development Restricted Account created in Section 31A-3-104. (18) The Criminal Background Check Restricted Account created in Section 31A-3-105. (19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue. (20) The Title Licensee Enforcement Restricted Account created in Section

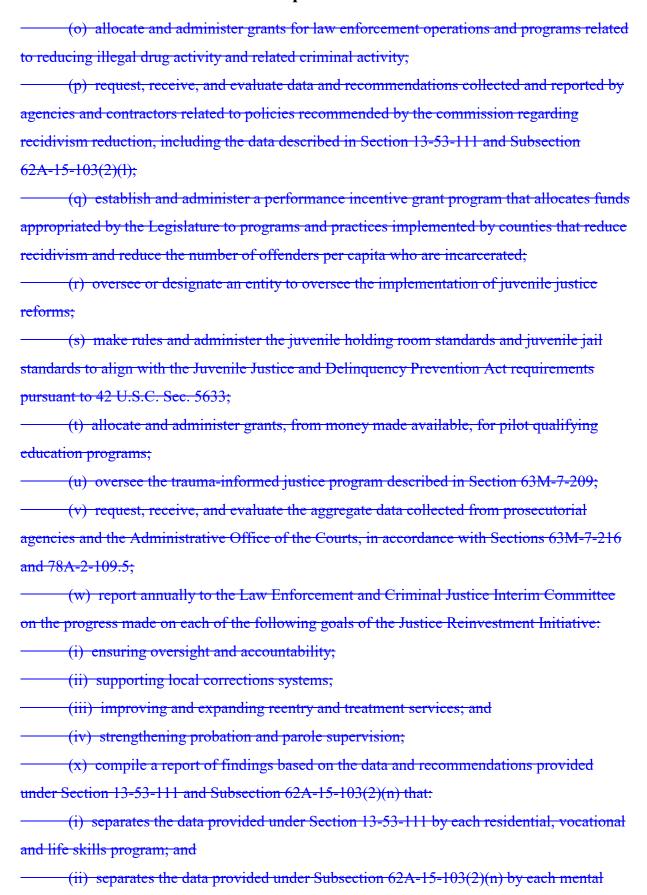












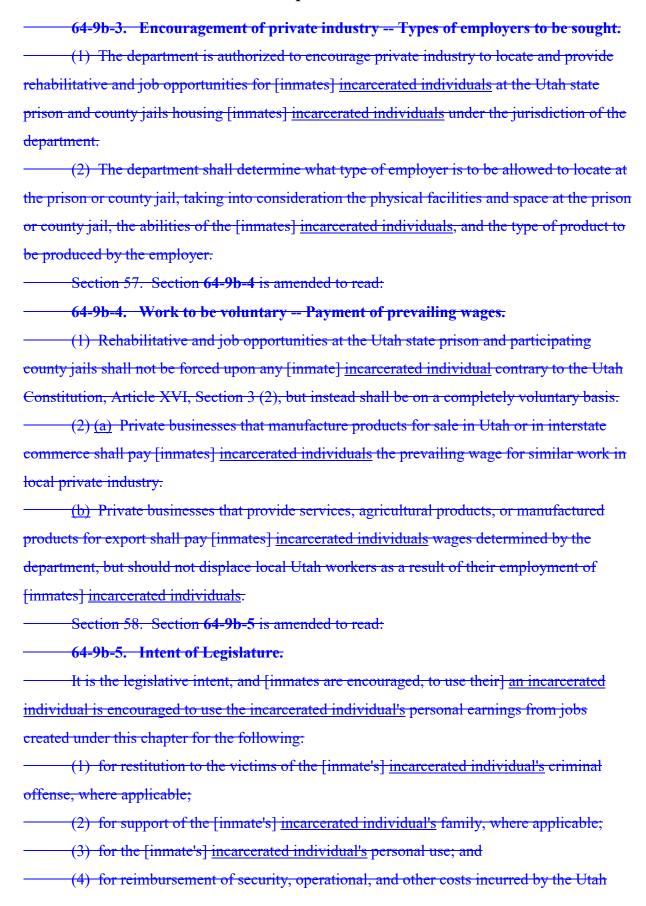
health or substance use treatment program; and (y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees. (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 53. Section 63M-7-526 is amended to read: 63M-7-526. Crime Victims Reparations Fund. (1) (a) There is created an expendable special revenue fund known as the "Crime Victim Reparations Fund" to be administered and distributed as provided in this section by the office in cooperation with the Division of Finance. (b) The fund shall consist of: (i) appropriations by the Legislature; and (ii) funds collected under Subsections (2) and (3). (c) Money deposited in this fund is for victim reparations, other victim services, and, as appropriated, for administrative costs of the office. (2) (a) A percentage of the income earned by [inmates] incarcerated individuals working for correctional industries in a federally certified private sector/prison industries enhancement program shall be deposited [in] into the fund. (b) The percentage of income deducted from [inmate] incarcerated individual pay under Subsection (2)(a) shall be determined by the executive director of the Department of Corrections in accordance with the requirements of the private sector/prison industries enhancement program. (3) (a) Judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the fund by convicted criminals. (b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

Section 54. Section 64-9b-1 is amended to read:

CHAPTER 9b. WORK PROGRAMS FOR INCARCERATED INDIVIDUALS 64-9b-1. Legislative findings. (1) The Legislature finds that it is in the best interest of the state for the department to: (a) develop job opportunities to further enhance the rehabilitation of [inmates] incarcerated individuals of the Utah state prison; (b) establish and actively work toward the goal that all [inmates] incarcerated individuals shall be productively involved in a treatment, education, or work program, or a combination of these programs, as appropriate, except for [inmates] incarcerated individuals who the department determines have a physical or mental disability, or pose a danger to the public, so that they are unable to engage in these activities; and (c) submit a comprehensive management plan outlining the department's plan to meet this goal to the Legislature on or before November 1 of each even-numbered year, and the plan shall include: (i) a cost-effective analysis of current [inmate] incarcerated individual education, treatment, and work programs; and (ii) a study of the feasibility of expanding [inmate] incarcerated individual work programs, particularly in regard to programs that: (A) are not capital intensive; (B) do not unfairly compete with existing Utah industry; and (C) are designed to increase the motivation, develop the work capabilities, and foster the cooperation of [inmates] incarcerated individuals. (2) The Legislature further finds that a proper means to accomplish this is through a liberal application of this chapter. Section 55. Section 64-9b-2 is amended to read: 64-9b-2. Definitions. As used in this chapter: (1) "Department" means the Department of Corrections. (2) ["Inmate" means any man or woman] "Incarcerated individual" means an individual who is under the jurisdiction of the department and who is assigned to the Utah state prison or

Section 56. Section 64-9b-3 is amended to read:

to a county jail.



Correctional Industries Division of the department in administering these projects.

Section 59. Section 64-13-1 is amended to read:

→ 64-13-1. Definitions.

As used in this chapter:

- (1) "Behavioral health transition facility" means a nonsecure correctional facility operated by the department for the purpose of providing a therapeutic environment for offenders receiving mental health services.
- (2) "Case action plan" means a document developed by the Department of Corrections that identifies:
- (a) the program priorities for the treatment of the offender, including the criminal risk factors as determined by risk, needs, and responsivity assessments conducted by the department; and
 - (b) clearly defined completion requirements.
- (3) "Community correctional center" means a nonsecure correctional facility operated by the department, but does not include a behavioral health transition facility for the purposes of Section 64-13f-103.
- (4) "Correctional facility" means any facility operated to house offenders in a secure or nonsecure setting:
 - (a) by the department; or
 - (b) under a contract with the department.
 - (5) "Criminal risk factors" means an individual's characteristics and behaviors that:
 - (a) affect the individual's risk of engaging in criminal behavior; and
- (b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.
 - (6) "Department" means the Department of Corrections.
- (7) "Direct supervision" means a housing and supervision system that is designed to meet the goals described in Subsection 64-13-14(5) and has the elements described in Subsection 64-13-14(6).
- (8) "Emergency" means any riot, disturbance, homicide, {{}} inmate{{}} incarcerated individual} violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

- (9) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.
- (10) "Evidence-informed" means a program or practice that is based on research and the experience and expertise of the department.
- (11) "Executive director" means the executive director of the Department of Corrections.
 - (12) {{}"Inmate"{{} "Incarcerated individual"}} means an individual who is:
 - (a) committed to the custody of the department; and
 - (b) housed at a correctional facility or at a county jail at the request of the department.
- (13) "Offender" means an individual who has been convicted of a crime for which the individual may be committed to the custody of the department and is at least one of the following:
 - (a) committed to the custody of the department;
 - (b) on probation; or
 - (c) on parole.
 - (14) "Restitution" means the same as that term is defined in Section 77-38b-102.
- (15) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:
 - (a) an individual's risk of reoffending; and
- (b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.
- (16) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain an offender if the offender attempts to leave the institution without authorization.
- (17) "Serious illness" means, as determined by the {incarcerated individual's} inmate's physician, an illness that substantially impairs the {incarcerated individual's} inmate's quality of life.
- (18) "Serious injury" means, as determined by the {incarcerated individual's} inmate's physician, bodily injury that involves a substantial risk of death, prolonged unconsciousness,

prolonged and obvious disfigurement, or prolonged loss or impairment of the function of a bodily member, organ, or mental faculty.

- (1) The department may extend the limits of the place of confinement of an [inmate] incarcerated individual when, as established by department policies and procedures, there is cause to believe the [inmate] incarcerated individual will honor the trust, by authorizing the [inmate] incarcerated individual under prescribed conditions:
- (a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;
- (b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;
- (c) to be housed in a nonsecure community correctional center operated by the department; or
 - (d) to be housed in any other facility under contract with the department.
- (2) The department shall establish rules governing offenders on release status. A copy of the rules shall be furnished to the offender and to any employer or other person participating in the offender's release program. Any employer or other participating person shall agree in writing to abide by the rules and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.
- (3) The willful failure of an [inmate] incarcerated individual to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the department is an escape from custody.
- (4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.
- (5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon offenders who violate guidelines established by the Utah Sentencing Commission, including prosecution for escape under Section 76-8-309 and for unauthorized absence.

(6) An [inmate] incarcerated individual who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions. Section 61. Section 64-13-15 is amended to read: 64-13-15. Property of offender -- Storage and disposal. (1) (a) (i) Offenders may retain personal property at correctional facilities only as authorized by the department. (ii) An offender's property which is retained by the department shall be inventoried and placed in storage by the department and a receipt for the property shall be issued to the offender. (iii) Offenders shall be required to arrange for disposal of property retained by the department within a reasonable time under department rules. (iv) Property retained by the department shall be returned to the offender at discharge, or in accordance with Title 75, Utah Uniform Probate Code, in the case of death prior to discharge. (b) If property is not claimed within one year of discharge, or it is not disposed of by the offender within a reasonable time after the department's order to arrange for disposal, it becomes property of the state and may be used for correctional purposes or donated to a charity within the state. (c) If an [inmate's] incarcerated individual's property is not claimed within one year of [his] the incarcerated individual's death, it becomes the property of the state in accordance with Section 75-2-105. (d) (i) Funds which are contraband and in the physical custody of [any prisoner] an incarcerated individual, whether in the form of currency and coin which are legal tender in any jurisdiction or negotiable instruments drawn upon a personal or business account, shall be subject to forfeiture following a hearing which accords with prevailing standards of due process. (ii) All such forfeited funds shall be used by the department for purposes which promote the general welfare of [prisoners] incarcerated individuals in the custody of the department. (iii) Money and negotiable instruments taken from offenders' mail under

department rule and which are not otherwise contraband shall be placed in an account

administered by the department, to the credit of the offender who owns the money or negotiable instruments. (2) Upon discharge from a secure correctional facility, the department may give an [inmate] incarcerated individual transition funds in an amount established by the department with the approval of the director of the Division of Finance. At its discretion, the department may spend the funds directly on the purchase of necessities or transportation for the discharged [inmate] incarcerated individual. Section 62. Section 64-13-16 is amended to read: 64-13-16. Incarcerated individual employment. (1) (a) The department may employ [inmates] incarcerated individuals, unless incapable of employment because of sickness or other infirmity or for security reasons, to the degree that funding and available resources allow. (b) An offender may not be employed on work which benefits any employee or officer of the department. (2) An offender employed under this section is not considered an employee, worker, workman, or operative for purposes of Title 34A, Chapter 2, Workers' Compensation Act, except as required by federal statute or regulation. Section 63. Section 64-13-17 is amended to read: 64-13-17. Visitors to correctional facilities -- Correspondence. (1) (a) The following persons may visit correctional facilities without the consent of the department: (i) the governor; (ii) the attorney general; (iii) a justice or judge of the courts of record; (iv) members of the Board of Pardons and Parole; (v) members of the Legislature; (vi) the sheriff, district attorney, and county attorney for the county in which the correctional facility is located; and (vii) any other persons authorized under rules prescribed by the department or court order.

(b) [Any] A person acting under a court order may visit or correspond with [any inmate| an incarcerated individual without the consent of the department provided the department has received notice of, and is permitted to respond to, the court order. The court shall consider department policy when making its order. (c) The department may limit access to correctional facilities when the department or governor declares an emergency or when there is a riot or other disturbance. (2) (a) A person may not visit with any offender at any correctional facility, other than under Subsection (1), without the consent of the department. (b) Offenders and all visitors, including those listed in Subsection (1), may be required to submit to a search or inspection of their persons and properties as a condition of visitation. (3) The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing guidelines for providing written notice to visitors regarding prohibited items and regarding the fact that under state law all visitors may be required to submit to a search of their persons and properties as a condition of visitation. (4) Offenders housed at any correctional facility may send and receive correspondence, subject to the rules of the department. All correspondence is subject to search, consistent with department rules. Section 64. Section 64-13-21 is amended to read: 64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee. (1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the **Interstate Compact for the Supervision of Parolees and Probationers.** (b) If a sentenced offender participates in substance use treatment or a residential, vocational and life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the department shall monitor the offender's

compliance with and completion of the treatment or program. (c) The department shall establish standards for: (i) the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated and evidence-based responses, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and (ii) the monitoring described in Subsection (1)(b). (2) The department shall apply the graduated and evidence-based responses established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including: (a) sanctions to be used in response to a violation of the terms of probation or parole; and (b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days. (3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's: (a) compliance with the terms of probation or parole; or (b) positive conduct that exceeds those terms. (4) (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of [inmates] incarcerated individuals, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes. (b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31. (5) Employees of the department who are POST certified as law enforcement

officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties: (a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement; (b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision; (c) supervising any offender during transportation; or (d) collecting DNA specimens when the specimens are required under Section 53-10-404. (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole. (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim. (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing. (ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations. (7) (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7). (b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7). (d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c). (e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed. (f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31: (i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents; (ii) the average number of credits earned by those offenders who earned credits; (iii) the number of offenders who earned credits by county of residence while on probation or parole; (iv) the cost savings associated with sentencing reform programs and practices; and (v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels. Section 65. Section 64-13-25 is amended to read: 64-13-25. Standards for programs -- Audits. (1) To promote accountability and to ensure safe and professional operation of correctional programs, the department shall establish minimum standards for the organization and operation of its programs, including collaborating with the Department of Health and Human Services to establish minimum standards for programs providing

assistance for individuals involved in the criminal justice system. (a) The standards shall be promulgated according to state rulemaking provisions. Those standards that apply to offenders are exempt from the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Offenders are not a class of persons under that act. (b) Standards shall provide for inquiring into and processing offender complaints. (c) (i) The department shall establish minimum standards and qualifications for treatment programs provided in county jails to which persons committed to the state prison are placed by jail contract under Section 64-13e-103. (ii) In establishing the standards and qualifications for the treatment programs, the department shall: (A) consult and collaborate with the county sheriffs and the Division of Substance **Abuse and Mental Health; and** (B) include programs demonstrated by recognized scientific research to reduce recidivism by addressing an offender's criminal risk factors as determined by a risk and needs assessment. (iii) All jails contracting to house offenders committed to the state prison shall meet the minimum standards for treatment programs as established under this Subsection (1)(c). (d) (i) The department shall establish minimum standards of treatment for sex offenders, which shall include the requirements under Subsection 64-13-7.5(3) regarding licensure and competency. (ii) The standards shall require the use of the most current best practices demonstrated by recognized scientific research to address an offender's criminal risk factors. (iii) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop and effectively distribute the standards to jails and to mental health professionals who desire to provide mental health treatment for sex offenders. (iv) The department shall establish the standards by administrative rule pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (2) The department shall establish an audit for compliance with standards
 established under this section according to policies and procedures established by the
 department, for continued operation of correctional and treatment programs provided to
 offenders committed to the department's custody, including [inmates] incarcerated
 individuals housed in county jails by contract with the Department of Corrections.

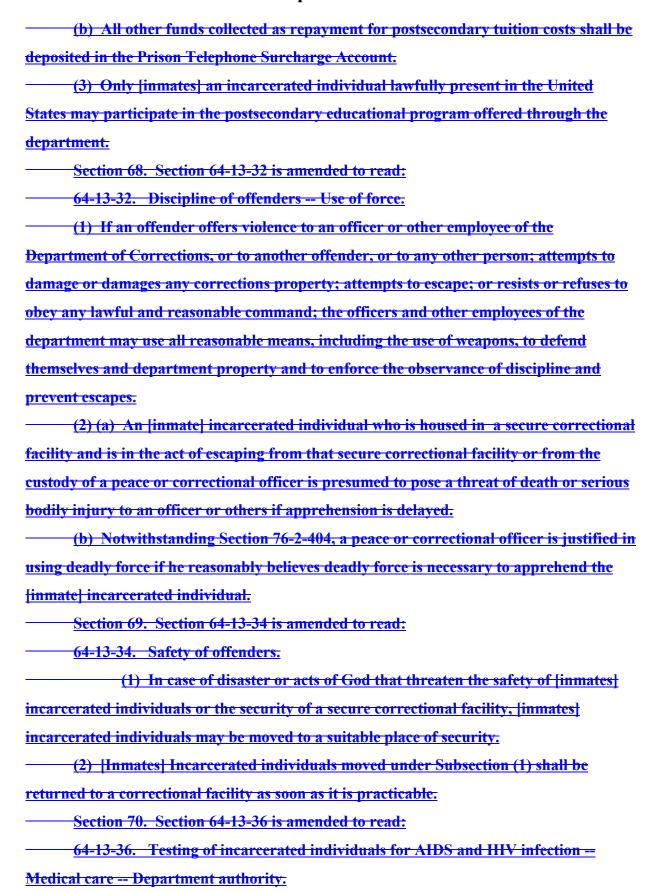
 (a) At least every three years, the department shall internally audit all programs
 for compliance with established standards.
- (b) All financial statements and accounts of the department shall be reviewed during the audit. Written review shall be provided to the managers of the programs and the executive director of the department.
- (c) The reports shall be classified as confidential internal working papers and access is available at the discretion of the executive director or the governor, or upon court order.
- (3) The department shall establish a certification program for public and private providers of treatment for sex offenders on probation or parole that requires the providers' sex offender treatment practices meet the standards and practices established under Subsection (1)(d) to reduce sex offender recidivism.
- (a) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop, coordinate, and implement the certification program.
- (b) The certification program shall be based on the standards under Subsection (1)(d) and shall require renewal of certification every two years.
- (c) All public and private providers of sex offender treatment, including those providing treatment to offenders housed in county jails by contract under Section 64-13e-103, shall comply with these standards on and after July 1, 2016, in order to begin receiving or continue receiving payment from the department to provide sex offender treatment on or after July 1, 2016.
- (d) The department shall establish the certification program by administrative rule pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) The department shall establish performance goals and outcome measurements for all programs that are subject to the minimum standards established under this section and shall collect data to analyze and evaluate whether the goals and measurements are

- attained. (a) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop and coordinate the performance goals and outcome measurements, including recidivism rates and treatment success and failure rates. (b) The department may use these data to make decisions on the use of funds to provide treatment for which standards are established under this section. (c) The department shall collaborate with the Division of Substance Abuse and Mental Health to track a subgroup of participants to determine if there is a net positive result from the use of treatment as an alternative to incarceration. (d) The department shall collaborate with the Division of Substance Abuse and Mental Health to evaluate the costs, including any additional costs, and the resources needed to attain the performance goals established for the use of treatment as an alternative to incarceration. (e) The department shall annually provide data collected under this Subsection (4) to the Commission on Criminal and Juvenile Justice on or before August 31. The commission shall compile a written report of the findings based on the data and shall provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees. Section 66. Section 64-13-30 is amended to read: 64-13-30. Expenses incurred by offenders -- Payment to department or county jail -- Medical care expenses and copayments. (1) (a) The department or county jail may require an [inmate] incarcerated individual to make a copayment for medical and dental services provided by the department or county jail. (b) For services provided while in the custody of the department, the copayment by the [inmate] incarcerated individual is \$5 for primary medical care, \$5 for dental care, and \$2 for prescription medication. (c) For services provided outside of a prison facility while in the custody of the
- department, the offender is responsible for 10% of the costs associated with hospital care with a cap on an [inmate's] incarcerated individual's share of hospital care expenses not

to exceed \$2,000 per fiscal year.

- (2) (a) An [inmate] incarcerated individual who has assets exceeding \$200,000, as determined by the department upon entry into the department's custody, is responsible to pay the costs of all medical and dental care up to 20% of the [inmate's] incarcerated individual's total determined asset value.
- (b) After an [inmate] incarcerated individual has received medical and dental care equal to 20% of the [inmate's] incarcerated individual's total asset value, the [inmate] incarcerated individual is subject to the copayments provided in Subsection (1).
- (3) The department shall turn over to the Office of State Debt Collection any debt under this section that is unpaid at the time the offender is released from parole.
- (4) An [inmate] incarcerated individual may not be denied medical treatment if the [inmate] incarcerated individual is unable to pay for the treatment because of inadequate financial resources.
- (5) When an offender in the custody of the department receives medical care that is provided outside of a prison facility, the department shall pay the costs:
 - (a) at the contracted rate; or
- (b) (i) if there is no contract between the department and a health care facility that establishes a fee schedule for medical services rendered, expenses shall be at the noncapitated state Medicaid rate in effect at the time the service was provided; and
- (ii) if there is no contract between the department and a health care provider that establishes a fee schedule for medical services rendered, expenses shall be 65% of the amount that would be paid under the Public Employees' Benefit and Insurance Program, created in Section 49-20-103.
- (6) Expenses described in Subsection (5) are a cost to the department only to the extent that they exceed an offender's private insurance that is in effect at the time of the service and that covers those expenses.
- (7) (a) The Public Employees' Benefit and Insurance Program shall provide information to the department that enables the department to calculate the amount to be paid to a health care provider under Subsection (5)(b).
- (b) The department shall ensure that information provided under Subsection (7)(a) is confidential.

Section 67. Section 64-13-30.5 is amended to read:
64-13-30.5. Payment by incarcerated individual for postsecondary educational
tuition.
(1) (a) [(a)] (i) An [inmate] incarcerated individual participating in a
postsecondary education program through the department shall pay to the department a
the time of enrollment 50% of the costs of the postsecondary education tuition.
[(b)] (ii) If an [inmate] incarcerated individual desires to participate in the
postsecondary education program but is unable to pay the costs of the education because
of inadequate financial resources, the [inmate] incarcerated individual may participate in
a deferred tuition payment program under this section.
[(c)] (iii) The department and the Office of State Debt Collection shall coordinate
a deferred postsecondary education tuition repayment program to provide [inmates]
incarcerated individuals a reasonable payment schedule and payment amount to allow
for deferred payment of the postsecondary educational tuition obligation the [inmate]
incarcerated individual incurred while under supervision of the department, which shall
[(i)] (A) account for all postsecondary education tuition costs incurred by the
[inmate] incarcerated individual while under the supervision of the department;
[(ii)] (B) establish an appropriate time for the [inmate] incarcerated individual to
begin payment of postsecondary education tuition costs, which shall require that
payments start no later than two years after termination of parole; and
[(iii)] (C) establish a payment schedule and payment amounts, including
prevailing interest rates, commensurate with student loans currently being offered by
local financial institutions.
[(d)] (iv) Neither the department nor the Office of State Debt Collection may
relieve an offender of the postsecondary tuition repayment responsibility.
[(e)] (v) The department shall pay costs of postsecondary education not paid by
the offender at the time of participation in the program from the Prison Telephone
Surcharge Account:
(2) (a) Of those tuition funds collected by the Office of State Debt Collection
under this section, 10% may be used by the Office of State Debt Collection for operation
of the deferred payment program.

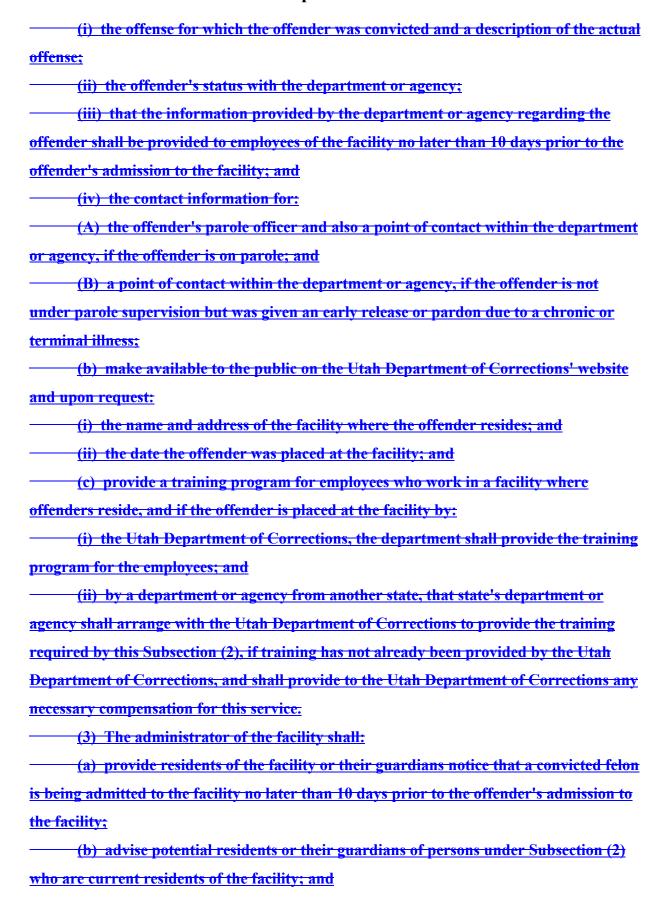


(1) As used in this section[:] [(a) "Prisoner" means a person who has been adjudicated and found guilty of a criminal offense and who is in the custody of and under the jurisdiction of the department. [(b) "Test" or "testing"] "test" or "testing" means a test or tests for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection in accordance with standards recommended by the state Department of Health and Human Services. (2) (a) Within 90 days after July 1, 1989, the effective date of this act, the department shall test or provide for testing of all [prisoners] incarcerated individuals who are under the jurisdiction of the department, and subsequently test or provide for testing of all [prisoners] incarcerated individuals who are committed to the jurisdiction of the department upon admission or within a reasonable period after admission. (b) At the time test results are provided to [persons] incarcerated individuals tested, the department shall provide education and counseling regarding Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection. (3) (a) The results of tests conducted under Subsection (2) become part of the [inmate's] incarcerated individual's medical file, accessible only to persons designated by department rule and in accordance with any other legal requirement for reporting of Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection. (b) Medical and epidemiological information regarding results of tests conducted under Subsection (2) shall be provided to the state Department of Health and Human Services. (4) The department has authority to take action as medically indicated with regard to any [prisoner] incarcerated individual who has tested positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection. (5) [Prisoners] Incarcerated individuals who test positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection may not be excluded from common areas of the prison that are accessible to other [prisoners] incarcerated individuals solely on the basis of that condition, unless medically necessary for protection of the general [prison] incarcerated individual population or staff. Section 71. Section 64-13-38 is amended to read:

64-13-38. Emergency release due to overcrowding. (1) [Definitions] As used in this section: (a) "Maximum capacity" means every physical and funded prison bed is occupied by an [inmate] incarcerated individual. (b) "Operational capacity" means 96.5% of every physical and funded bed is occupied by an [inmate] incarcerated individual. (c) "Emergency release capacity" means 98% of every physical and funded bed is occupied by an [inmate] incarcerated individual. (2) When the executive director of the department finds that either the male or female [inmate] incarcerated individual population of the Utah State Prison has exceeded operational capacity for at least 45 consecutive days, the executive director shall notify the governor, the legislative leadership, and the Board of Pardons and Parole that the department is approaching an overcrowding emergency and provide them with information relevant to that determination. (3) When the executive director of the department finds that either the male or female [inmate] incarcerated individual population of the Utah State Prison has exceeded emergency release capacity for at least 45 consecutive days, the executive director shall: (a) notify the governor and the legislative leadership that the emergency release capacity has been reached and provide them with information relevant to that determination; and (b) notify the Board of Pardons and Parole that the emergency release capacity has been reached so that the board may commence the emergency release process pursuant to Subsection (4). (4) Upon the department's notifying the governor and the legislative leadership of the emergency release capacity under Subsection (3), the department shall: (a) notify the Board of Pardons and Parole of the number of [inmates] incarcerated individuals who need to be released in order to return the prison [inmate] incarcerated individual population to operational capacity; and (b) in cooperation and consultation with the Board of Pardons and Parole, compile a list of [inmates] incarcerated individuals, the release of whom would be sufficient to return the prison [inmate] incarcerated individual population to operational

capacity. (5) After 45 consecutive days of emergency release capacity, the Board of Pardons and Parole may order the release of a sufficient number of [inmates] incarcerated individuals identified under Subsection (4) to return the prison [inmate] incarcerated individual population to operational capacity. (6) The department shall inform the governor and the legislative leadership when the emergency release has been completed. (7) The Board of Pardons and Parole shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section. Section 72. Section 64-13-39.5 is amended to read: 64-13-39.5. Definitions -- Health care for chronically or terminally ill offenders --Notice to health care facility. (1) As used in this section: (a) "Department or agency" means the Utah Department of Corrections or a department of corrections or government entity responsible for placing an offender in a facility located in Utah. (b) "Chronically ill" has the same meaning as in Section 31A-36-102. (c) "Facility" means an assisted living facility as defined in Subsection 26-21-2(5) and a nursing care facility as defined in Subsection 26-21-2(17), except that transitional care units and other long term care beds owned or operated on the premises of acute care hospitals or critical care hospitals are not facilities for the purpose of this section. (d) "Offender" means an [inmate] incarcerated individual whom the department or agency has given an early release, pardon, or parole due to a chronic or terminal illness. (e) "Terminally ill" has the same meaning as in Section 31A-36-102. (2) If an offender from Utah or any other state is admitted as a resident of a facility due to the chronic or terminal illness, the department or agency placing the offender shall: (a) provide written notice to the administrator of the facility no later than 15 days

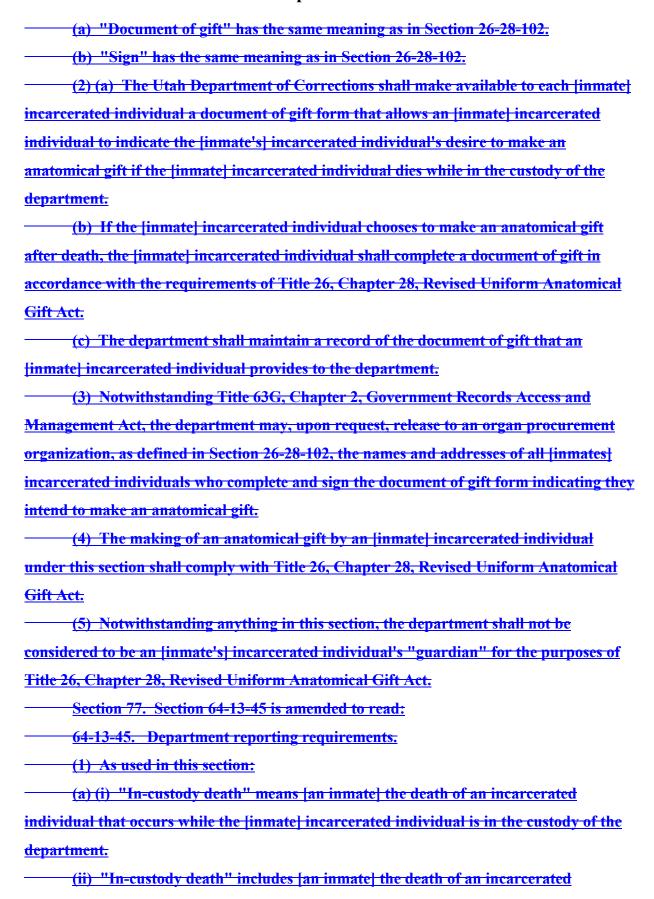
prior to the offender's admission as a resident of a facility, stating:



(c) provide training, offered by the Utah Department of Corrections, in the safe management of offenders for all employees. (4) The Utah Department of Corrections shall make rules under Title 63G, **Chapter 3, Utah Administrative Rulemaking Act, establishing:** (a) a consistent format and procedure for providing notification to facilities and information to the public in compliance with Subsection (2); and (b) a training program, in compliance with Subsection (3) for employees, who work at facilities where offenders reside to ensure the safety of facility residents and employees. Section 73. Section 64-13-40 is amended to read: 64-13-40. Worship for native American incarcerated individual. (1) As used in this section: (a) "Items used in religious ceremonies" includes cedar, corn husks, corn pollen, corn meal, eagle and other feathers, sage, sweet grass, tobacco, pipes, willow, drums, gourds, lava rock, medicine bundles, bags or pouches, staffs, and other traditional items and materials. (b) "Native American" means an individual who is eligible for membership in a tribe recognized by the federal government. (c) "Native American religion" means a religion or religious belief that is practiced by a native American, the origin and interpretation of which is from a traditional native American culture or community. (d) "Native American spiritual advisor" means a person who leads, instructs, or facilitates a native American religious ceremony or service, or provides religious counseling, and includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman. (e) "Site of worship" means a site indoors or outdoors where a person can pray or meditate, or where a sweat lodge ceremony, talking circle, or individual prayer can be made. (2) (a) At the request of any native American [inmate] incarcerated individual, a state correctional facility shall reasonably accommodate the practice of the native American [inmate's] incarcerated individual's religion including a native American

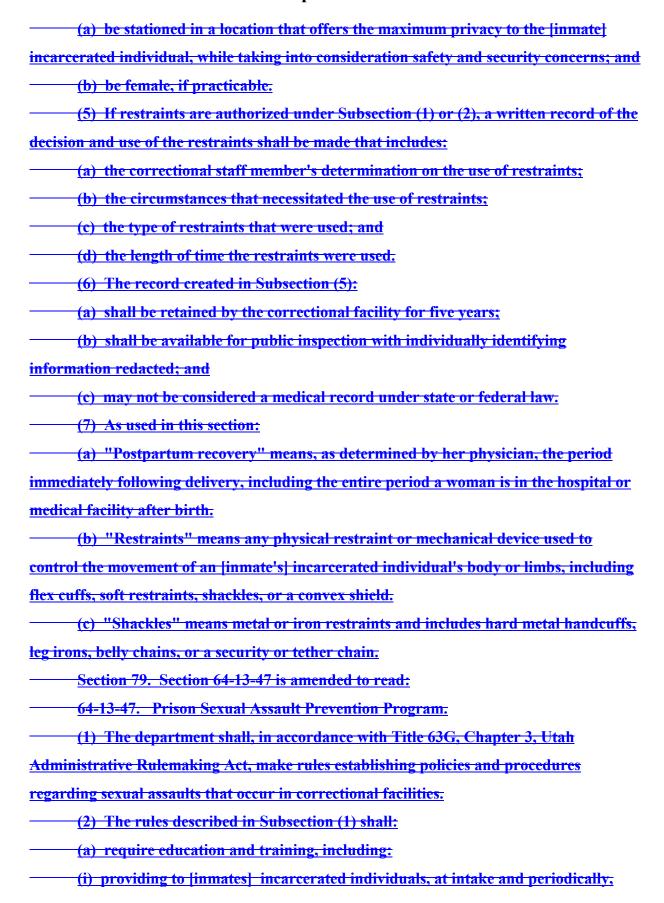
religion at each state correctional facility, unless the [inmate] incarcerated individual is a maximum security [inmate] incarcerated individual and accommodating the maximum security [inmate] incarcerated individual would threaten the reasonable security of the state correctional facility. (b) In accommodating a native American religion, the state correctional facility shall: (i) permit access on a regular basis to: (A) a native American spiritual advisor; and (B) a site of worship on the grounds of the correctional facility, unless the finmatel incarcerated individual is a maximum security finmatel incarcerated individual and permitting access would threaten the reasonable security of the state correctional facility; (ii) permit access to items used in religious ceremonies during the religious ceremonies; and (iii) provide a secure place at the site of worship to store the items used in religious ceremonies. (3) Notwithstanding Subsection (2)(b)(iii), the state correctional facility is not required to provide to the [inmate] incarcerated individual any item used in religious ceremonies. (4) A native American spiritual advisor shall have any privilege of access to [inmates] incarcerated individuals and sites of worship provided to an individual functioning as a religious leader or advisor at a state correctional facility. (5) An [inmate] incarcerated individual claiming to be a native American for purposes of this section shall bear the burden of establishing to the state correctional facility that the [inmate] incarcerated individual is a native American. (6) The department may not require a native American [inmate] incarcerated individual to cut the [inmate's] incarcerated individual's hair if it conflicts with the [inmate's] incarcerated individual's traditional native American religious beliefs. (7) A state correctional facility is required to comply with this section only to the extent that it does not threaten the reasonable security of the state correctional facility. (8) This section may not be construed as requiring a state correctional facility to

permit access to peyote by a native American [inmate] incarcerated individual.
Section 74. Section 64-13-42 is amended to read:
64-13-42. Prison Telephone Surcharge Account Funding incarcerated
individual and offender education and training programs.
(1) (a) There is created within the General Fund a restricted account known as
the Prison Telephone Surcharge Account.
(b) The Prison Telephone Surcharge Account consists of:
(i) beginning July 1, 2006, revenue generated by the state from pay telephone
services located at any correctional facility as defined in Section 64-13-1;
(ii) interest on account money;
(iii) (A) money paid by [inmates] incarcerated individuals participating in
postsecondary education provided by the department; and
(B) money repaid by former [inmates] incarcerated individuals who have a
written agreement with the department to pay for a specified portion of the tuition costs
under the department's deferred tuition payment program;
(iv) money collected by the Office of State Debt Collection for debt described in
Subsection (1)(b)(iii); and
(v) money appropriated by the Legislature.
(2) Upon appropriation by the Legislature, money from the Prison Telephone
Surcharge Account shall be used by the department for education and training programs
for offenders and [inmates] incarcerated individual as defined in Section 64-13-1.
Section 75. Section 64-13-43 is amended to read:
64-13-43. Use of state vehicles by department personnel.
The department executive director may authorize the use of a state vehicle for
official and commute purposes for a department employee who:
(1) supervises probationers or parolees; or
(2) investigates the criminal activity of [inmates] incarcerated individuals,
probationers, or parolees.
Section 76. Section 64-13-44 is amended to read:
64-13-44. Posthumous organ donations by incarcerated individuals.
(1) As used in this section:



individual that occurs while the [inmate] incarcerated individual is:
(A) being transported for medical care; or
(B) receiving medical care outside of a correctional facility, other than a county
jail.
(b) ["Inmate"] "Incarcerated individual" means an individual who is processed
or booked into custody or housed in the department or a correctional facility other than a
county jail.
(c) "Opiate" means the same as that term is defined in Section 58-37-2.
(2) The department shall submit a report to the Commission on Criminal and
Juvenile Justice, created in Section 63M-7-201, before June 15 of each year that includes:
(a) the number of in-custody deaths that occurred during the preceding calendar
year, including:
(i) the known, or discoverable on reasonable inquiry, causes and contributing
factors of each of the in-custody deaths described in Subsection (2)(a); and
(ii) the department's policy for notifying an [inmate's] incarcerated individual's
next of kin after the [inmate's] incarcerated individual's in-custody death;
(b) the department policies, procedures, and protocols:
(i) for treatment of an [inmate] incarcerated individual experiencing withdrawal
from alcohol or substance use, including use of opiates;
(ii) that relate to the department's provision, or lack of provision, of medications
used to treat, mitigate, or address an [inmate's] incarcerated individual's symptoms of
withdrawal, including methadone and all forms of buprenorphine and naltrexone; and
(iii) that relate to screening, assessment, and treatment of an [inmate]
incarcerated individual for a substance use disorder or mental health disorder;
(c) the number of [inmates] incarcerated individuals who gave birth and were
restrained in accordance with Section 64-13-46, including:
(i) the types of restraints used; and
(ii) whether the use of restraints was to prevent escape or to ensure the safety of
the [inmate] incarcerated individual, medical or corrections staff, or the public; and
(d) any report the department provides or is required to provide under federal
law or regulation relating to [inmate deaths] an in-custody death.

(3) The Commission on Criminal and Juvenile Justice shall: (a) compile the information from the reports described in Subsection (2); (b) omit or redact any identifying information of an [inmate] incarcerated individual in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and (c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year. (4) The Commission on Criminal and Juvenile Justice may not provide access to or use the department's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section. Section 78. Section 64-13-46 is amended to read: 64-13-46. Pregnant incarcerated individuals. (1) (a) If the staff of a correctional facility knows or has reason to believe that an [inmate] incarcerated individual is pregnant, the staff, when restraining the [inmate] incarcerated individual, shall use the least restrictive restraints necessary to ensure the safety and security of the [inmate] incarcerated individual and others. (b) This requirement shall continue during postpartum recovery and any transport to or from a correctional facility. (2) The staff of a correctional facility may not use restraints on an [inmate] incarcerated individual during labor and childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the [inmate] incarcerated individual presents: (a) an immediate and serious risk of harm to herself, medical staff, correctional staff, or the public; or (b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means. (3) Notwithstanding Subsection (1) or (2), under no circumstances may shackles, leg restraints, or waist restraints be used on an [inmate] incarcerated individual during labor and childbirth or postpartum recovery while in a medical facility. (4) Correctional staff present during labor or childbirth shall:



department-approved, easy-to-understand information developed by the department on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; and (ii) providing sexual-assault-specific training to department mental health professionals and all employees who have direct contact with [inmates] incarcerated individuals regarding treatment and methods of prevention and investigation; (b) require reporting of sexual assault, including: (i) ensuring the confidentiality of [inmate] incarcerated individual sexual assault complaints and the protection of [inmates] incarcerated individuals who make complaints of sexual assault; and (ii) prohibiting retaliation and disincentives for reporting sexual assault; (c) require safety and care for victims, including: (i) providing, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure the victim's safety by separating the victim from the assailant, if known; (ii) providing acute trauma care for sexual assault victims, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections; (iii) providing confidential mental health counseling for victims of sexual assault, including access to outside community groups or victim advocates that have expertise in sexual assault counseling, and enable confidential communication between [inmates] incarcerated individuals and those organizations and advocates; and (iv) monitoring victims of sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault; (d) require investigations and staff discipline, including: (i) requiring all employees to report any knowledge, suspicion, or information regarding an incident of sexual assault to the executive director or designee, and require disciplinary action for employees who fail to report as required; (ii) requiring investigations described in Subsection (3); (iii) requiring corrections investigators to submit all completed sexual assault

allegations to the executive director or the executive director's designee, who must then submit any substantiated findings that may constitute a crime under state law to the district attorney with jurisdiction over the facility in which the alleged sexual assault occurred; and (iv) requiring employees to be subject to disciplinary sanctions up to and including termination for violating agency sexual assault policies, with termination the presumptive disciplinary sanction for employees who have engaged in sexual assault, consistent with constitutional due process protections and state personnel laws and rules; and a (e) require data collection and reporting, including as provided in Subsection (4). (3) (a) An investigator trained in the investigation of sex crimes shall conduct the investigation of a sexual assault involving an [inmate] incarcerated individual. (b) The investigation shall include: (i) using a forensic rape kit, if appropriate; (ii) questioning suspects and witnesses; and (iii) gathering and preserving relevant evidence. (4) The department shall: (a) collect and report data regarding all allegations of sexual assault from each correctional facility in accordance with the federal Prison Rape Elimination Act of 2003, Pub. L 108-79, as amended; and (b) annually report the data described in Subsection (4)(a) to the Law **Enforcement and Criminal Justice Interim Committee.** Section 80. Section 64-13-48 is amended to read: 64-13-48. Educational and career-readiness programs. (1) The department shall, in accordance with Subsection 64-13-6(1)(c), ensure that appropriate evidence-based and evidence-informed educational or career-readiness programs are made available to an [inmate] incarcerated individual as soon as practicable after the creation of the [inmate's] incarcerated individual's case action plan. (2) The department shall provide incarcerated women with substantially equivalent educational and career-readiness opportunities as incarcerated men.

(3) Before an [inmate] incarcerated individual begins an educational or

career-readiness program, the department shall provide reasonable access to resources necessary for an [inmate] incarcerated individual to apply for grants or other available financial aid that may be available to pay for the [inmate's] incarcerated individual's program. (4) (a) The department shall consider an [inmate's] incarcerated individual's current participation in an educational or career-readiness program when the department makes a decision with regard to an [inmate's] incarcerated individual's: (i) transfer to another area or facility; or (ii) appropriate disciplinary sanction. (b) When possible, the department shall use best efforts to allow an [inmate] incarcerated individual to continue the [inmate's] incarcerated individual's participation in an educational or career-readiness program while the facility is under lockdown, quarantine, or a similar status. (5) (a) The department shall maintain records on an [inmate's] incarcerated individual's educational progress, including completed life skills, certifications, and credit- and non-credit-bearing courses, made while the [inmate] incarcerated individual is incarcerated. (b) The department shall facilitate the transfer of information related to the [inmate's] incarcerated individual's educational process upon the [inmate's] incarcerated individual's release, including the [inmate's] incarcerated individual's post-release contact information and the records described in Subsection (5)(a), to: (i) the [inmate] incarcerated individual; or (ii) an entity that the [inmate] incarcerated individual has authorized to receive the [inmate's] incarcerated individual's records or post-release contact information, including an institution: (A) from which the [inmate] incarcerated individual received educational instruction while the [inmate] incarcerated individual was incarcerated; or (B) at which the [inmate] incarcerated individual plans to continue the [inmate's] incarcerated individual's post-incarceration education. (6) Beginning May 1, 2023, the department shall provide an annual report to the Higher Education Appropriations Subcommittee regarding educational and

career-readiness programs for [inmates] incarcerated individuals, which shall include: (a) the number of [inmates] incarcerated individuals who are participating in an educational or career-readiness program, including an accredited postsecondary education program; (b) the percentage of [inmates] incarcerated individuals who are participating in an educational or career-readiness program as compared to the total [inmate] incarcerated individual population; (c) [inmate] incarcerated individual program completion and graduation data, including the number of completions and graduations in each educational or career-readiness program; (d) the potential effect of educational or career-readiness programs on recidivism, as determined by a comparison of: (i) the total number of [inmates] incarcerated individuals who return to incarceration after a previous incarceration; and (ii) the number of [inmates] incarcerated individuals who return to incarceration after a previous incarceration who participated in or completed an educational or career-readiness program; (e) the number of [inmates] incarcerated individuals who were transferred to a different facility while currently participating in an educational or career-readiness program, including the number of [inmates] incarcerated individuals who were unable to continue a program after a transfer to a different facility; and (f) the department's: (i) recommendation for resources that may increase [inmates'] incarcerated individuals' access to and participation in an educational or career-readiness program; and (ii) estimate of how many additional [inmates] incarcerated individuals would participate in an educational or career-readiness program if the resources were provided. (7) The department may make rules in accordance with Section 64-13-10 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section. Section 81. Section 64-13-49 is enacted to read:

64-13-49. Incarcerated individual Inmate medical notification.

<u>(1)</u> {

As used in this section, "health care facility" means the same as that term is defined in Section 26-21-2.

- (2) Upon intake of an {incarcerated individual}inmate, a correctional facility shall provide the {incarcerated individual}inmate with a form that allows the {incarcerated individual}inmate to designate a contact to whom the correctional facility may release the {incarcerated individual's}inmates medical information in compliance with applicable federal law and Title 63G, Chapter 2, Government Records Access and Management Act.
 - (3) A correctional facility shall, without compromising an investigation:
- (a) attempt to notify an {incarcerated individual's} inmate's designated contact that the {incarcerated individual} inmate sustained a serious injury or contracted a serious illness within five days after:
- (i) the day on which the {incarcerated individual} inmate sustains the serious injury or contracts the serious illness; or
- (ii) if the {incarcerated individual} inmate is transferred to a health care facility as a result of the serious injury or serious illness, the day on which the {incarcerated individual} inmate is released from the health care facility;
- (b) attempt to notify the designated contact within 24 hours after the death of the {incarcerated individual} inmate and include the manner of death in the notification, if known; or
- (c) attempt to notify the designated contact if the {incarcerated individual's} inmate's physician determines notification is necessary because the {incarcerated individual} inmate has a medical condition that:
- (i) renders the {incarcerated individual} inmate incapable of making health care decisions; or
 - (ii) may result in the {incarcerated individual} inmate reaching end-of-life.
- (4) The notification described in Subsection (3)(a) shall, without compromising an investigation, describe:
 - (a) the serious injury or serious illness;
 - (b) the extent of the serious injury or serious illness;

(c) the medical treatment plan; and

(d) if applicable, the medical treatment recovery plan. (5) The department shall create a policy that a staff member provide the notification described in Subsection (3) in a compassionate and professional manner. Section 82. Section 64-13d-103 is amended to read: 64-13d-103. Private contracts. (1) The department may contract with a contractor to finance, acquire, construct, lease, or provide full or partial correctional services. (2) Before entering into a contract, the department shall: (a) hold a public hearing within the county or municipality where the facility is to be sited for the purpose of obtaining public comment; (b) give consideration to the input received at the public hearing when making decisions regarding the awarding of a contract and the contract process; and (c) have received written notification from the legislative body of the municipality or county where the proposed facility is to be sited, stating that the legislative body has agreed to the establishment of the facility within its boundaries. (3) Before entering into a contract, the department shall require that the contractor proposing to provide the services demonstrate that it has: (a) management personnel with the qualifications and experience necessary to carry out the terms of the contract; (b) sufficient financial resources to: (i) complete and operate the facility; (ii) provide indemnification for liability arising from the operation of the facility; and (iii) provide reimbursement as required under Section 64-13d-105; (c) the ability and resources to meet applicable court orders, correctional standards as defined by the department, and constitutional requirements; and (d) liability insurance adequate to protect the state, the political subdivision where the

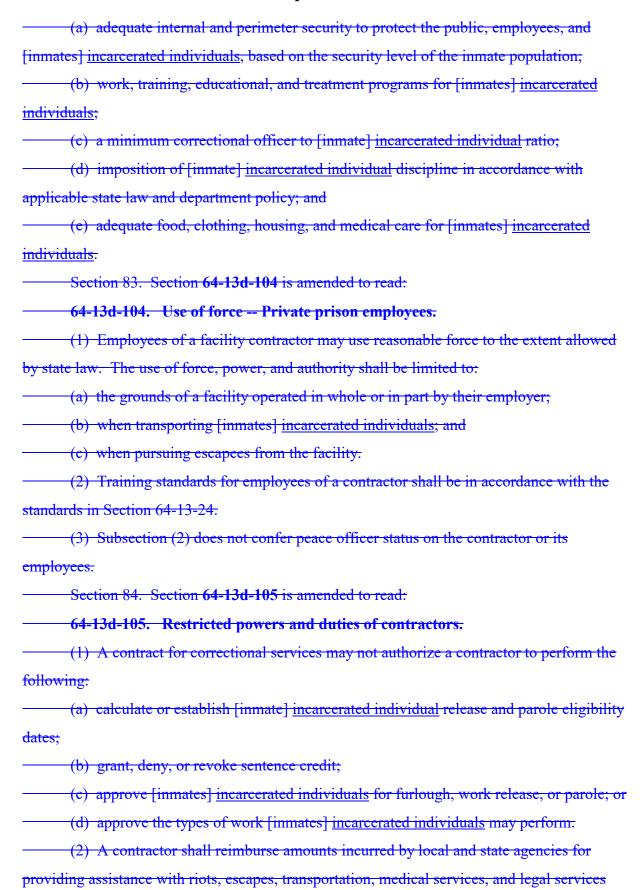
facility is located, and the officers and employees of the facility from all claims and losses

(4) A contract awarded for the operation of a facility shall be consistent with

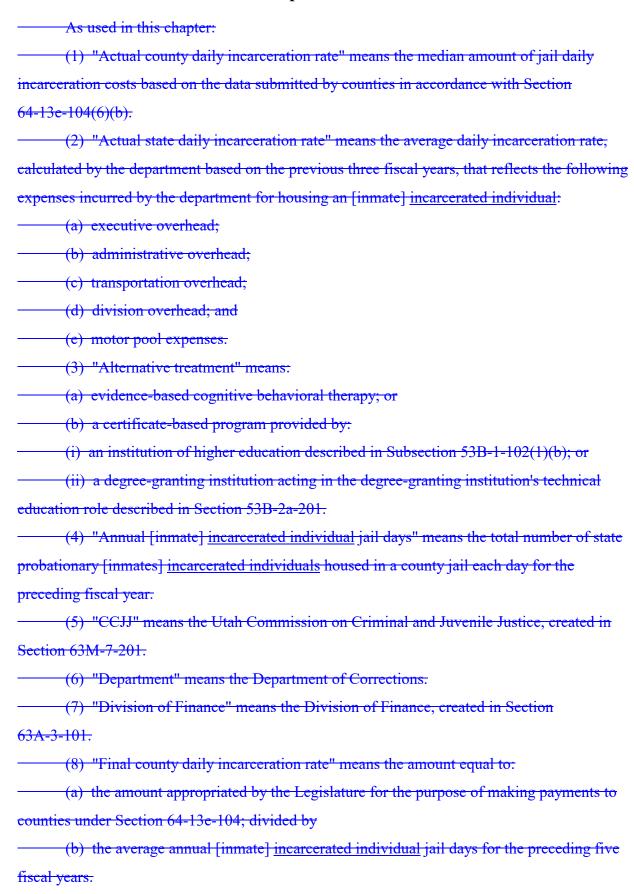
commonly accepted correctional practices as defined by the department and shall include:

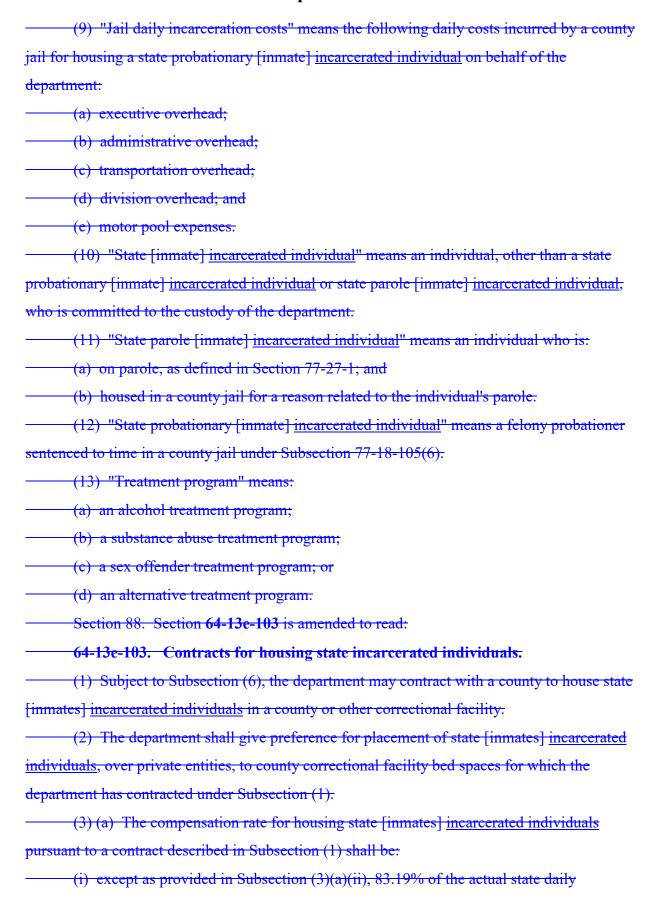
incurred as a result of action or inaction by the contractor or its employees.

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regarding the operation of the facility.
(3) A contractor shall have in place a written plan approved by the department
regarding the reporting and management of escapes, riots, and other emergency situations.
Section 85. Section 64-13d-106 is amended to read:
64-13d-106. Monitoring contracts.
(1) The executive director or his designee shall monitor the performance of all facilities
incarcerating [inmates] individuals under the jurisdiction of the department.
(2) The executive director or his designee shall have unlimited access to all facilities,
records, and staff for monitoring purposes.
(3) The executive director may appoint a monitor to inspect a facility. The monitor
shall have unlimited access to all facilities, records, and staff for monitoring purposes.
(4) The department shall be reimbursed by the entity operating the facility for that
portion of the salary and expenses of the monitor attributable to monitoring the particular
facility.
(5) Monitoring consists of ensuring that:
(a) all state laws, department rules, and contractual obligations applicable to the facility
are being met; and
(b) all operations are effective, efficient, and economical.
Section 86. Section 64-13d-107 is amended to read:
64-13d-107. Facility construction Housing out-of-state incarcerated
individuals.
(1) A contractor may not expand its original housing capacity without the approval of
the:
(a) Legislature; and
(b) county or municipal legislative body within whose jurisdiction the facility is
located.
(2) A contractor may not incarcerate out-of-state [inmates] incarcerated individuals in a
facility operated in the state, except in accordance with any interstate compact of which Utah is
a party.
Section 87. Section 64-13e-102 is amended to read:
64-13e-102. Definitions.



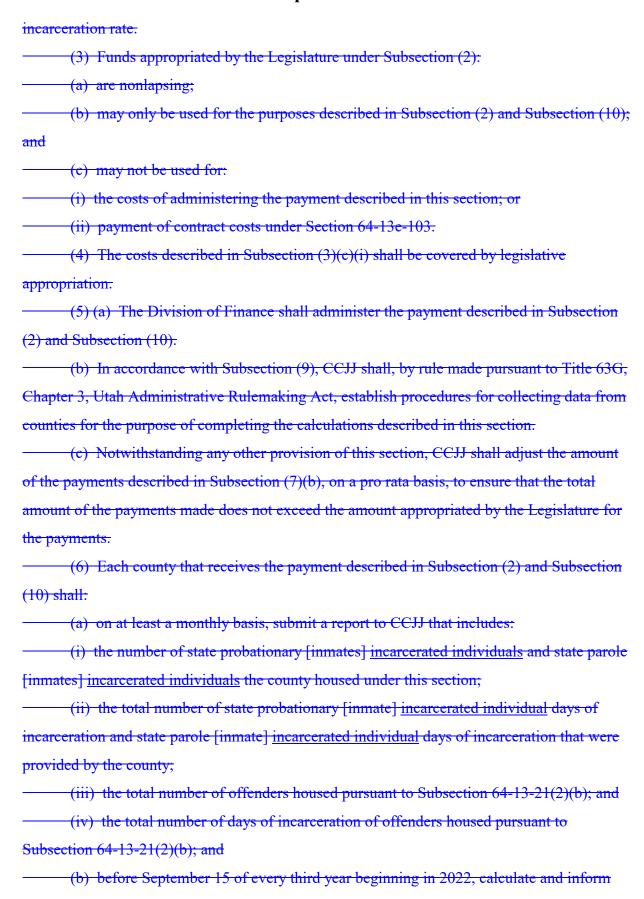


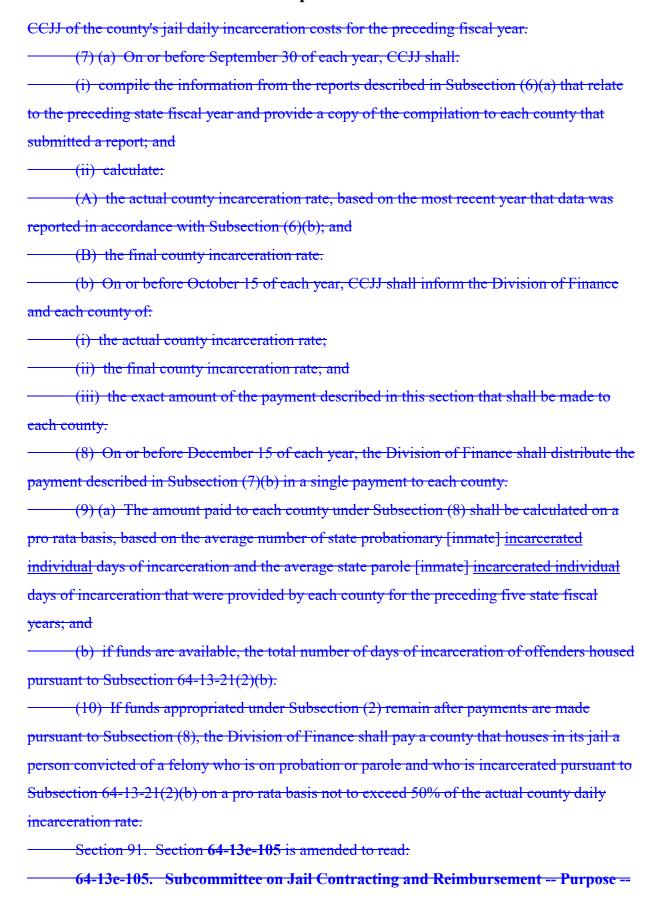
incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program for state [inmates] incarcerated individuals, if the treatment program is approved by the department under Subsection (3)(c); (ii) 74.18% of the actual state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to an alternative treatment program for state [inmates] incarcerated individuals, if the alternative treatment program is approved by the department under Subsection (3)(c); and (iii) 66.23% of the actual state daily incarceration rate for beds in a county other than the beds described in Subsections (3)(a)(i) and (ii). (b) The department shall: (i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii); and (ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii). (c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless: (i) the program meets the standards established under Subsection (3)(b)(i); (ii) the department determines that the Legislature has appropriated sufficient funds to: (A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i) or (ii); and (B) pay each county that does not provide a treatment program an amount per state [inmate] incarcerated individual that is not less than the amount per state [inmate] incarcerated individual received for the preceding fiscal year by a county that did not provide a treatment program; and (iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state [inmates] incarcerated individuals incarcerated

under this section shall be made by the department. (5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes: (a) the number of state [inmates] incarcerated individuals the county housed under this section; and (b) the total number of state [inmate] incarcerated individual days of incarceration that were provided by the county. (6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless: (a) beginning July 1, 2023, the county jail within the county is in compliance with the reporting requirements described in Subsection 17-22-32(2); and (b) the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract: (i) the approximate number of beds to be contracted; (ii) the daily rate at which the county is paid to house a state [inmate] incarcerated individual; (iii) the approximate amount of the county's long-term debt; and (iv) the repayment time of the debt for the facility where the [inmates] incarcerated individuals are to be housed. (7) The department may enter into a contract with a county government to house [inmates] incarcerated individuals without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001. (8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract. Section 89. Section 64-13e-103.2 is amended to read: 64-13e-103.2. State daily incarceration rate -- Limits -- Payments to jails. (1) Notwithstanding Sections 64-13e-103 and 64-13e-103.1, the actual state daily incarceration rate shall be \$85.27. This rate shall apply to [inmates] incarcerated individuals under Section 64-13e-103 and probationary and parole [inmates] incarcerated individuals under Section 64-13e-104.

(2) Notwithstanding Subsection 64-13e-103(3)(a), the number of jail beds contracted for shall be 1450 at the base rate of 71.57%, with the exception of: (a) the beds set aside for Subsection 64-13e-103(3)(a)(i) which shall be 434 beds and shall be reimbursed at 88.53% of the actual state daily incarceration rate; and (b) the beds set aside for Subsection 64-13e-103(3)(a)(ii) which shall be 235 beds and shall be reimbursed at 79.52% of the actual state daily incarceration rate. (3) Notwithstanding Subsection 64-13e-104(9), the five year average state probationary or parole [inmate] incarcerated individual days is set at 300,000 days. (4) Notwithstanding Subsection 64-13e-104(2), within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary [inmate] incarcerated individual or a state parole [inmate] incarcerated individual at a rate of 50% of the actual state daily incarceration rate. (5) Expenditures for Section 64-13e-103 shall be \$35,173,900 annually. (6) Expenditures for Section 64-13e-104 shall be \$12,790,700 annually. Section 90. Section 64-13e-104 is amended to read: 64-13e-104. Housing of state probationary incarcerated individuals or state parole incarcerated individuals -- Payments. (1) (a) A county shall accept and house a state probationary [inmate] incarcerated individual or a state parole [inmate] incarcerated individual in a county correctional facility, subject to available resources. (b) A county may release a number of [inmates] incarcerated individuals from a county correctional facility, but not to exceed the number of state probationary [inmates] incarcerated individuals in excess of the number of [inmates] incarcerated individuals funded by the appropriation authorized in Subsection (2) if: (i) the state does not fully comply with the provisions of Subsection (9) for the most current fiscal year; or (ii) funds appropriated by the Legislature for this purpose are less than 50% of the actual county daily incarceration rate. (2) Within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary [inmate] incarcerated individual or a state parole [inmate] incarcerated individual at a rate of 47.89% of the actual county daily





Responsibilities -- Membership. (1) There is created within the Commission on Criminal and Juvenile Justice, the Subcommittee on Jail Contracting and Reimbursement consisting of the individuals listed in Subsection (3). (2) The subcommittee shall meet at least quarterly to review, discuss, and make recommendations for: (a) the state daily incarceration rate, described in Section 64-13e-103.1; (b) the county daily incarceration rate; (c) jail contracting and jail reimbursement processes and goals, including the creation of a comprehensive statewide system of jail contracting and reimbursement; (d) developing a partnership between the state and counties to create common goals for housing state [inmates] incarcerated individuals; (e) calculations for the projected number of beds needed; (f) programming for [inmates] incarcerated individuals while incarcerated; (g) proposals to reduce recidivism; (h) enhancing partnerships to improve law enforcement and incarceration programs; (i) [inmate] incarcerated individuals transportation costs; and (j) the compilation described in Subsection 64-13e-104(7). (3) The membership of the subcommittee shall consist of the following nine members: (a) as designated by the Utah Sheriffs Association: (i) one sheriff of a county that is currently under contract with the department to house state [inmates] incarcerated individuals; and (ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary [inmates] incarcerated individuals or state parole [inmates] incarcerated individuals; (b) the executive director of the department or the executive director's designee;

reimbursement from the department for housing [state probationary inmates or state parole

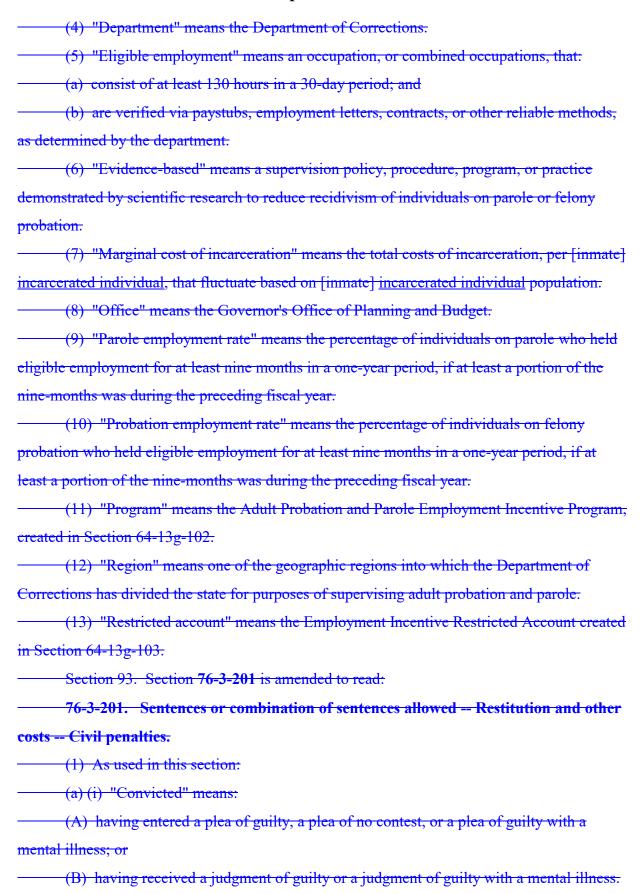
(c) as designated by the Utah Association of Counties:

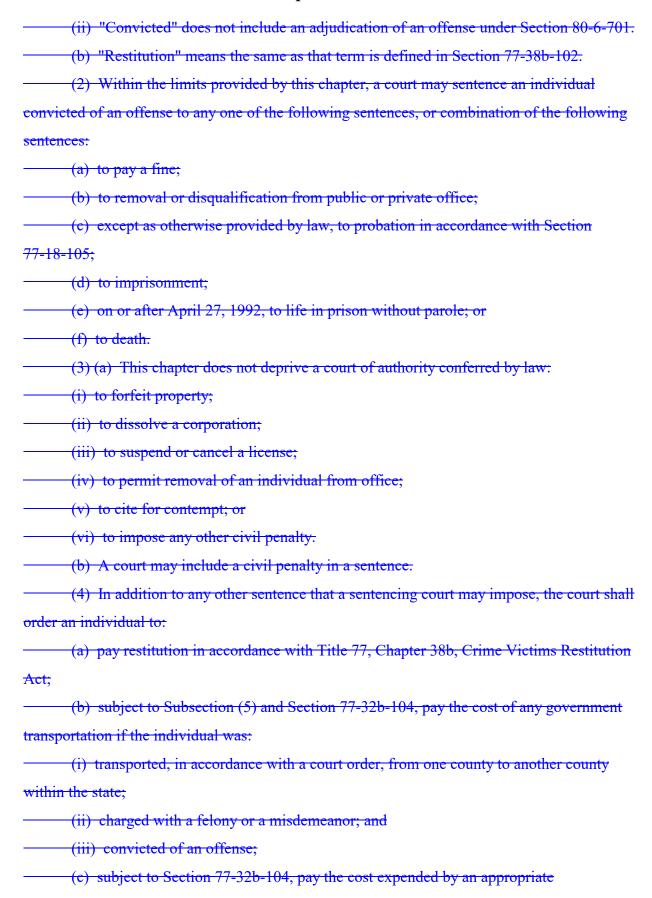
with the department to house state [inmates] incarcerated individuals; and

(ii) one member of the legislative body of one county that is currently receiving

(i) one member of the legislative body of one county that is currently under contract

inmates] individuals on probation or individuals on parole; (d) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee; (e) one member of the House of Representatives, appointed by the speaker of the House of Representatives; (f) one member of the Senate, appointed by the president of the Senate; and (g) the executive director of the Governor's Office of Planning and Budget or the executive director's designee. (4) The subcommittee shall report to the Law Enforcement and Criminal Justice Interim Committee in November 2022 and 2024 on progress and efforts to create a comprehensive statewide jail reimbursement and contracting system. (5) The subcommittee shall report to the Executive Offices and Criminal Justice Appropriations Subcommittee not later than October 31 in 2022, 2023, and 2024 on costs associated with creating a comprehensive statewide jail reimbursement and contracting system. (6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in: (i) Section 63A-3-106; (ii) Section 63A-3-107; and (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107. (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses. Section 92. Section 64-13g-101 is amended to read: 64-13g-101. Definitions. As used in this chapter: (1) "Average daily population" means the average daily number of individuals on parole or felony probation in the region during the applicable fiscal year. (2) "Baseline parole employment rate" means the average of the parole employment rates for fiscal years 2023, 2024, and 2025. (3) "Baseline probation employment rate" means the average of the probation employment rates for fiscal years 2023, 2024, and 2025.





governmental entity under Section 77-30-24 for the extradition of the individual if the individual: (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve pending criminal charges; and (ii) is convicted of an offense in the county for which the individual is returned; (d) subject to Subsection (6) and Subsections 77-32b-104(2), (3), and (4), pay the cost of medical care, treatment, hospitalization, and related transportation, as described in Section 17-50-319, that is provided by a county to the individual while the individual is in a county correctional facility before and after sentencing if: (i) the individual is convicted of an offense that results in incarceration in the county correctional facility; and (ii) (A) the individual is not a state [prisoner] incarcerated individual housed in the county correctional facility through a contract with the Department of Corrections; or (B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104 if the individual is [a state probationary inmate or a state parole inmate] on probation or parole; and (e) pay any other cost that the court determines is appropriate under Section 77-32b-104. (5) (a) The court may not order an individual to pay the costs of government transportation under Subsection (4)(b) if: (i) the individual is charged with an infraction or a warrant is issued for an infraction on a subsequent failure to appear; or (ii) the individual was not transported in accordance with a court order. (b) (i) The cost of governmental transportation under Subsection (4)(b) shall be calculated according to the following schedule: (A) \$100 for up to 100 miles that an individual is transported; (B) \$200 for 100 miles to 200 miles that an individual is transported; and (C) \$350 for 200 miles or more that an individual is transported. (ii) The schedule under Subsection (5)(b)(i) applies to each individual transported regardless of the number of individuals transported in a single trip. (6) The cost of medical care under Subsection (4)(d) does not include expenses

incurred by the county correctional facility in providing reasonable accommodation for an [inmate] incarcerated individual qualifying as an individual with a disability as defined and covered by the Americans with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the [inmate's] incarcerated individual's disability.

Section 94. Section 76-3-202 is amended to read:

76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time served on parole -- Discretion of Board of Pardons and Parole.

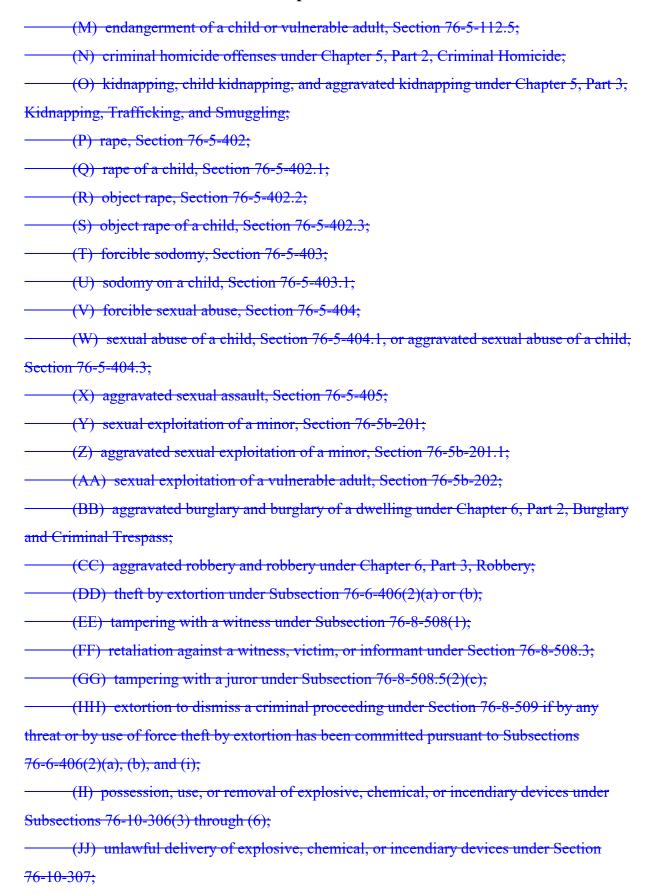
- (1) Every individual committed to the state prison to serve an indeterminate term and, after December 31, 2018, released on parole shall complete a term of parole that extends through the expiration of the individual's maximum sentence unless the parole is earlier terminated by the Board of Pardons and Parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, as described in Subsection 77-27-5(7), to the extent the guidelines are consistent with the requirements of the law.
- (2) (a) Except as provided in Subsection (2)(b), every individual committed to the state prison to serve an indeterminate term and released on parole on or after October 1, 2015, but before January 1, 2019, shall, upon completion of three years on parole outside of confinement and without violation, be terminated from the individual's sentence unless the parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to Section 64-13-21.
- (b) Every individual committed to the state prison to serve an indeterminate term and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was convicted of any felony offense under Chapter 5, Offenses Against the Individual, or any attempt, conspiracy, or solicitation to commit any of these felony offenses, shall complete a term of parole that extends through the expiration of the individual's maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.
- (3) Every individual convicted of a second degree felony for violating Section 76-5-404, forcible sexual abuse; Section 76-5-404.1, sexual abuse of a child; or Section 76-5-404.3, aggravated sexual abuse of a child; or attempting, conspiring, or soliciting the commission of a violation of any of those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years parole outside of confinement and without violation, be terminated from the sentence unless the individual is earlier terminated by the Board of

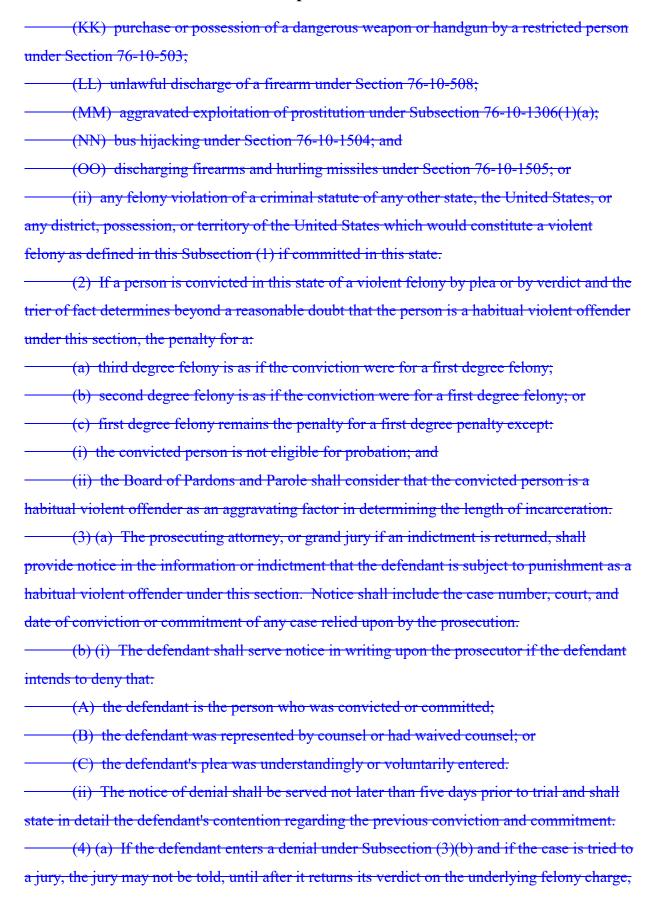
Pardons and Parole.

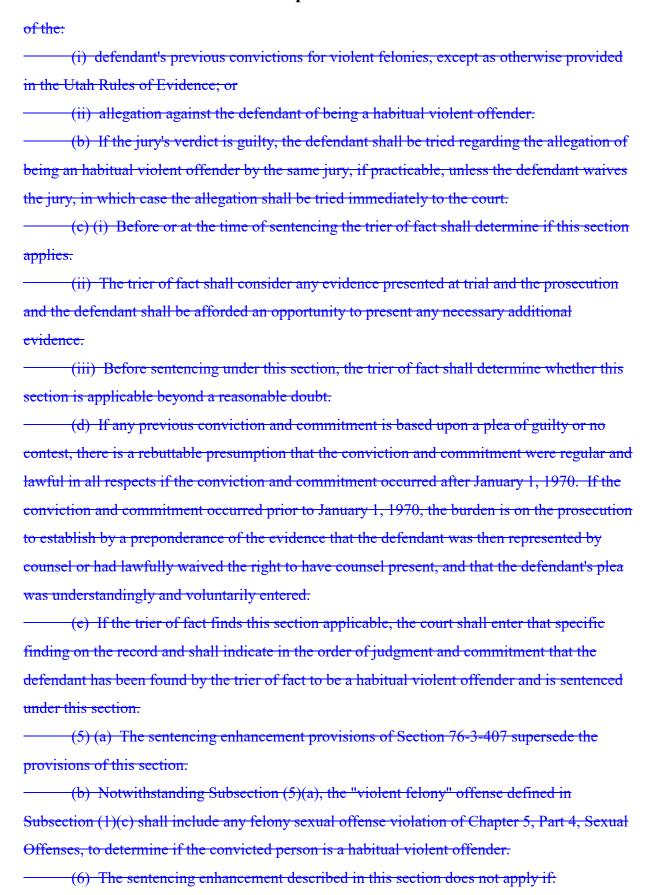


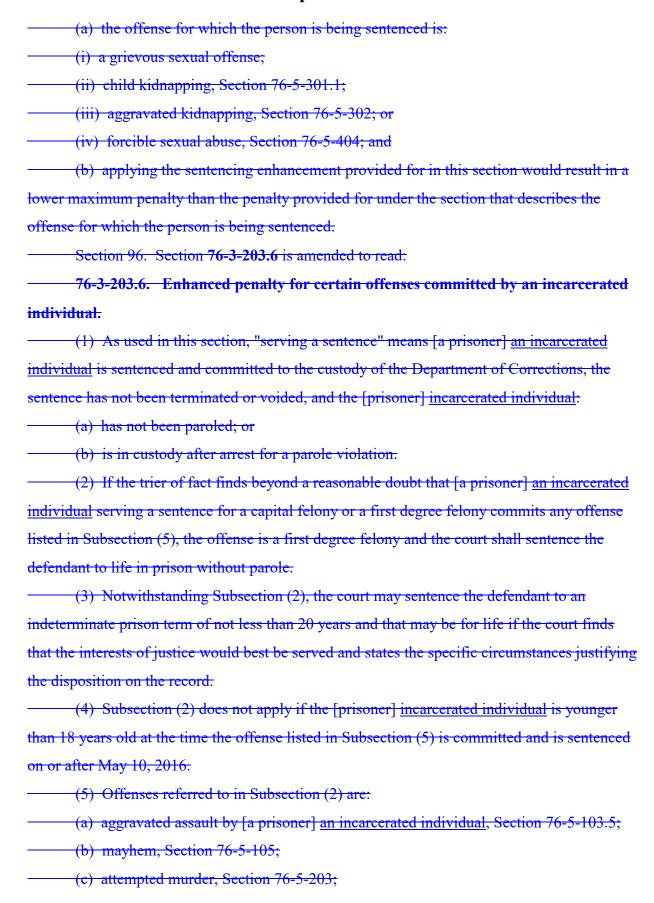
(9) This section does not preclude the Board of Pardons and Parole from paroling or

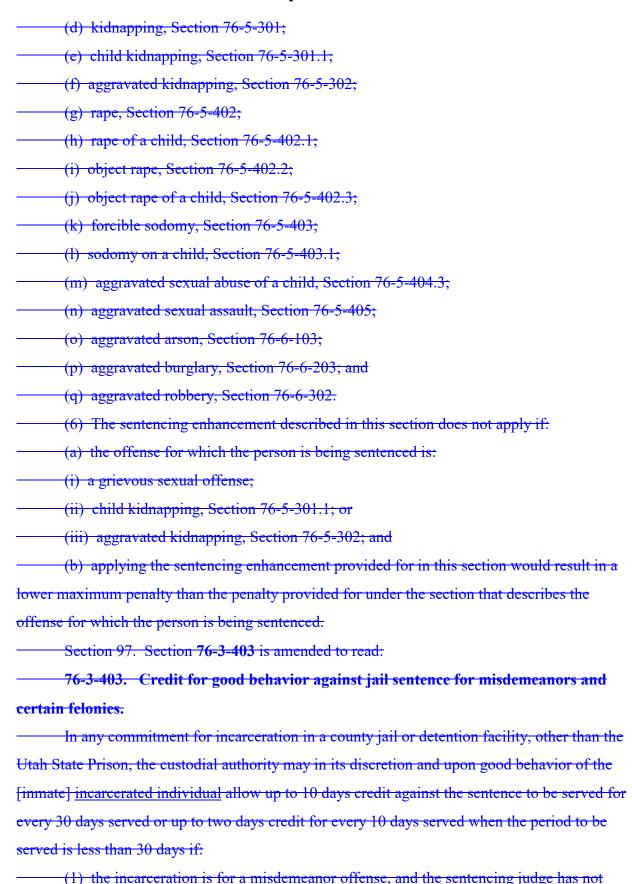
discharging an [inmate] incarcerated individual at any time within the discretion of the Board of Pardons and Parole unless otherwise specifically provided by law. (10) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole for termination of lifetime parole. Section 95. Section 76-3-203.5 is amended to read: 76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty. (1) As used in this section: (a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison. (b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation. (c) "Violent felony" means: (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony: (A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief, Chapter 6, Part 1, Property Destruction; (B) assault by [prisoner] incarcerated individual, Section 76-5-102.5; (C) disarming a police officer, Section 76-5-102.8; (D) aggravated assault, Section 76-5-103; (E) aggravated assault by [prisoner] incarcerated individual, Section 76-5-103.5; (F) mayhem, Section 76-5-105; (G) stalking, Subsection 76-5-106.5(2); (II) threat of terrorism, Section 76-5-107.3; (I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b); (J) commission of domestic violence in the presence of a child, Section 76-5-114; (K) abuse or neglect of a child with a disability, Section 76-5-110; (L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;



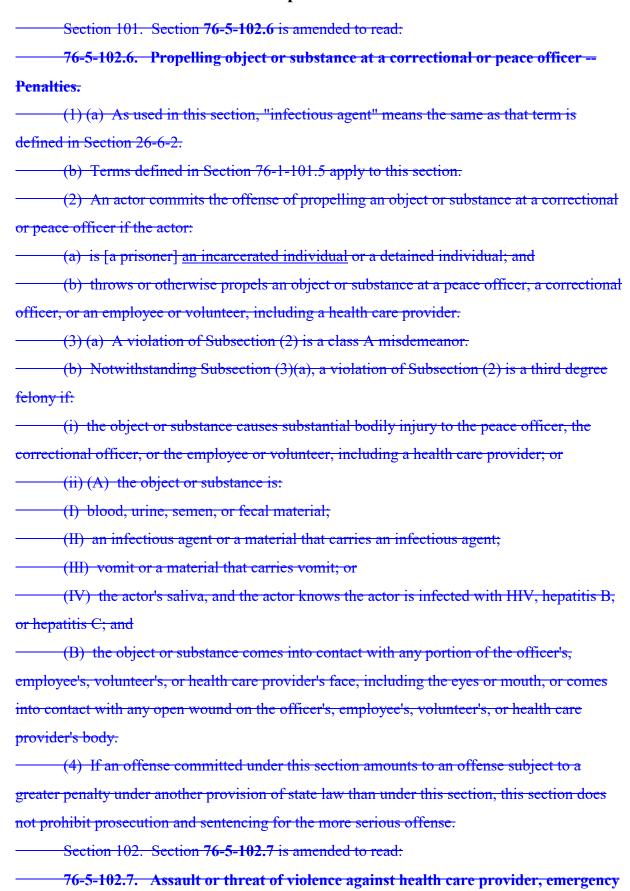


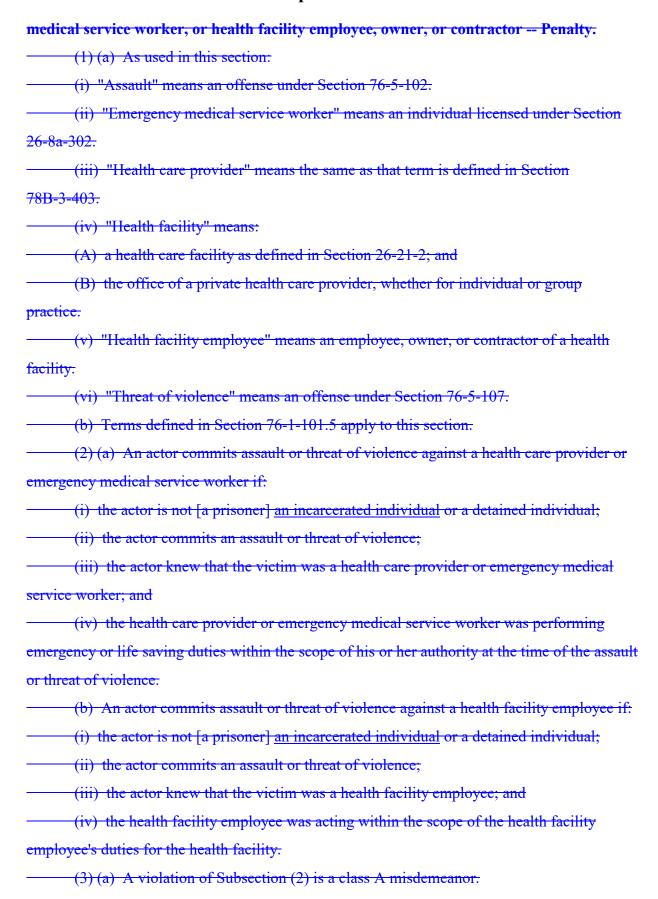


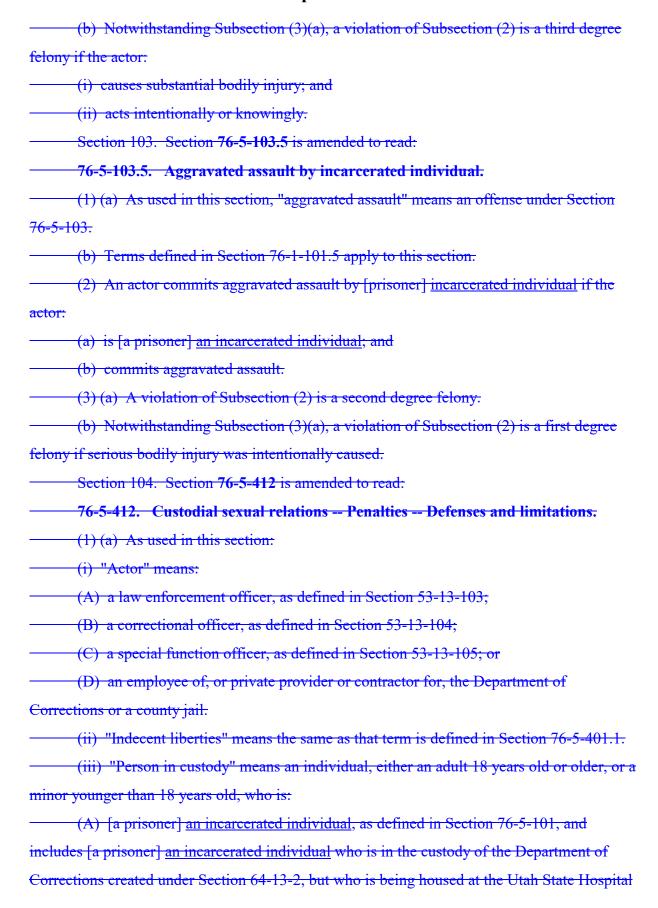




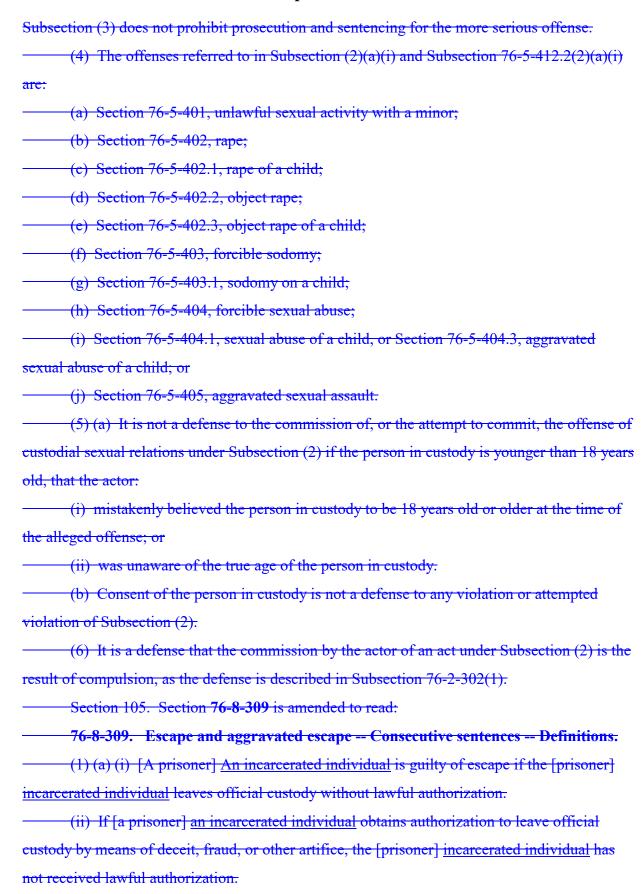
entered an order to the contrary; or (2) the incarceration is part of a probation agreement for a felony offense, and the sentencing district judge has not entered an order to the contrary. Section 98. Section 76-3-403.5 is amended to read: 76-3-403.5. Work or school release from county jail or facility -- Conditions. When an [inmate] individual is incarcerated in a county jail or in a detention facility, the custodial authority may, in accordance with the release policy of the facility, allow the [inmate] incarcerated individual to work outside of the jail or facility as part of a jail or facility supervised work detail, to seek or work at employment, or to attend an educational institution, if the [inmate's] incarcerated individual's incarceration: (1) is not for an offense for which release is prohibited under state law; and (2) (a) is for a misdemeanor offense, and the sentencing judge has not entered an order prohibiting release under this section; or (b) is part of a probation agreement for a felony offense, and the sentencing district judge has not entered an order prohibiting release under this section. Section 99. Section 76-5-101 is amended to read: 76-5-101. **Definitions.** Unless otherwise provided, as used in this part: (1) "Detained individual" means an individual detained under Section 77-7-15. (2) ["Prisoner"] "Incarcerated individual" means an individual who is in custody of a peace officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a facility used for confinement of delinquent juveniles operated by the Division of Juvenile Justice Services regardless of whether the confinement is legal. Section 100. Section 76-5-102.5 is amended to read: 76-5-102.5. Assault by incarcerated individual. (1) (a) As used in this section, "assault" means an offense under Section 76-5-102. (b) Terms defined in Section 76-1-101.5 apply to this section. (2) An actor commits assault by [prisoner] incarcerated individual if the actor: (a) is [a prisoner] an incarcerated individual; and (b) intending to cause bodily injury, commits an assault. (3) A violation of Subsection (2) is a third degree felony.

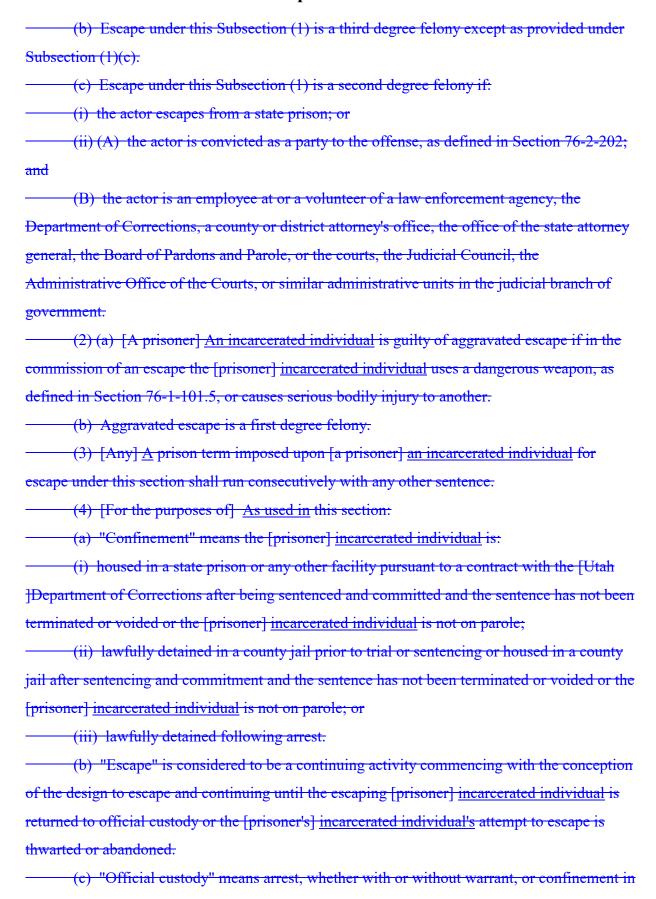






established under Section 62A-15-601 or other medical facility; (B) under correctional supervision, such as at a work release facility or as a parolee or probationer; or (C) under lawful or unlawful arrest, either with or without a warrant. (iv) "Private provider or contractor" means a person that contracts or enters into a memorandum of understanding with [the Department of Corrections] [or with a county jail] a governmental or private entity to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law. (b) Terms defined in Section 76-1-101.5 apply to this section. (2) (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (2)(b): (i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (4); and (ii) (A) the actor knows that the individual is a person in custody; or (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody. (b) Acts referred to in Subsection (2)(a) are: (i) having sexual intercourse with a person in custody; (ii) engaging in a sexual act with a person in custody involving the genitals of one individual and the mouth or anus of another individual; or (iii) (A) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body; and (B) intending to cause substantial emotional or bodily pain to any individual. (c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a). (3) (a) A violation of Subsection (2) is a third degree felony. (b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a second degree felony. (c) If the act committed under Subsection (3) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this

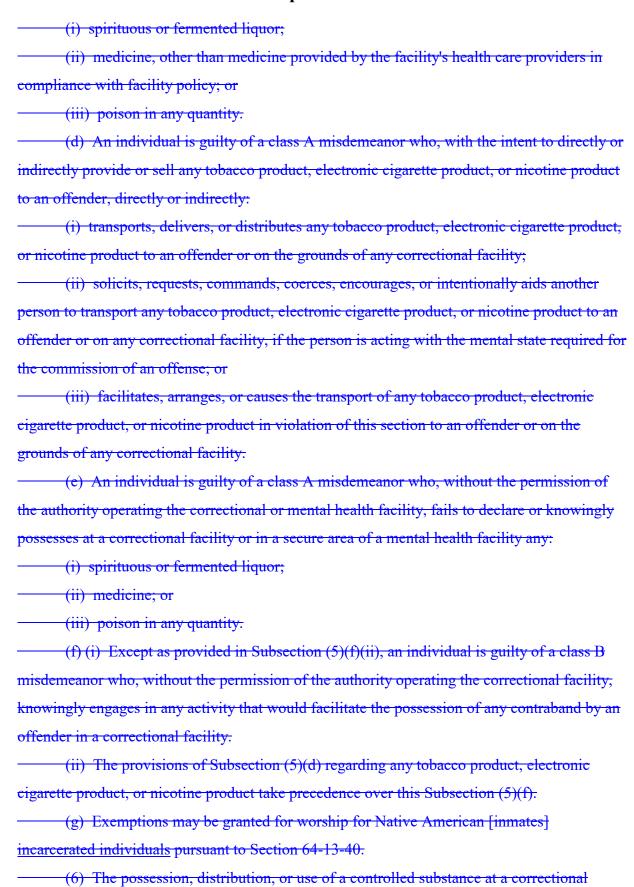




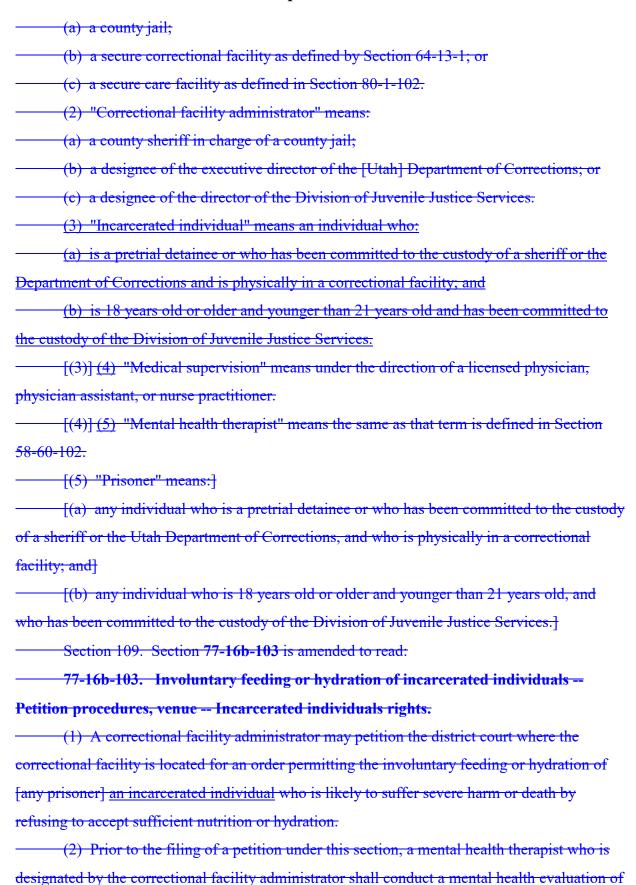
a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement pursuant to an order of the court or sentenced and committed and the sentence has not been terminated or voided or the [prisoner] incarcerated individual is not on parole. [A person] An individual is considered confined in the state prison if the [person] individual: (i) without authority fails to return to the person's place of confinement from work release or home visit by the time designated for return; (ii) is in prehearing custody after arrest for parole violation; (iii) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or (iv) is being transported as [a prisoner] an incarcerated individual in the state prison by correctional officers. (d) ["Prisoner" means any person] "Incarcerated individual" means an individual who is in official custody and includes [persons] individuals under trusty status. (e) "Volunteer" means [any person] an individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency. Section 106. Section 76-8-311.3 is amended to read: 76-8-311.3. Items prohibited in correctional and mental health facilities --Penalties. (1) As used in this section: (a) "Contraband" means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act. (b) "Controlled substance" means any substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act. (c) "Correctional facility" means: (i) any facility operated by or contracting with the Department of Corrections to house offenders in either a secure or nonsecure setting; (ii) any facility operated by a municipality or a county to house or detain criminal offenders; (iii) any juvenile detention facility; and (iv) any building or grounds appurtenant to the facility or lands granted to the state,

municipality, or county for use as a correctional facility. (d) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101. (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act. (f) "Mental health facility" means the same as that term is defined in Section 62A-15-602. (g) "Nicotine product" means the same as that term is defined in Section 76-10-101. (h) "Offender" means a person in custody at a correctional facility. (i) "Secure area" means the same as that term is defined in Section 76-8-311.1. (j) "Tobacco product" means the same as that term is defined in Section 76-10-101. (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be: (a) transported to or upon a correctional or mental health facility; (b) sold or given away at any correctional or mental health facility; (c) given to or used by any offender at a correctional or mental health facility; or (d) knowingly or intentionally possessed at a correctional or mental health facility. (3) It is a defense to any prosecution under this section if the accused in committing the act made criminal by this section with respect to: (a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy; (b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality; (c) a correctional facility operated by a county, acted in conformity with the policy of the county; or (d) a mental health facility, acted in conformity with the policy of the mental health facility. (4) (a) An individual who transports to or upon a correctional facility, or into a secure

area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony. (b) An individual who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony. (c) An offender who possesses at a correctional facility, or a detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony. (d) An individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony. (e) An individual violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility. (5) (a) An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any: (i) spirituous or fermented liquor; (ii) medicine, whether or not lawfully prescribed for the offender, or (iii) poison in any quantity. (b) An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any: (i) spirituous or fermented liquor; (ii) medicine, whether or not lawfully prescribed for the offender, or (iii) poison in any quantity. (c) An [inmate] incarcerated individual is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:

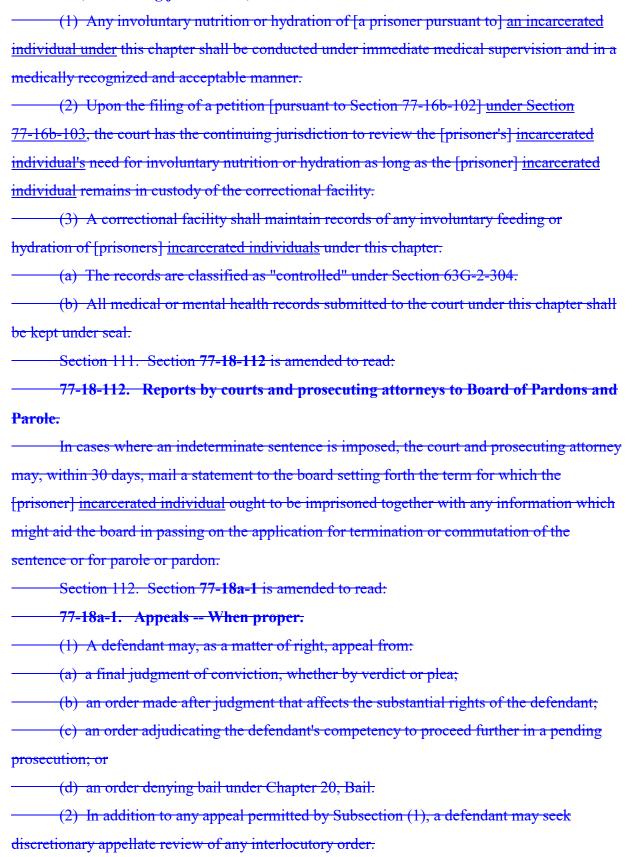


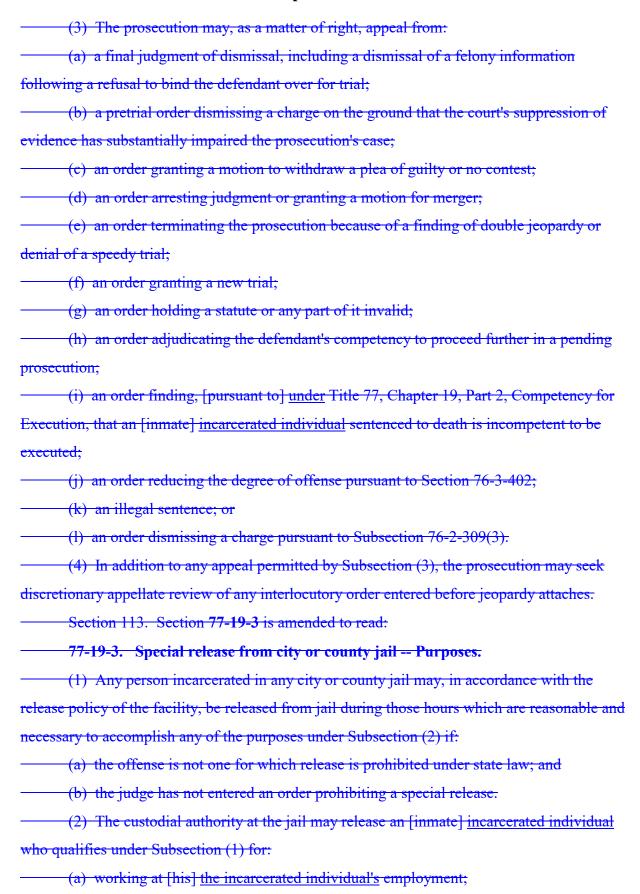
facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act. (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A misdemeanor. Section 107. Section 76-8-318 is amended to read: 76-8-318. Assault or threat of violence against child welfare worker -- Penalty. (1) As used in this section: (a) "Assault" means the same as that term is defined in Section 76-5-102. (b) "Child welfare worker" means an employee of the Division of Child and Family Services created in Section 80-2-201. (c) "Threat of violence" means the same as that term is defined in Section 76-5-107. (2) An individual who commits an assault or threat of violence against a child welfare worker is guilty of a class A misdemeanor if: (a) the individual is not: (i) [a prisoner] an incarcerated individual or an individual detained under Section 77-7-15; or (ii) a minor in the custody of or receiving services from a division within the Department of Health and Human Services; (b) the individual knew that the victim was a child welfare worker; and (c) the child welfare worker was acting within the scope of the child welfare worker's authority at the time of the assault or threat of violence. (3) An individual who violates this section is guilty of a third degree felony if the individual: (a) causes substantial bodily injury, as defined in Section 76-1-101.5; and (b) acts intentionally or knowingly. Section 108. Section 77-16b-102 is amended to read: 77-16b-102. **Definitions.** As used in this chapter: (1) "Correctional facility" means:

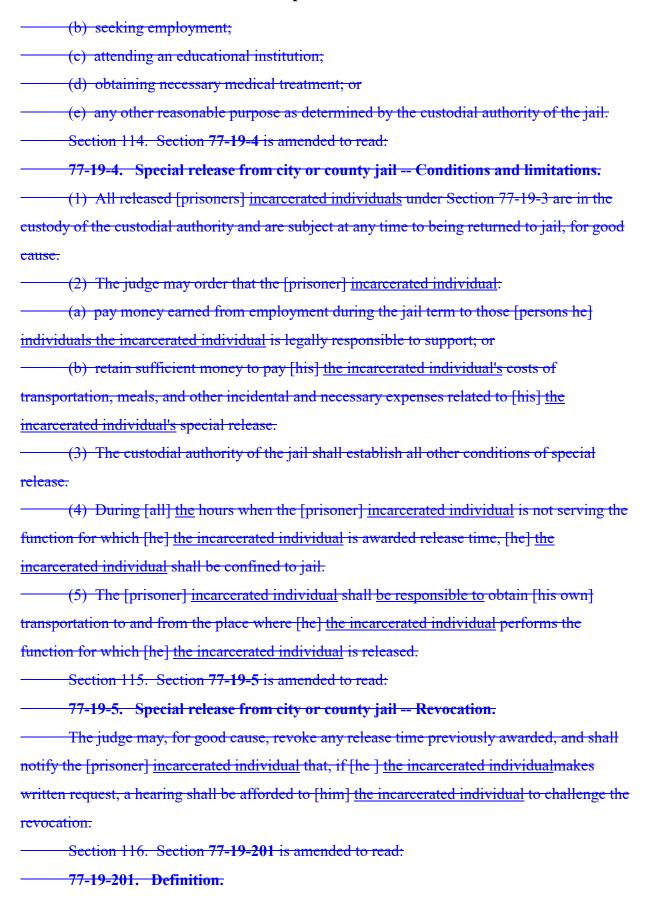


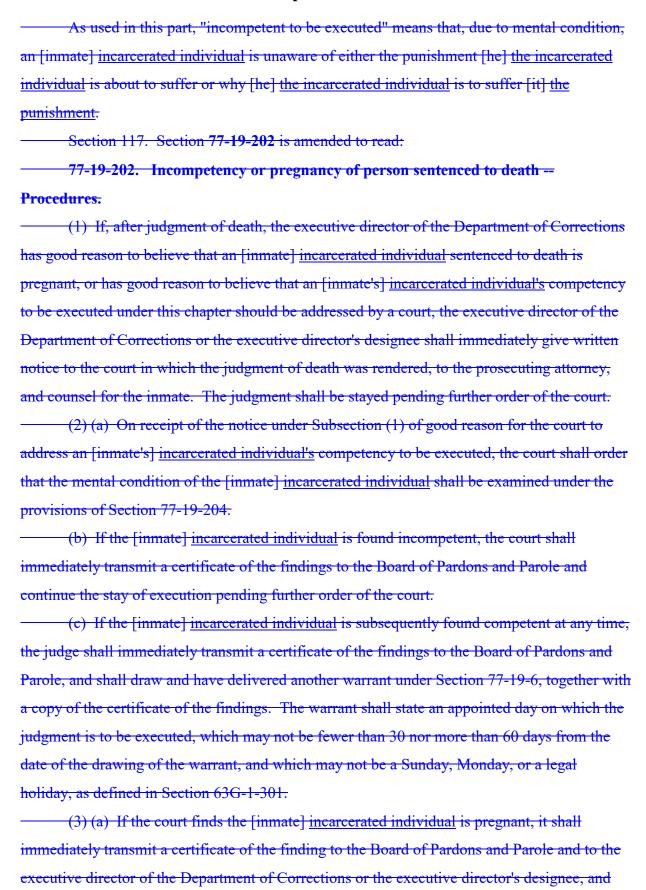
the subject [prisoner] incarcerated individual. (3) Upon the filing of a petition, the district court shall hold a hearing within two working days. The court: (a) shall confidentially review the [prisoner's] incarcerated individual's medical and mental health records as they are available; (b) may hear testimony or receive evidence, subject to the Utah Rules of Evidence, concerning the circumstances of the [prisoner's] incarcerated individual's lack of nutrition or hydration; and (c) may exclude from the hearing [any person] an individual whose presence is not necessary for the purposes of the hearing, due to the introduction of personal medical and mental health evidence. (4) After conducting the hearing under Subsection (3), the district court shall issue an order to involuntarily feed or hydrate the [prisoner] incarcerated individual, if the court finds by a preponderance of evidence that: (a) (i) the [prisoner] incarcerated individual is likely to suffer severe harm or death by refusing to accept sufficient nutrition or hydration; and (ii) the correctional facility's medical or penological objectives are valid and outweigh the [prisoner's] incarcerated individual's right to refuse treatment; or (b) the [prisoner] incarcerated individual is refusing sufficient nutrition or hydration with the intent to obstruct or delay any judicial or administrative proceeding pending against the [prisoner] incarcerated individual. (5) The district court shall state its findings of fact and conclusions of law on the record. (6) The correctional facility administrator shall serve copies of the petition and a notice of the district court hearing on the [prisoner] incarcerated individual and the [prisoner's] incarcerated individual's counsel, if the [prisoner] incarcerated individual is represented by counsel, at least 24 hours in advance of the hearing under Subsection (3). (7) The [prisoner] incarcerated individual has the right to attend the hearing, testify, present evidence, and cross-examine witnesses. Section 110. Section 77-16b-104 is amended to read: 77-16b-104. Involuntary feeding or hydration of incarcerated individuals --

Standards, continuing jurisdiction, and records.



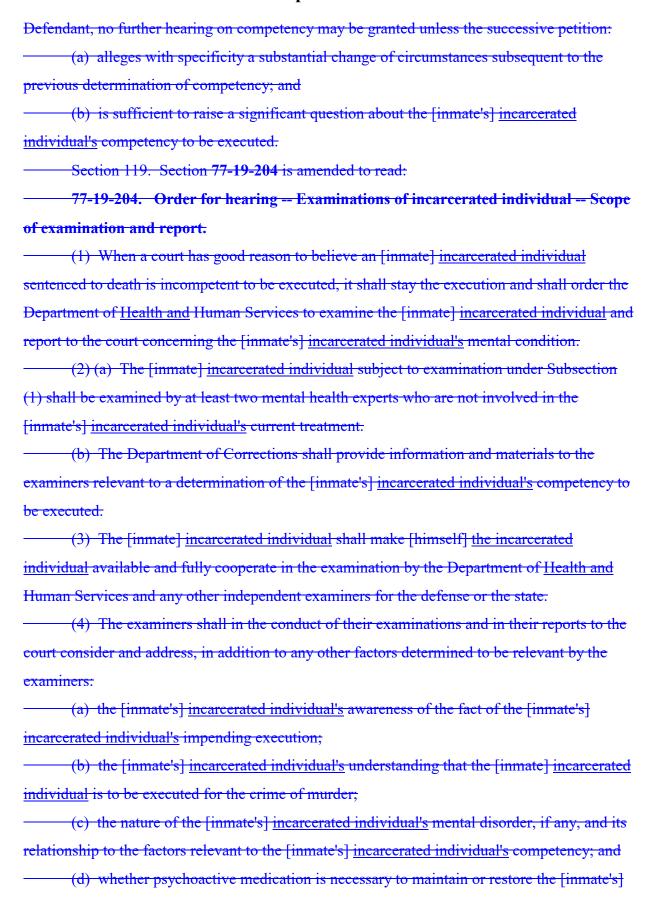






the court shall issue an order staying the execution of the judgment of death during the pregnancy.

- (b) When the court determines the [inmate] incarcerated individual is no longer pregnant, it shall immediately transmit a certificate of the finding to the Board of Pardons and Parole and draw and have delivered another warrant under Section 77-19-6, with a copy of the certificate of the finding. The warrant shall state an appointed day on which the judgment is to be executed, which may not be fewer than 30 nor more than 60 days from the date of the drawing of the warrant, and which may not be a Sunday, Monday, or a legal holiday, as defined in Section 63G-1-301.
- (4) The Department of Corrections shall determine the hour, within the appointed day, at which the judgment is to be executed.
- Section 118. Section 77-19-203 is amended to read:
- 77-19-203. Petition for inquiry as to competency to be executed -- Filing -- Contents -- Successive petitions.
- (1) If an [inmate] <u>incarcerated individual</u> who has been sentenced to death is or becomes incompetent to be executed, a petition under Subsection (2) may be filed in the district court of the county where the [inmate] <u>incarcerated individual</u> is confined.
- (2) The petition shall:
- (a) contain a certificate stating that it is filed in good faith and on reasonable grounds to believe the [inmate] incarcerated individual is incompetent to be executed; and
- (b) contain a specific recital of the facts, observations, and conversations with the [inmate] incarcerated individual that form the basis for the petition.
- (3) The petition may be based upon knowledge or information and belief and may be filed by the [inmate] incarcerated individual alleged to be incompetent, legal counsel for the [inmate] incarcerated individual, or by an attorney representing the state.
- (4) Before ruling on a petition filed by an [inmate] incarcerated individual or [his] the incarcerated individual's legal counsel alleging that the [inmate] incarcerated individual is incompetent to be executed, the court shall give the state and the Department of Corrections an opportunity to respond to the allegations of incompetency.
- (5) If a petition is filed after an [inmate] <u>incarcerated individual</u> has previously been found competent under either this chapter or under Title 77, Chapter 15, Inquiry into Sanity of



incarcerated individual's competency.

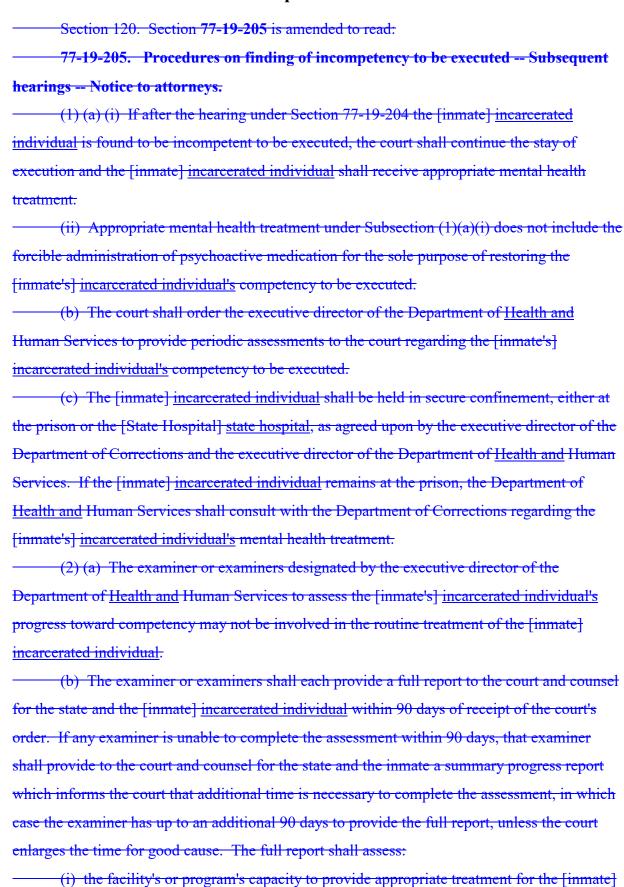
(5) (a) The examiners who are examining the [inmate] incarcerated individual shall
each provide an initial report to the court and the attorneys for the state and the [inmate]
incarcerated individual within 60 days of the receipt of the court's order.
(b) The report shall inform the court of the examiner's opinion concerning the
competency of the [inmate] incarcerated individual to be executed, or, in the alternative, the
examiner may inform the court in writing that additional time is needed to complete the report.
(c) If the examiner informs the court that additional time is needed, the examiner shall
have up to an additional 30 days to provide the report to the court and counsel.
(d) The examiner shall provide the report within 90 days from the receipt of the court's
order unless, for good cause shown, the court authorizes an additional period of time to
complete the examination and provide the report.
(6) (a) All interviews with the [inmate] incarcerated individual conducted by the
examiners shall be videotaped, unless otherwise ordered by the court for good cause shown.
The Department of Corrections shall provide the videotaping equipment and facilitate the
videotaping of the interviews.
(b) Immediately following the videotaping, the videotape shall be provided to the
attorney for the state, who shall deliver it as soon as practicable to the judge in whose court the
competency determination is pending.
(c) The court shall grant counsel for the state and for the [inmate] incarcerated
individual, and examiners who are examining the [inmate] incarcerated individual under this
part access to view the videotape at the court building where the court is located that is
conducting the competency determination under this part.
(7) Any written report submitted by an examiner shall:
(a) identify the specific matters referred for evaluation;
(b) describe the procedures, techniques, and tests used in the examination and the
purpose or purposes for each;
(c) state the examiner's clinical observations, findings, and opinions on each issue
referred for examination by the court, and indicate specifically those issues, if any, on which
the examiner could not give an opinion; and
(d) identify the sources of information used by the examiner and present the basis for

the examiner's clinical findings and opinions.

- (8) (a) When the reports are received, the court shall set a date for a competency hearing, which shall be held within not less than five and not more than 15 days, unless the court extends the time for good cause. (b) Any examiner directed by the Department of Health and Human Services to conduct the examination may be subpoenaed to provide testimony at the hearing. If the examiners are in conflict as to the competency of the [inmate] incarcerated individual, all of them should be called to testify at the hearing if they are reasonably available. (c) The court may call any examiner to testify at the hearing who is not called by the parties. An examiner called by the court may be cross-examined by counsel for the parties. (9) (a) An [inmate] incarcerated individual shall be presumed competent to be executed unless the court, by a preponderance of the evidence, finds the [inmate] incarcerated individual incompetent to be executed. The burden of proof is upon the proponent of incompetency at the hearing. (b) An adjudication of incompetency to be executed does not operate as an adjudication of the [inmate's] incarcerated individual's incompetency to give informed consent for medical treatment or for any other purpose, unless specifically set forth in the court order. (10) (a) If the court finds the [inmate] incarcerated individual incompetent to be executed, its order shall contain findings addressing each of the factors in Subsections (4)(a) through (d). (b) The order finding the [inmate] incarcerated individual incompetent to be executed shall be delivered to the Department of Health and Human Services, and shall be accompanied by: (i) copies of the reports of the examiners filed with the court pursuant to the order of examination, if not provided previously; (ii) copies of any of the psychiatric, psychological, or social work reports submitted to the court relative to the mental condition of the [inmate] incarcerated individual; and (iii) any other documents made available to the court by either the defense or the state, pertaining to the [inmate's] incarcerated individual's current or past mental condition.
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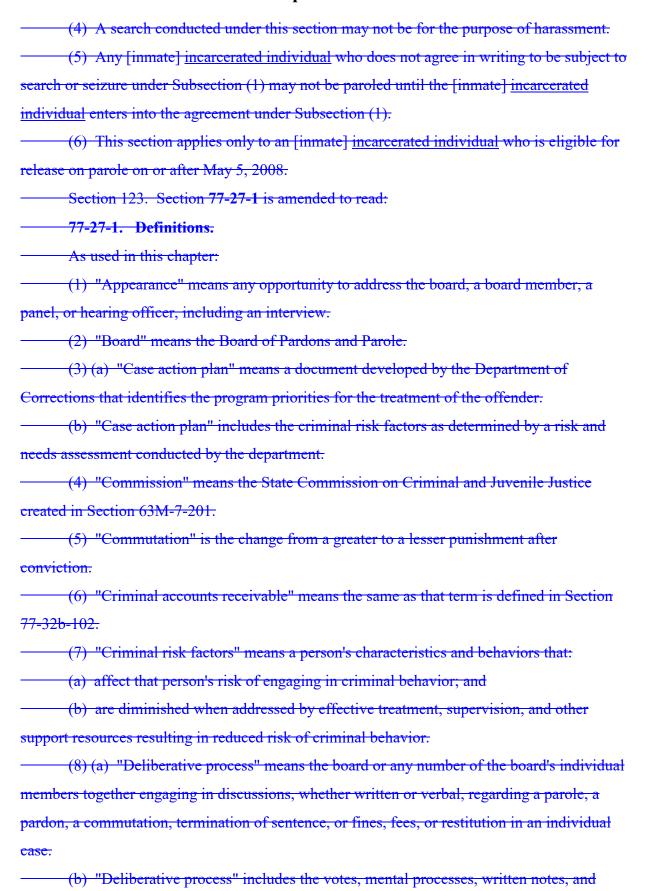
executed shall be delivered to the Department of Corrections.

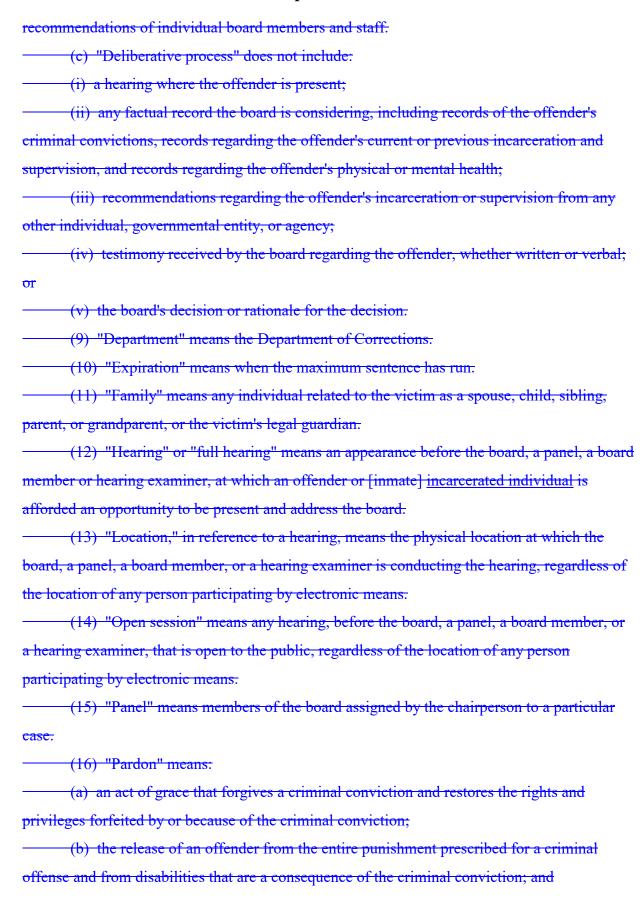
(c) A copy of the order finding the [inmate] incarcerated individual incompetent to be

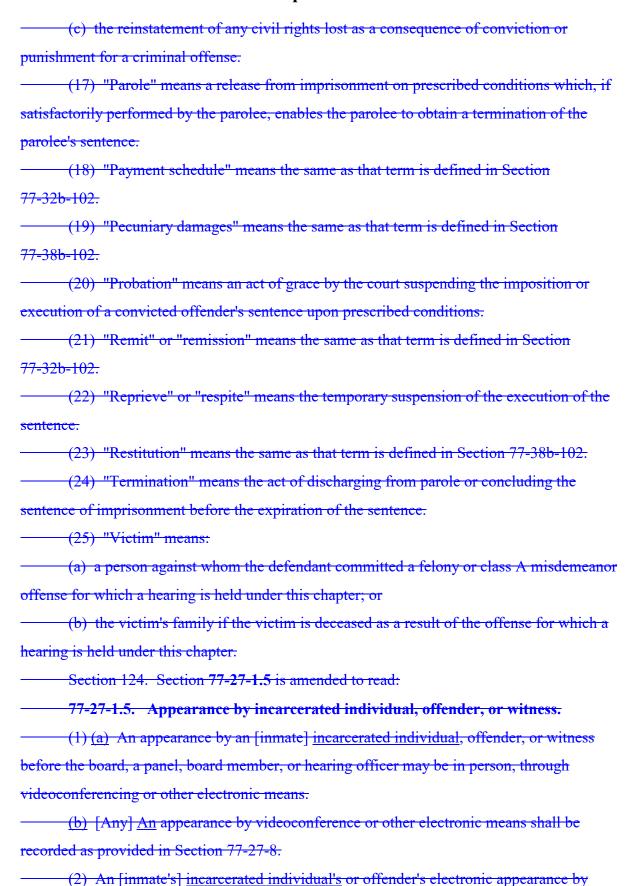


incarcerated individual; (ii) the nature of treatments provided to the [inmate] incarcerated individual; (iii) what progress toward restoration of competency has been made; (iv) the [inmate's] incarcerated individual's current level of mental disorder and need for treatment, if any; and (v) the likelihood of restoration of competency and the amount of time estimated to achieve it. (3) The court on its own motion or upon motion by either party may order the Department of Health and Human Services to appoint additional mental health examiners to examine the [inmate] incarcerated individual and advise the court on the[inmate's] incarcerated individual's current mental status and progress toward competency restoration. (4) (a) Upon receipt of the full report, the court shall hold a hearing to determine the finmate's incarcerated individual's current status. At the hearing, the burden of proving that the [inmate] incarcerated individual is competent is on the proponent of competency. (b) Following the hearing, the court shall determine by a preponderance of evidence whether the [inmate] incarcerated individual is competent to be executed. (5) (a) If the court determines that the [inmate] incarcerated individual is competent to be executed, it shall enter findings and shall proceed under Subsection 77-19-202(2)(c). (b) (i) If the court determines the [inmate] incarcerated individual is still incompetent to be executed, the [inmate] incarcerated individual shall continue to receive appropriate mental health treatment, and the court shall hold hearings no less frequently than at 18-month intervals for the purpose of determining the defendant's competency to be executed. (ii) Continued appropriate mental health treatment under Subsection (1)(a)(i) does not include the forcible administration of psychoactive medication for the sole purpose of restoring the [inmate's] incarcerated individual's competency to be executed. (6) (a) If at any time the clinical director of the Utah State Hospital or the primary treating mental health professional determines that the [inmate] incarcerated individual has been restored to competency, he shall notify the court. (b) (i) The court shall conduct a hearing regarding the [inmate's] incarcerated individual's competency to be executed within 30 working days of the receipt of the notification under Subsection (6)(a), unless the court extends the time for good cause.

(ii) The court may order a hearing or rehearing at any time on its own motion. (7) Notice of a hearing on competency to be executed shall be given to counsel for the state and for the [inmate] incarcerated individual, as well as to the office of the prosecutor who prosecuted the [inmate] incarcerated individual on the original capital charge. Section 121. Section 77-19-206 is amended to read: 77-19-206. Expenses -- Allocation. The Department of Health and Human Services and the Department of Corrections shall each pay 1/2 of the costs of any examination of the [inmate] incarcerated individual conducted pursuant to Sections 77-19-204 and 77-19-205 to determine if an [inmate] incarcerated individual is competent to be executed. Section 122. Section 77-23-301 is amended to read: 77-23-301. Warrantless searches regarding persons on parole. (1) An [inmate] incarcerated individual who is eligible for release on parole shall, as a condition of parole, sign an agreement as described in Subsection (2) that the [inmate] incarcerated individual, while on parole, is subject to search or seizure of the [inmate's] incarcerated individual's person, property, place of temporary or permanent residence, vehicle, or personal effects while on parole: (a) by a parole officer at any time, with or without a search warrant, and with or without cause; and (b) by a law enforcement officer at any time, with or without a search warrant, and with or without cause, but subject to Subsection (3). (2) (a) The terms of the agreement under Subsection (1) shall be stated in clear and unambiguous language. (b) The agreement shall be signed by the parolee, indicating the parolee's understanding of the terms of searches as allowed by Subsection (1). (3) (a) In order for a law enforcement officer to conduct a search of a parolee's residence under Subsection (1) or a seizure pursuant to the search, the law enforcement officer shall have obtained prior approval from a parole officer or shall have a warrant for the search. (b) If a law enforcement officer conducts a search of a parolee's person, personal effects, or vehicle pursuant to a stop, the law enforcement officer shall notify a parole officer as soon as reasonably possible after conducting the search.







telephone is permissible with the consent of the [inmate] incarcerated individual or offender, when the [inmate] incarcerated individual or offender is incarcerated in a facility outside of this state. Section 125. Section 77-27-5.3 is amended to read: 77-27-5.3. Meritless and bad faith litigation. (1) For purposes of this section: (a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, no contest, and conviction of any crime or offense. (b) ["Prisoner" means a person] "Incarcerated individual" means an individual who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing. (2) In any case filed in state or federal court in which [a prisoner] an incarcerated individual submits a claim that the court finds to be without merit and brought or asserted in bad faith, the Board of Pardons and Parole and any county jail administrator may consider that finding in any early release decisions concerning the [prisoner] incarcerated individual. Section 126. Section 77-27-8 is amended to read: 77-27-8. Record of hearing. (1) A verbatim record of proceedings before the Board of Pardons and Parole shall be maintained by a suitable electronic recording device, except when the board dispenses with a record in a particular hearing or a portion of the proceedings. (2) When the hearing involves the commutation of a death sentence, a certified shorthand reporter, in addition to electronic means, shall record all proceedings except when the board dispenses with a record for the purpose of deliberations in executive session. The compensation of the reporter shall be determined by the board. The reporter shall immediately file with the board the original record and when requested shall with reasonable diligence furnish a transcription or copy of the record upon payment of reasonable fees as determined by the board.

expense of the state, to the [inmate] incarcerated individual or offender. Section 127. Section 77-27-9 is amended to read:

unable to pay for a copy of the record, the board may furnish a copy of the record, at the

(3) When an [inmate] incarcerated individual or offender affirms by affidavit that he is

77-27-9. Parole proceedings.

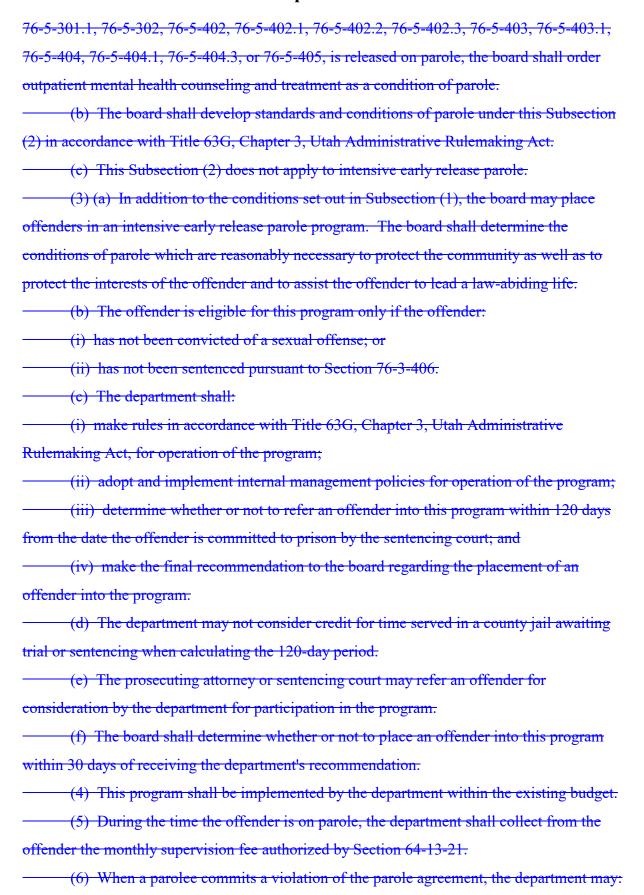
- (1) (a) The Board of Pardons and Parole may parole any offender or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections except as provided in Subsection (2).
- (b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.
- (c) The board may not parole any offender or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.
- (d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, [a prisoner] an offender may submit the [prisoner's] offender's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Section 76-5-404.3; aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.
- (b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if:
- (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Individual; and
- (ii) the victim of the offense was under 18 years old at the time the offense was

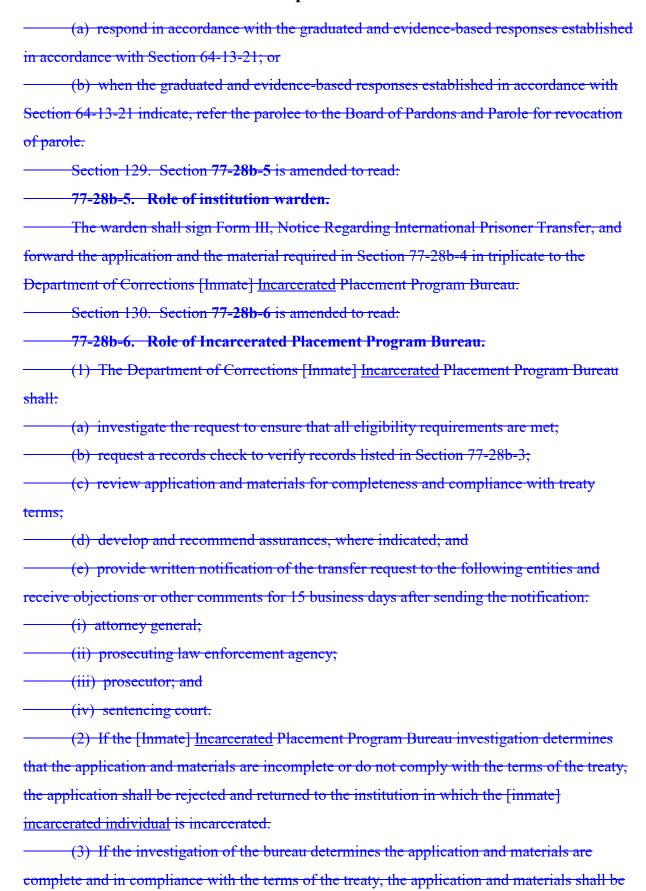
committed.

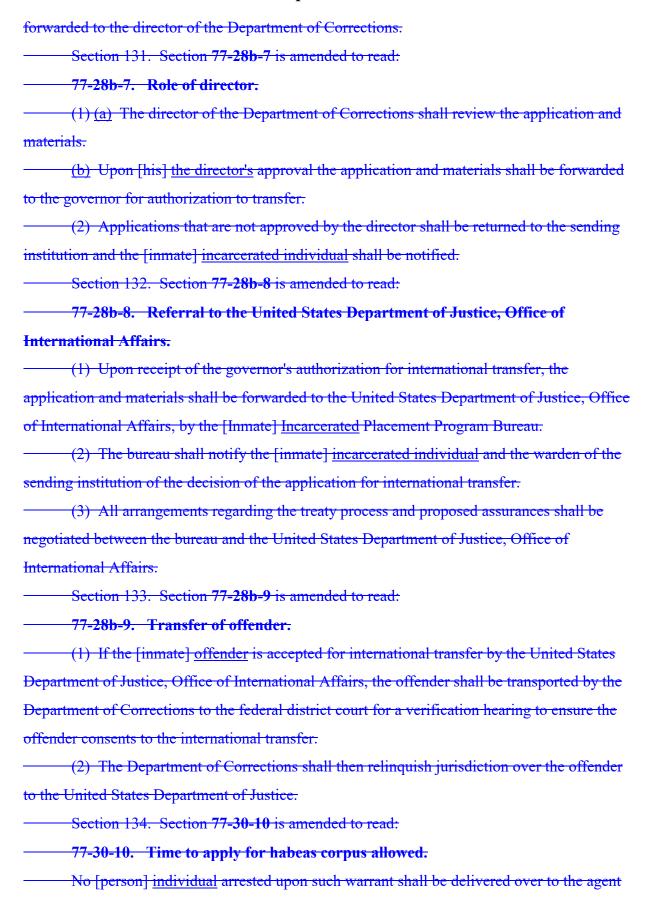
(c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section. (d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (7). (e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole. (f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992. (g) The board may not parole any offender convicted of a homicide unless: (i) the remains of the victim have been recovered; or (ii) the offender can demonstrate by a preponderance of the evidence that the offender has cooperated in good faith in efforts to locate the remains. (h) Subsection (2)(g) applies to any offender convicted of a homicide after February 25, 2021, or any offender who was incarcerated in a correctional facility on or after February 25, 2021, for a homicide offense. (3) The board may rescind: (a) an [inmate's] incarcerated individual's prison release date prior to the [inmate] incarcerated individual being released from custody; or (b) an offender's termination date from parole prior to the offender being terminated from parole. (4) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by the board or any of the board's members or by a designated hearing examiner in the performance of the board's duties. (b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor. (5) (a) The board may adopt rules consistent with law for the board's government,

meetings and hearings, the conduct of proceedings before the board, the parole and pardon of

offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked. (b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5. (c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter. (6) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter. (7) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society. Section 128. Section 77-27-10 is amended to read: 77-27-10. Conditions of parole -- Incarcerated individual agreement to warrant --Rulemaking -- Intensive early release parole program. (1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall issue to the parolee a certificate setting forth the conditions of parole, including the graduated and evidence-based responses to a violation of a condition of parole established by the Sentencing Commission in accordance with Section 64-13-21, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement. (b) The parole agreement shall require that the [inmate] incarcerated individual agree in writing that the board may issue a warrant and conduct a parole revocation hearing if: (i) the board determines after the grant of parole that the [inmate] incarcerated individual willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or (ii) (A) the [inmate] incarcerated individual has engaged in criminal conduct prior to the granting of parole; and (B) the board did not have information regarding the conduct at the time parole was granted. (c) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee. The original shall remain with the board's file. (2) (a) If an offender convicted of violating or attempting to violate Section







whom the executive authority demanding [him] the individual shall have appointed to receive [him unless he] the individual unless the individual shall first be taken forthwith before a judge of a court of record in this state who shall inform [him] the individual of the demand made for [his] the individual's surrender and of the crime with which [he] the individual is charged and that [he] the individual has the right to demand and procure legal counsel and if the [prisoner] individual or [his] the individual's counsel shall state that [he or they desire] the individual desires to test the legality of [his] the individual's arrest, the judge of such court of record shall fix a reasonable time to be allowed [him] the individual within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and the time and place of hearing thereon shall be given to the prosecuting officer of the county in which the arrest is made and in which the [accused] individual is in custody, and to the said agent of the demanding state.

Section 135. Section 77-30-12 is amended to read:

77-30-12. Officers entitled to use local jails.

The officer or persons executing the governor's warrant of arrest or the agent of the demanding state to whom the [prisoner] incarcerated individual may have been delivered may, when necessary, confine the [prisoner] incarcerated individual in the jail of any county or city through which [he] the officer, person, or agent may pass and the keeper of such jail must receive and safely keep the [prisoner] incarcerated individual until the officer or person having charge of [him] the incarcerated individual is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom [a prisoner] an incarcerated individual may have been delivered following extradition proceedings in another state, or to whom [a prisoner] an incarcerated individual may have been delivered after waiving extradition in such other state, and who is passing through this state with such [a prisoner] an incarcerated individual for the purpose of immediately returning such [prisoner] incarcerated individual to the demanding state may, when necessary, confine the [prisoner] incarcerated individual in the jail of any county or city through which [he] the officer or agent may pass, and the keeper of such jail must receive and safely keep the [prisoner] incarcerated individual until the officer or agent having charge of [him] the incarcerated individual is ready to proceed on his route, such officer or agent being chargeable with the expense of keeping; provided, such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence

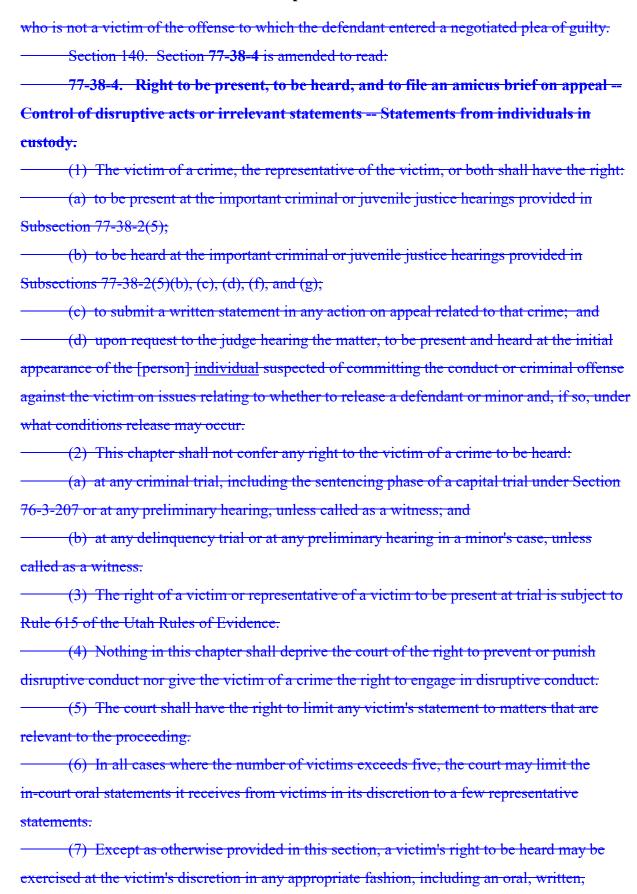
of the fact that [he] the officer or agent is actually transporting such [prisoner] incarcerated individual to the demanding state after a requisition by the executive authority of such demanding state. Such [prisoner shall] incarcerated individual may not be entitled to demand a new requisition while in this state. Section 136. Section 77-30-18 is amended to read: 77-30-18. Forfeiture of bail. (1) [If the prisoner] If an incarcerated individual is admitted to bail and fails to appear and surrender according to the conditions of the [prisoner's] incarcerated individual's bond, the judge or magistrate by proper order shall declare the bond forfeited and order the [prisoner's] immediate arrest of the incarcerated individual without a warrant if the [prisoner] incarcerated individual is within this state. (2) Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state. Section 137. Section 77-33-2 is amended to read: 77-33-2. Summoning an incarcerated individual in this state to testify in another state -- Certificate of out-of-state judge. (1) A judge of a state court of record in another state, which by [its] the state's laws has made provision for commanding [persons] individuals confined in penal institutions within that state to attend and testify in this state, may certify: [(1)] (a) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court[,]; [(2)] (b) that [a person] an individual who is confined in a penal institution in this state may be a material witness in the proceeding, investigation, or action[,]; and [(3)] (c) that [his] the individual's presence will be required during a specified time. (2) Upon presentation of the certificate to any judge having jurisdiction over the [person] individual confined, and upon notice to the attorney general, the judge in this state shall fix a time and place for a hearing and shall make an order directed to the person having custody of the [prisoner] incarcerated individual requiring that the [prisoner] incarcerated individual be produced before [him] the judge at the hearing. Section 138. Section 77-33-6 is amended to read:

77-33-6. Incarcerated individual in another state summoned to testify in this state

-- Certificate of judge. (1) If a person confined in a penal institution in any state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify: [(1)] (a) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court[,]; [(2)] (b) that a person who is confined in a penal institution in another state may be a material witness in the proceeding, investigation, or action[,]; and [(3)] (c) that his presence will be required during a specified time. (2) The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the [prisoner] incarcerated individual confined, and a notice shall be given to the attorney general of the state in which the [prisoner] incarcerated individual is confined. Section 139. Section 77-38-2 is amended to read: 77-38-2. Definitions. For the purposes of this chapter and the Utah Constitution: (1) "Abuse" means treating the crime victim in a manner so as to injure, damage, or disparage. (2) "Dignity" means treating the crime victim with worthiness, honor, and esteem. (3) "Fairness" means treating the crime victim reasonably, even-handedly, and impartially. (4) "Harassment" means treating the crime victim in a persistently annoying manner. (5) "Important criminal justice hearings" or "important juvenile justice hearings" means the following proceedings in felony criminal cases or cases involving a minor's conduct which would be a felony if committed by an adult: (a) any preliminary hearing to determine probable cause; (b) any court arraignment where practical; (c) any court proceeding involving the disposition of charges against a defendant or minor or the delay of a previously scheduled trial date but not including any unanticipated proceeding to take an admission or a plea of guilty as charged to all charges previously filed or

any plea taken at an initial appearance;

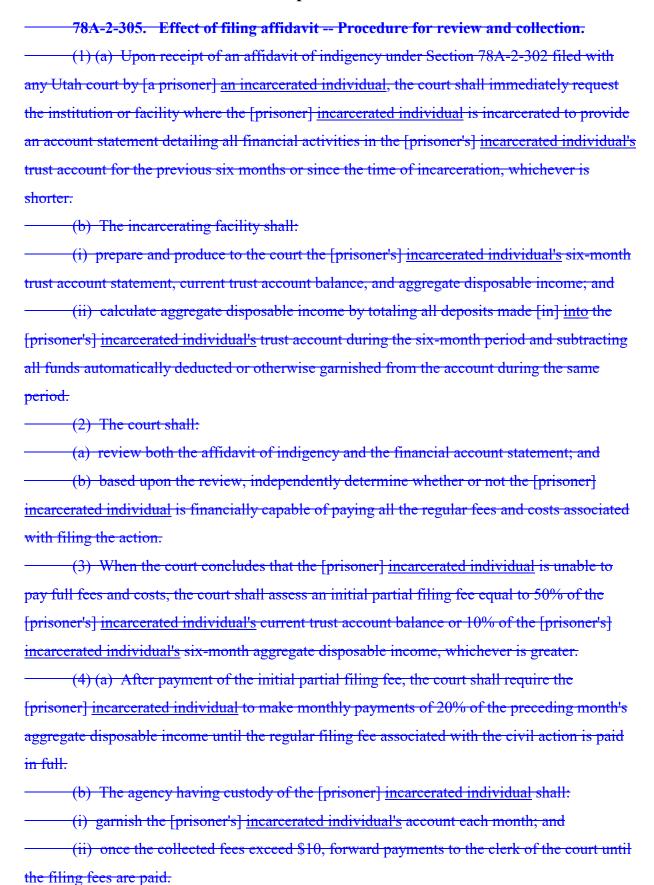
(d) any court proceeding to determine whether to release a defendant or minor and, if so, under what conditions release may occur, excluding any such release determination made at an initial appearance; (e) any criminal or delinquency trial, excluding any actions at the trial that a court might take in camera, in chambers, or at a sidebar conference; (f) any court proceeding to determine the disposition of a minor or sentence, fine, or restitution of a defendant or to modify any disposition of a minor or sentence, fine, or restitution of a defendant; and (g) any public hearing concerning whether to grant a defendant or minor parole or other form of discretionary release from confinement. (6) "Reliable information" means information worthy of confidence, including any information whose use at sentencing is permitted by the United States Constitution. (7) "Representative of a victim" means [a person] an individual who is designated by the victim or designated by the court and who represents the victim in the best interests of the victim. (8) "Respect" means treating the crime victim with regard and value. (9) (a) "Victim of a crime" means [any natural person] an individual against whom the charged crime or conduct is alleged to have been perpetrated or attempted by the defendant or minor personally or as a party to the offense or conduct or, in the discretion of the court, against whom a related crime or act is alleged to have been perpetrated or attempted, unless the [natural person] individual is the accused or appears to be accountable or otherwise criminally responsible for or criminally involved in the crime or conduct or a crime or act arising from the same conduct, criminal episode, or plan as the crime is defined under the laws of this state. (b) For purposes of the right to be present, "victim of a crime" does not mean [any person an individual who is in custody as a pretrial detainee, as [a prisoner] an incarcerated individual following conviction for an offense, or as a juvenile who has committed an act that would be an offense if committed by an adult, or who is in custody for mental or psychological treatment. (c) For purposes of the right to be present and heard at a public hearing as provided in Subsection 77-38-2(5)(g) and the right to notice as provided in Subsection 77-38-3(7)(a), "victim of a crime" includes any victim originally named in the allegation of criminal conduct



audiotaped, or videotaped statement or direct or indirect information that has been provided to be included in any presentence report. (8) If the victim of a crime is [a person] an individual who is in custody as a pretrial detainee, as [a prisoner] an incarcerated individual following conviction for an offense, or as a juvenile who has committed an act that would be an offense if committed by an adult, or who is in custody for mental or psychological treatment, the right to be heard under this chapter shall be exercised by submitting a written statement to the court. (9) The court may exclude any oral statement from a victim on the grounds of the victim's incompetency as provided in Rule 601(a) of Utah Rules of Evidence. (10) Except in juvenile court cases, the Constitution may not be construed as limiting the existing rights of the prosecution to introduce evidence in support of a capital sentence. Section 141. Section 78A-2-302 is amended to read: 78A-2-302. Indigent litigants -- Affidavit. (1) As used in Sections 78A-2-302 through 78A-2-309: (a) "Convicted" means: (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, no contest; and (ii) a conviction of any crime or offense. [(b) "Indigent" means an individual who is financially unable to pay fees and costs or give security.] [(c)] (b) ["Prisoner"] "Incarcerated individual" means an individual who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing. (c) "Indigent" means an individual who is financially unable to pay fees and costs or give security. (2) An individual may institute, prosecute, defend, or appeal any cause in a court in this state without prepayment of fees and costs or security if the individual submits an affidavit demonstrating that the individual is indigent. (3) A court shall find an individual indigent if the individual's affidavit under Subsection (2) demonstrates:

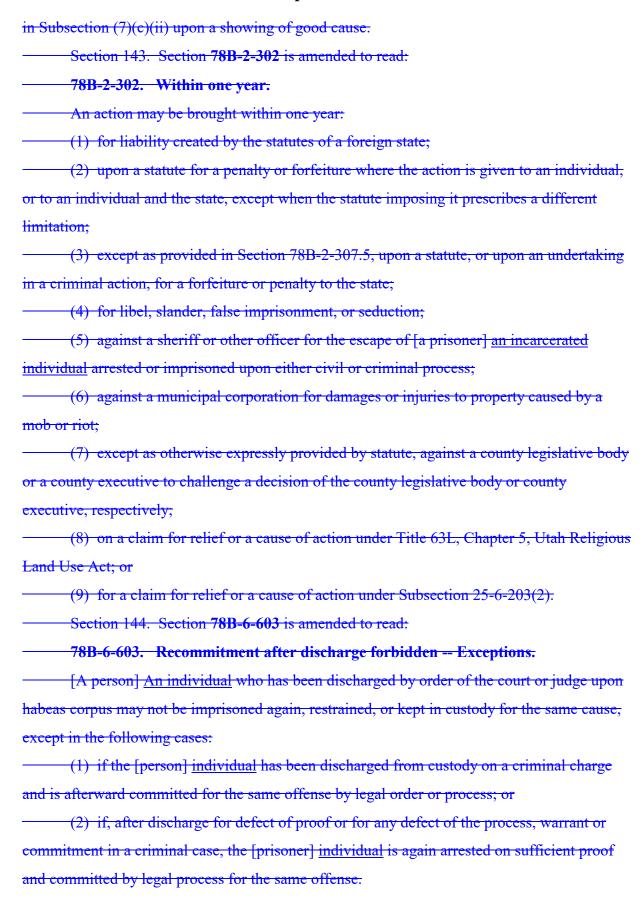
(a) the individual has an income level at or below 150% of the United States poverty

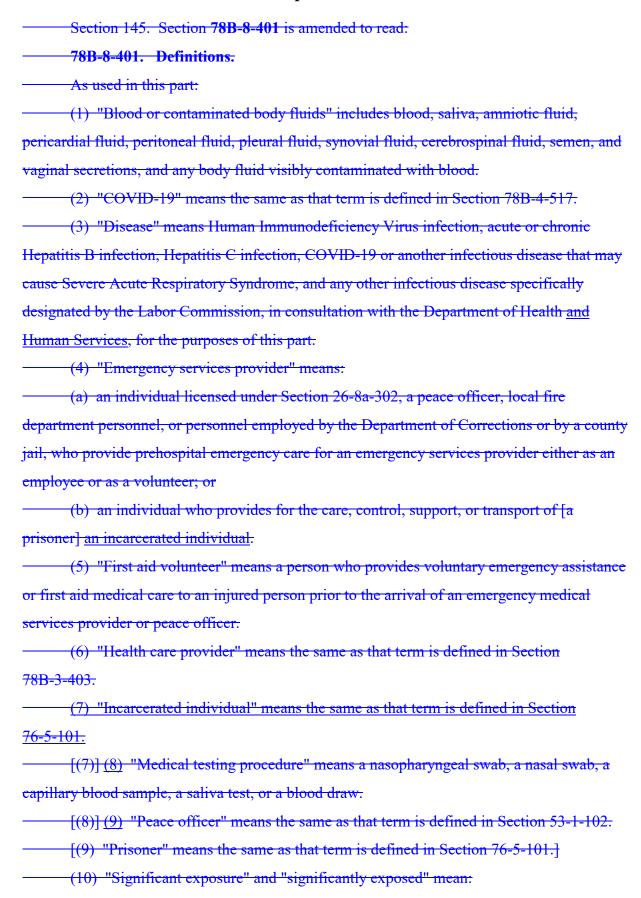
level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services; (b) the individual receives benefits from a means-tested government program, including Temporary Assistance to Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program, or Medicaid; (c) the individual receives legal services from a nonprofit provider or a pro bono attorney through the Utah State Bar; or (d) the individual has insufficient income or other means to pay the necessary fees and costs or security without depriving the individual, or the individual's family, of food, shelter, clothing, or other necessities. (4) An affidavit demonstrating that an individual is indigent under Subsection (3)(d) shall contain complete information on the individual's: (a) identity and residence; (b) amount of income, including any government financial support, alimony, or child support; (c) assets owned, including real and personal property; (d) business interests; (e) accounts receivable; (f) securities, checking and savings account balances; (g) debts; and (h) monthly expenses. (5) If the individual under Subsection (3) is [a prisoner] an incarcerated individual, the [prisoner] incarcerated individual shall disclose the amount of money held in the [prisoner's] incarcerated individual's trust account at the time the affidavit under Subsection (2) is executed in accordance with Section 78A-2-305. (6) An affidavit of indigency under this section shall state the following: I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal. Section 142. Section 78A-2-305 is amended to read:

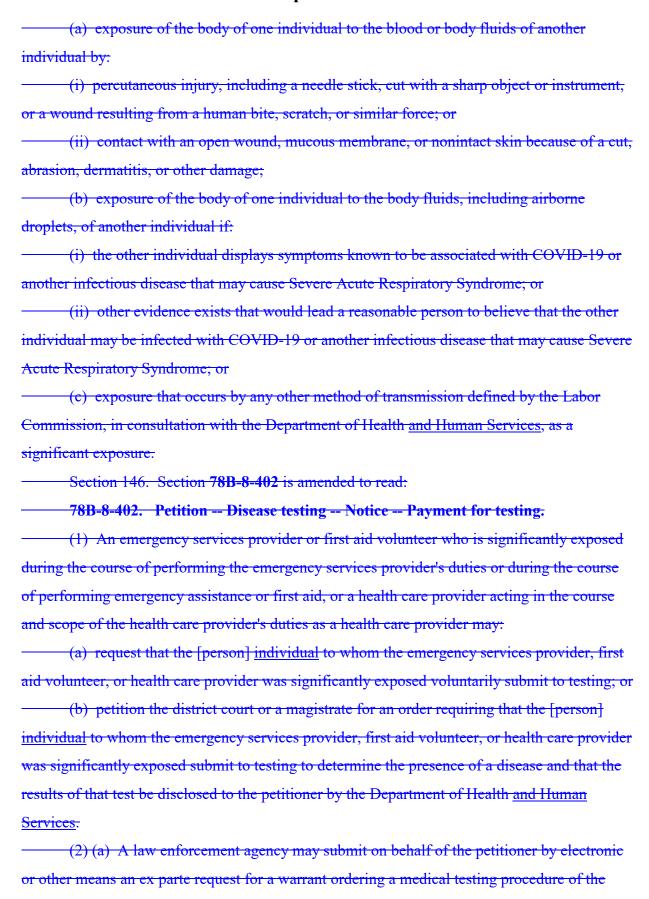


(c) Nothing in this section may be construed to prevent the agency having custody of the [prisoner] incarcerated individual from withdrawing funds from the [prisoner's] incarcerated individual's account to pay court-ordered restitution. (5) Collection of the filing fees continues despite dismissal of the action. (6) The filing fee collected may not exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action. (7) If the [prisoner] incarcerated individual is filing an initial divorce action or an action to obtain custody of the [prisoner's] incarcerated individual's children, the following procedures shall apply for review and collection of fees and costs: (a) (i) Upon a filing of an affidavit of indigency under Section 78A-2-302 with any Utah court by [a prisoner] an incarcerated individual, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be paid in full or be waived in whole or in part. (ii) The court shall require a full or partial filing fee when the [prisoner's] incarcerated individual's financial information demonstrates an ability to pay the applicable court fees or costs. (b) (i) If [a prisoner's] an incarcerated individual's court fees or costs are completely waived, and if the [prisoner] incarcerated individual files an appeal, the court shall immediately file any complaint or papers on appeal and complete all necessary action as promptly as if the litigant had paid all the fees and costs in full. (ii) If [a prisoner] an incarcerated individual is indigent, the constable and sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary in the prosecution or defense of the cause as if all the necessary fees and costs had been paid in full. (c) (i) If [a prisoner] an incarcerated individual files an affidavit of indigency, the judge shall question the [prisoner] incarcerated individual at the time of the hearing on the merits of the case as to the [prisoner's] incarcerated individual's ability to pay. (ii) If the judge determines that the [prisoner] incarcerated individual is reasonably able to pay court fees and costs, the final order or decree shall be entered, however the [prisoner] incarcerated individual may not seek enforcement or modification of the decree or order until the [prisoner] incarcerated individual has paid the fees or costs in full.

(iii) A judge may waive the restrictions placed on the [prisoner] incarcerated individual







respondent. (b) The court or magistrate shall issue a warrant ordering the respondent to submit to a medical testing procedure within two hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that: (i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services provider, first aid volunteer, or health care provider; (ii) the respondent refused to give consent to the medical testing procedure or is unable to give consent; (iii) there may not be an opportunity to obtain a sample at a later date; and (iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis. (c) (i) If the petitioner requests that the court order the respondent to submit to a blood draw, the petitioner shall request [a person] an individual authorized under Section 41-6a-523 to perform the blood draw. (ii) If the petitioner requests that the court order the respondent to submit to a medical testing procedure, other than a blood draw, the petitioner shall request that a qualified medical professional, including a physician, a physician's assistant, a registered nurse, a licensed practical nurse, or a paramedic, perform the medical testing procedure. (d) (i) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health and Human Services for testing. (ii) If the Department of Health and Human Services is unable to perform a medical testing procedure ordered by the court under this section, a qualified medical laboratory may perform the medical testing procedure if: (A) the Department of Health and Human Services requests that the medical laboratory perform the medical testing procedure; and (B) the result of the medical testing procedure is provided to the Department of Health and Human Services. (3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the

petitioner may file a petition with the district court seeking an order to submit to testing and to

disclose the results in accordance with this section.

(4) (a) The petition described in Subsection (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure. (b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed. (5) The petitioner shall cause the petition required under this section to be served on the [person] individual who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that [person] individual. (6) (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing. (b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses. (c) The hearing shall be conducted in camera. (7) The district court may enter an order requiring that an individual submit to testing, including a medical testing procedure, for a disease if the court finds probable cause to believe: (a) the petitioner was significantly exposed; and (b) the exposure occurred during the course of the emergency services provider's duties, the provision of emergency assistance or first aid by a first aid volunteer, or the health care provider acting in the course and scope of the provider's duties as a health care provider. (8) The court may order that the use of reasonable force is permitted to complete an ordered test if the individual who is the subject of the petition is [a prisoner] an incarcerated individual. (9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate. (10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order. (11) (a) Upon order of the district court that an individual submit to testing for a

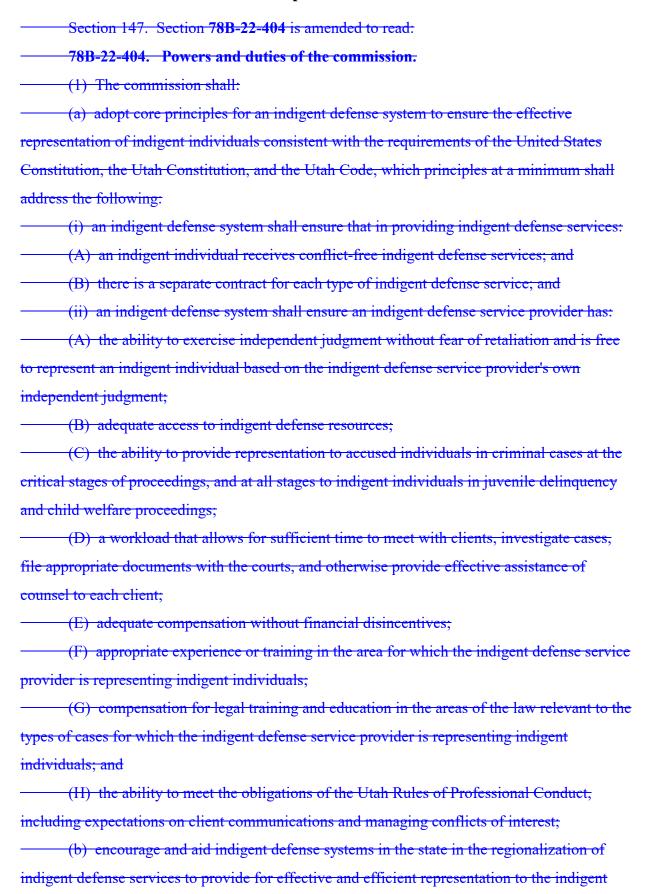
disease, that individual shall report to the designated local health department to provide the

SB0188S02 compared with **SB0188S01** ordered specimen within five days after the day on which the court issues the order, and thereafter as designated by the court, or be held in contempt of court. (b) The court shall send the order to the Department of Health and Human Services and to the local health department ordered to conduct or oversee the test. (c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and Human Services and a local health department may disclose the test results pursuant to a court order as provided in this section. (d) Under this section, anonymous testing as provided under Section 26-6-3.5 may not satisfy the requirements of the court order. (12) The local health department or the Department of Health and Human Services shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action. (13) The court, the court's personnel, the process server, the Department of Health and Human Services, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter. (14) (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment for each test performed in accordance with this section to the entity that performs the procedure. (b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for each test performed in accordance with this section to the entity that performs the procedure. (15) The entity that obtains a specimen for a test ordered under this section shall cause the specimen and the payment for the analysis of the specimen to be delivered to the

(16) If the individual is incarcerated, the incarcerating authority shall either obtain a specimen for a test ordered under this section or shall pay the expenses of having the specimen obtained by a qualified individual who is not employed by the incarcerating authority.

Department of Health and Human Services for analysis.

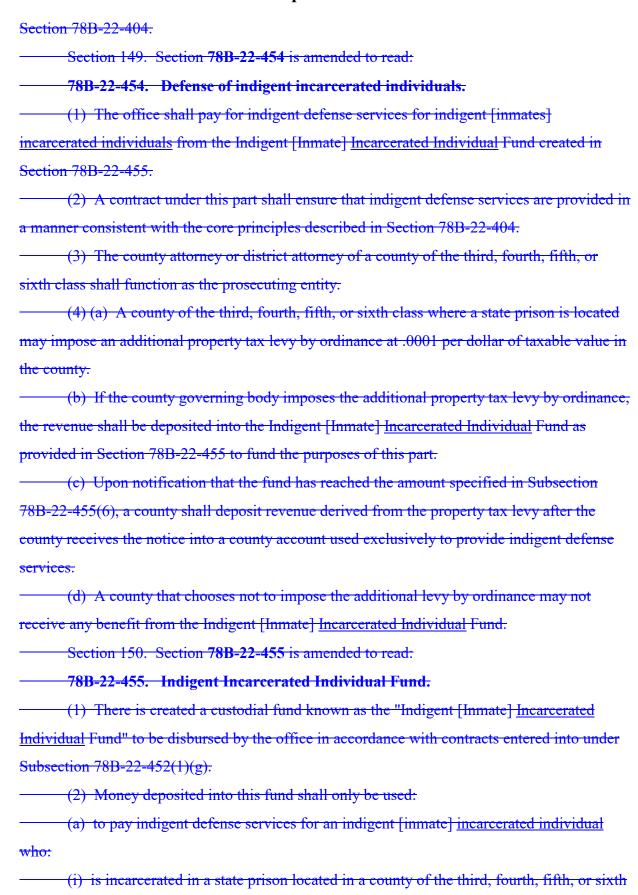
(17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

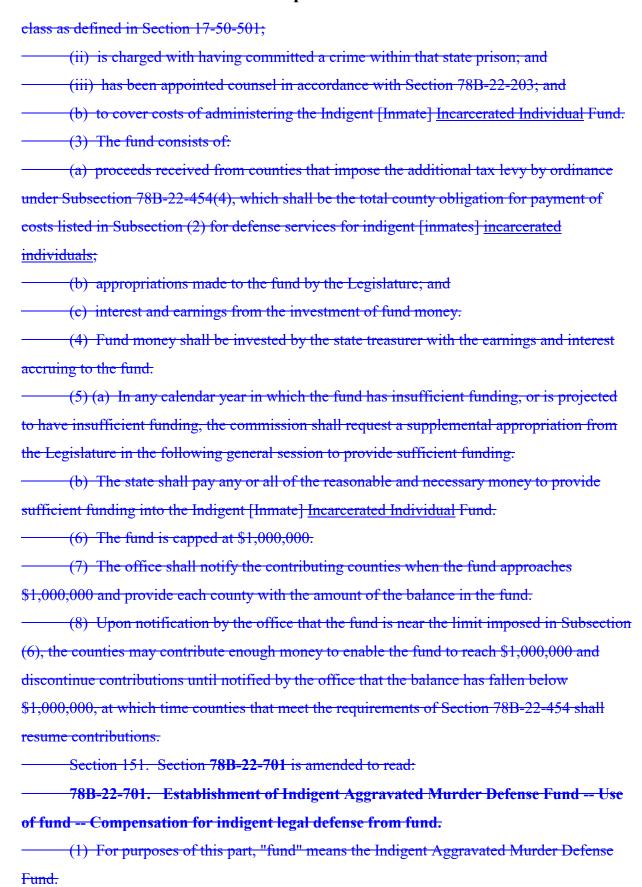


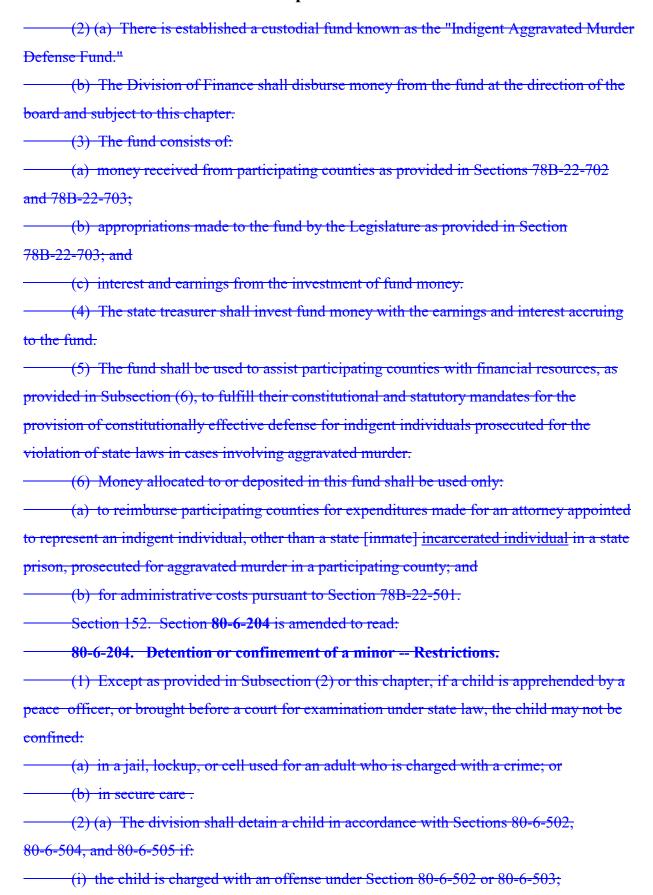
individuals; (c) emphasize the importance of ensuring constitutionally effective indigent defense services; (d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services; and (e) oversee individuals and entities involved in providing indigent defense services. (2) The commission may: (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part; (b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties; (c) request supplemental appropriations from the Legislature to address a deficit in the Indigent [Inmate] Incarcerated Individual Fund created in Section 78B-22-455; and (d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804. Section 148. Section 78B-22-452 is amended to read: 78B-22-452. Duties of the office. (1) The office shall: (a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405; (b) assist the commission in performing the commission's statutory duties described in this chapter; (c) identify and collect data that is necessary for the commission to: (i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and (ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state; (d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals; (e) establish procedures for the receipt and acceptance of complaints regarding the

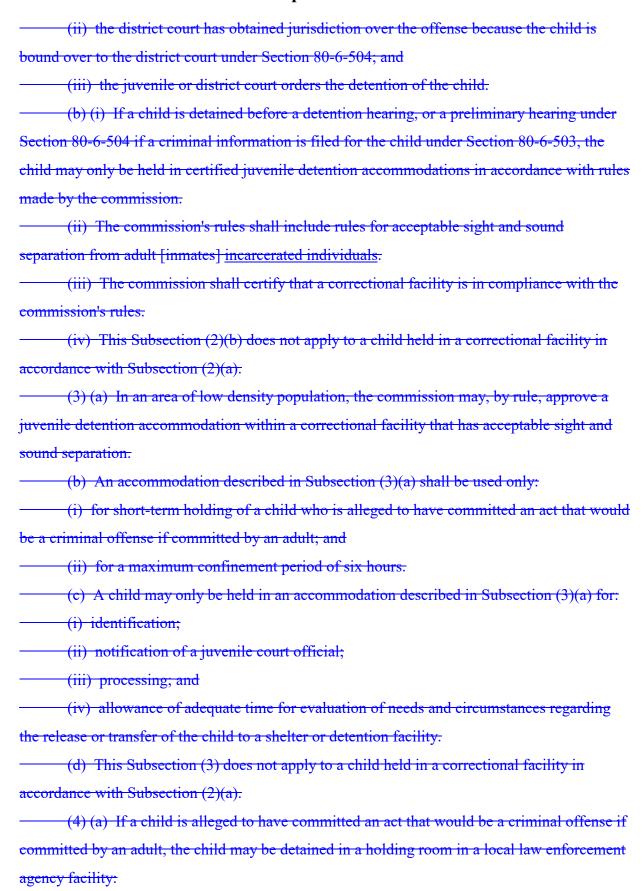
provision of indigent defense services in the state; (f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles; (g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense [inmate] incarcerated individual who: (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501; (ii) is charged with having committed a crime within that state prison; and (iii) has been appointed counsel in accordance with Section 78B-22-203; (h) assist the commission in developing and reviewing advisory caseload guidelines and procedures; (i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals; (i) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program; (k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding: (i) the operations of the commission; (ii) the operations of the indigent defense systems in the state; and (iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission; (1) submit recommendations to the commission for improving indigent defense services in the state; (m) publish an annual report on the commission's website; and (n) perform all other duties assigned by the commission related to indigent defense services. (2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office. (3) Any contract entered into under this part shall require that indigent defense services

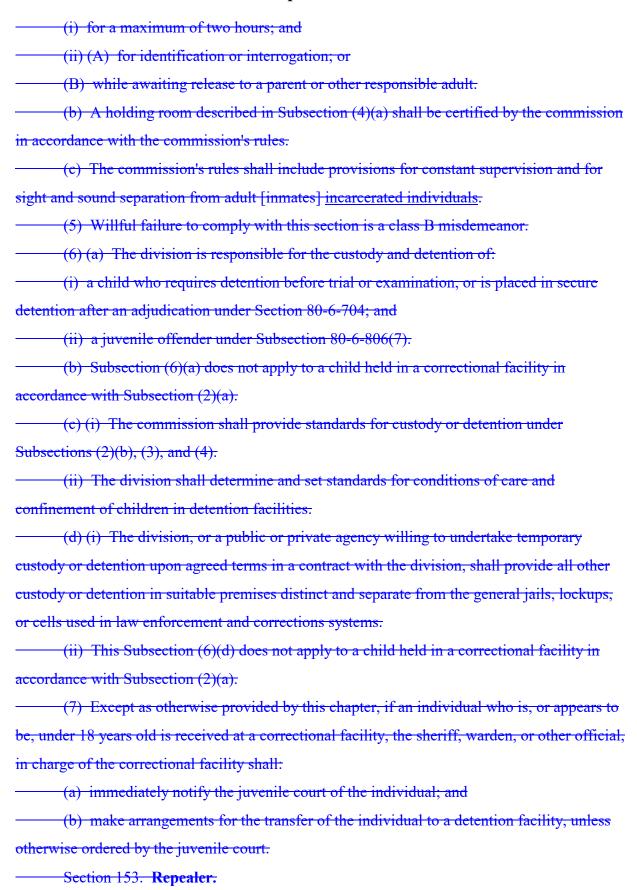
are provided in a manner consistent with the commission's core principles implemented under











This bill repeals:

Section 77-16b-101, Title.

Section 154. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the terms "prisoner" and "inmate" with "incarcerated individual" in any new language added to the Utah Code by legislation passed during the 2023 General Session.

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