

INMATE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill concerns inmates.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Sentencing Commission, the Board of Pardons and Parole (board), and the Department of Corrections (department) to develop a procedure that will provide the department with the ability to determine an inmate's earliest estimated release date from a correctional facility;
- ▶ requires the department to:
 - create a reentry division that focuses on the successful reentry of inmates into the community;
 - coordinate with the board regarding inmate records and ensure that inmate records are complete and, when applicable, shared with the board;
 - report on the department's inmate program implementation progress;
 - use an inmate's earliest estimated release date when determining the timing of an inmate's programs;
 - create an incentive program to encourage an inmate to complete the inmate's programs by the inmate's earliest estimated release date;
 - ensure that an inmate may continue participating in programs under certain



28 circumstances;

29 • under certain circumstances, start an inmate in at least two of the inmate's
30 programs as soon as the inmate's case action plan is created;

31 • allow an inmate to participate in more than one program at a time throughout
32 the inmate's time within the correctional facility under certain circumstances;

33 • prioritize placement of inmates in county correctional facilities that meet
34 specified requirements regarding inmate programs;

35 • periodically confer with an inmate to determine whether the inmate is on track
36 to complete the inmate's programs by the inmate's earliest estimated release
37 date;

38 • include in an inmate's record the reason why certain program requirements were
39 not met, if the department is unable to meet specified program requirements;

40 and

41 • provide an annual report on the department's public website concerning inmate
42 program data; and

43 ▶ makes technical and conforming changes.

44 **Money Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 None

48 **Utah Code Sections Affected:**

49 AMENDS:

50 **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111

51 **64-13-6**, as last amended by Laws of Utah 2023, Chapter 177

52 ENACTS:

53 **64-13-50**, Utah Code Annotated 1953



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

56 Section 1. Section **63M-7-404** is amended to read:

57 **63M-7-404. Purpose -- Duties.**

58 (1) The purpose of the commission is to develop guidelines and propose

- 59 recommendations to the Legislature, the governor, and the Judicial Council regarding:
- 60 (a) the sentencing and release of juvenile and adult offenders in order to:
- 61 (i) respond to public comment;
- 62 (ii) relate sentencing practices and correctional resources;
- 63 (iii) increase equity in criminal sentencing;
- 64 (iv) better define responsibility in criminal sentencing; and
- 65 (v) enhance the discretion of sentencing judges while preserving the role of the Board
- 66 of Pardons and Parole and the Youth Parole Authority;
- 67 (b) the length of supervision of adult offenders on probation or parole in order to:
- 68 (i) increase equity in criminal supervision lengths;
- 69 (ii) respond to public comment;
- 70 (iii) relate the length of supervision to an offender's progress;
- 71 (iv) take into account an offender's risk of offending again;
- 72 (v) relate the length of supervision to the amount of time an offender has remained
- 73 under supervision in the community; and
- 74 (vi) enhance the discretion of the sentencing judges while preserving the role of the
- 75 Board of Pardons and Parole; and
- 76 (c) appropriate, evidence-based probation and parole supervision policies and services
- 77 that assist individuals in successfully completing supervision and reduce incarceration rates
- 78 from community supervision programs while ensuring public safety, including:
- 79 (i) treatment and intervention completion determinations based on individualized case
- 80 action plans;
- 81 (ii) measured and consistent processes for addressing violations of conditions of
- 82 supervision;
- 83 (iii) processes that include using positive reinforcement to recognize an individual's
- 84 progress in supervision;
- 85 (iv) engaging with social services agencies and other stakeholders who provide
- 86 services that meet offender needs; and
- 87 (v) identifying community violations that may not warrant revocation of probation or
- 88 parole.
- 89 (2) (a) The commission shall modify the sentencing guidelines and supervision length

90 guidelines for adult offenders to implement the recommendations of the State Commission on
91 Criminal and Juvenile Justice for reducing recidivism.

92 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting
93 the public and ensuring efficient use of state funds.

94 (3) (a) The commission shall modify the criminal history score in the sentencing
95 guidelines for adult offenders to implement the recommendations of the State Commission on
96 Criminal and Juvenile Justice for reducing recidivism.

97 (b) The modifications to the criminal history score under Subsection (3)(a) shall
98 include factors in an offender's criminal history that are relevant to the accurate determination
99 of an individual's risk of offending again.

100 (4) (a) The commission shall establish sentencing guidelines for periods of
101 incarceration for individuals who are on probation and:

- 102 (i) who have violated one or more conditions of probation; and
- 103 (ii) whose probation has been revoked by the court.

104 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that
105 a court consider:

- 106 (i) the seriousness of any violation of the condition of probation;
- 107 (ii) the probationer's conduct while on probation; and
- 108 (iii) the probationer's criminal history.

109 (5) (a) The commission shall establish sentencing guidelines for periods of
110 incarceration for individuals who are on parole and:

- 111 (i) who have violated a condition of parole; and
- 112 (ii) whose parole has been revoked by the Board of Pardons and Parole.

113 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that
114 the Board of Pardons and Parole consider:

- 115 (i) the seriousness of any violation of the condition of parole;
- 116 (ii) the individual's conduct while on parole; and
- 117 (iii) the individual's criminal history.

118 (6) The commission shall establish graduated and evidence-based processes to
119 facilitate the prompt and effective response to an individual's progress in or violation of the
120 terms of probation or parole by the adult probation and parole section of the Department of

121 Corrections, or other supervision services provider, to implement the recommendations of the
122 State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration,
123 including:

124 (a) responses to be used when an individual violates a condition of probation or parole;

125 (b) responses to recognize positive behavior and progress related to an individual's case
126 action plan;

127 (c) when a violation of a condition of probation or parole should be reported to the
128 court or the Board of Pardons and Parole; and

129 (d) a range of sanctions that may not exceed a period of incarceration of more than:

130 (i) three consecutive days; and

131 (ii) a total of five days in a period of 30 days.

132 (7) The commission shall establish graduated incentives to facilitate a prompt and
133 effective response by the adult probation and parole section of the Department of Corrections
134 to an offender's:

135 (a) compliance with the terms of probation or parole; and

136 (b) positive conduct that exceeds those terms.

137 (8) (a) The commission shall establish guidelines, including sanctions and incentives,
138 to appropriately respond to negative and positive behavior of juveniles who are:

139 (i) nonjudicially adjusted;

140 (ii) placed on diversion;

141 (iii) placed on probation;

142 (iv) placed on community supervision;

143 (v) placed in an out-of-home placement; or

144 (vi) placed in a secure care facility.

145 (b) In establishing guidelines under this Subsection (8), the commission shall consider:

146 (i) the seriousness of the negative and positive behavior;

147 (ii) the juvenile's conduct post-adjudication; and

148 (iii) the delinquency history of the juvenile.

149 (c) The guidelines shall include:

150 (i) responses that are swift and certain;

151 (ii) a continuum of community-based options for juveniles living at home;

152 (iii) responses that target the individual's criminogenic risk and needs; and
153 (iv) incentives for compliance, including earned discharge credits.
154 (9) The commission shall establish and maintain supervision length guidelines in
155 accordance with this section.
156 (10) (a) The commission shall create sentencing guidelines and supervision length
157 guidelines for the following financial and property offenses for which a pecuniary loss to a
158 victim may exceed \$50,000:
159 (i) securities fraud, Sections 61-1-1 and 61-1-21;
160 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
161 adviser representative, Sections 61-1-3 and 61-1-21;
162 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
163 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
164 Assault and Related Offenses;
165 (v) arson, Section 76-6-102;
166 (vi) burglary, Section 76-6-202;
167 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
168 (viii) forgery, Section 76-6-501;
169 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
170 (x) insurance fraud, Section 76-6-521;
171 (xi) computer crimes, Section 76-6-703;
172 (xii) mortgage fraud, Section 76-6-1203;
173 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;
174 (xiv) communications fraud, Section 76-10-1801;
175 (xv) money laundering, Section 76-10-1904; and
176 (xvi) other offenses in the discretion of the commission.
177 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix
178 with proportionate escalating sanctions based on the amount of a victim's loss.
179 (c) On or before August 1, 2022, the commission shall publish for public comment the
180 guidelines described in Subsection (10)(a).
181 (11) (a) Before January 1, 2023, the commission shall study the offenses of sexual
182 exploitation of a minor and aggravated sexual exploitation of a minor under Sections

183 76-5b-201 and 76-5b-201.1.

184 (b) The commission shall update sentencing and release guidelines and juvenile
185 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection
186 (11)(a), including the application of aggravating and mitigating factors specific to the offense.

187 (12) (a) On or before January 1, 2026, the commission shall coordinate with the Board
188 of Pardons and Parole and the Department of Corrections to develop a procedure that will
189 provide the Department of Corrections with the ability to determine an inmate's earliest
190 estimated release date as described in Section 64-13-50.

191 (b) The procedure described in Subsection (12)(a) shall include factors that may be
192 relevant to the determination of an earliest estimated release date for an inmate, including:

193 (i) the type and severity of offenses;

194 (ii) prior criminal history;

195 (iii) criminogenic risk factors; and

196 (iv) evidence-based assessments.

197 Section 2. Section 64-13-6 is amended to read:

198 **64-13-6. Department duties.**

199 (1) The department shall:

200 (a) protect the public through institutional care and confinement, and supervision in the
201 community of offenders where appropriate;

202 (b) implement court-ordered punishment of offenders;

203 (c) provide evidence-based and evidence-informed program opportunities for offenders
204 designed to reduce offenders' criminogenic and recidivism risks, including behavioral,
205 cognitive, educational, and career-readiness program opportunities;

206 (d) ensure that offender participation in all program opportunities described in
207 Subsection (1)(c) is voluntary;

208 (e) where appropriate, utilize offender volunteers as mentors in the program
209 opportunities described in Subsection (1)(c);

210 (f) provide treatment for sex offenders who are found to be treatable based upon
211 criteria developed by the department;

212 (g) provide the results of ongoing clinical assessment of sex offenders and objective
213 diagnostic testing to sentencing and release authorities;

214 (h) manage programs that take into account the needs and interests of victims, where
215 reasonable;

216 (i) supervise probationers and parolees as directed by statute and implemented by the
217 courts and the Board of Pardons and Parole;

218 (j) subject to Subsection (2), investigate criminal conduct involving offenders
219 incarcerated in a state correctional facility;

220 (k) cooperate and exchange information with other state, local, and federal law
221 enforcement agencies to achieve greater success in prevention and detection of crime and
222 apprehension of criminals;

223 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
224 Offender Supervision;

225 (m) establish a case action plan based on appropriate validated risk, needs, and
226 responsivity assessments for each offender as follows:

227 (i) (A) if an offender is to be supervised in the community, the department shall
228 establish a case action plan for the offender no later than 60 days after the day on which the
229 department's community supervision of the offender begins; and

230 (B) if the offender is committed to the custody of the department, the department shall
231 establish a case action plan for the offender no later than 90 days after the day on which the
232 offender is committed to the custody of the department;

233 (ii) each case action plan shall integrate an individualized, evidence-based, and
234 evidence-informed treatment and program plan with clearly defined completion requirements;

235 (iii) the department shall share each newly established case action plan with the
236 sentencing and release authority within 30 days after the day on which the case action plan is
237 established; and

238 (iv) the department shall share any changes to a case action plan, including any change
239 in an offender's risk assessment, with the sentencing and release authority within 30 days after
240 the day of the change;

241 (n) ensure that any training or certification required of a public official or public
242 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
243 22, State Training and Certification Requirements, if the training or certification is required:

244 (i) under this title;

- 245 (ii) by the department; or
- 246 (iii) by an agency or division within the department; [~~and~~]
- 247 (o) when reporting on statewide recidivism, include the metrics and requirements
- 248 described in Section [63M-7-102](#);
- 249 (p) create a reentry division that focuses on the successful reentry of inmates into the
- 250 community;
- 251 (q) coordinate with the Board of Pardons and Parole regarding inmate records that are
- 252 necessary for the Board of Pardons and Parole to make necessary determinations regarding an
- 253 inmate; and
- 254 (r) ensure that inmate records regarding discipline, programs, and other relevant
- 255 metrics are:
- 256 (i) complete and updated in a timely manner; and
- 257 (ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.
- 258 (2) The department may in the course of supervising probationers and parolees:
- 259 (a) respond in accordance with the graduated and evidence-based processes established
- 260 by the Utah Sentencing Commission under Subsection [63M-7-404\(6\)](#), to an individual's
- 261 violation of one or more terms of the probation or parole; and
- 262 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
- 263 sanction for an individual's violation of the terms of probation or parole a period of
- 264 incarceration of not more than three consecutive days and not more than a total of five days
- 265 within a period of 30 days.
- 266 (3) (a) By following the procedures in Subsection (3)(b), the department may
- 267 investigate the following occurrences at state correctional facilities:
- 268 (i) criminal conduct of departmental employees;
- 269 (ii) felony crimes resulting in serious bodily injury;
- 270 (iii) death of any person; or
- 271 (iv) aggravated kidnaping.
- 272 (b) Before investigating any occurrence specified in Subsection (3)(a), the department
- 273 shall:
- 274 (i) notify the sheriff or other appropriate law enforcement agency promptly after
- 275 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has

276 occurred; and

277 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
278 conduct an investigation involving an occurrence specified in Subsection (3)(a).

279 (4) Upon request, the department shall provide copies of investigative reports of
280 criminal conduct to the sheriff or other appropriate law enforcement agencies.

281 (5) (a) The executive director of the department, or the executive director's designee if
282 the designee possesses expertise in correctional programming, shall consult at least annually
283 with cognitive and career-readiness staff experts from the Utah system of higher education and
284 the State Board of Education to review the department's evidence-based and evidence-informed
285 treatment and program opportunities.

286 (b) Beginning in the 2022 interim, the department shall provide an annual report to the
287 Law Enforcement and Criminal Justice Interim Committee regarding:

288 (i) the department's implementation of and offender participation in evidence-based
289 and evidence-informed treatment and program opportunities designed to reduce the
290 criminogenic and recidivism risks of offenders over time[-]; and

291 (ii) the progress of the department's implementation of the inmate program
292 requirements described in Section 64-13-50.

293 (6) (a) As used in this Subsection (6):

294 (i) "Accounts receivable" means any amount owed by an offender arising from a
295 criminal judgment that has not been paid.

296 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
297 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,
298 reimbursement of a reward, and damages that an offender is ordered to pay.

299 (b) The department shall collect and disburse, with any interest and any other costs
300 assessed under Section 64-13-21, an accounts receivable for an offender during:

301 (i) the parole period and any extension of that period in accordance with Subsection
302 (6)(c); and

303 (ii) the probation period for which the court orders supervised probation and any
304 extension of that period by the department in accordance with Subsection 77-18-105(7).

305 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the
306 time that the offender's sentence expires or terminates, the department shall be referred to the

307 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil
308 accounts receivable as described in Section [77-18-114](#).

309 (ii) If the board makes an order for restitution within 60 days from the day on which
310 the offender's sentence expires or terminates, the board shall refer the order for restitution to
311 the sentencing court to be entered as a civil judgment of restitution as described in Section
312 [77-18-114](#).

313 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.
314 Section 3. Section **64-13-50** is enacted to read:

315 **64-13-50. Inmate program requirements -- Records -- Reporting.**

316 (1) As used in this section:

317 (a) "Earliest estimated release date" means the earliest estimated release date,
318 determined by using the earliest estimated release date procedure, that an inmate may
319 reasonably be expected to be released from a correctional facility.

320 (b) "Earliest estimated release date procedure" means the procedure created in
321 accordance with Subsection [63M-7-404\(12\)](#) for estimating an inmate's earliest estimated
322 release date.

323 (c) (i) "Program" means a part of an inmate's case action plan that is required or
324 optional and includes:

325 (A) sex offender treatment;

326 (B) substance use treatment;

327 (C) educational programs, including literacy programs;

328 (D) career-readiness programs;

329 (E) life-skills training; and

330 (F) transition programs meant to prepare an inmate who is about to leave a correctional
331 facility in accordance with Section [64-13-10.6](#).

332 (ii) "Program" includes online and in-person programs.

333 (2) On or before January 1, 2026, the department shall:

334 (a) use an inmate's earliest estimated release date when determining the timing of an
335 inmate's programs to ensure that an inmate will have the ability to complete all of the inmate's
336 programs by the inmate's earliest estimated release date;

337 (b) create an incentive plan to encourage an inmate to complete the inmate's programs

338 by the inmate's earliest estimated release date;

339 (c) in accordance with Subsection 64-13-48(4) and Subsection (3), use the department's
340 best efforts to ensure that when an inmate is transferred within a correctional facility or to a
341 different correctional facility, the inmate is able to continue all programs that the inmate has
342 already started and has not yet completed, without requiring the inmate to restart a program
343 from the beginning or wait on a waiting list for the program, unless the program's continuation
344 would be impossible due to the inmate's transfer to a more restrictive setting due to a
345 behavioral or disciplinary violation;

346 (d) in accordance with Subsection (3), use the department's best efforts to ensure that if
347 an inmate opts out of an optional program, the inmate is able to rejoin the program within six
348 months without being required to restart the program from the beginning or wait on a waiting
349 list;

350 (e) in accordance with Subsection (3), as soon as an inmate's case action plan is created
351 in accordance with Subsection 64-13-6(1)(m), use the department's best efforts to start the
352 inmate in at least two of the inmate's programs;

353 (f) in accordance with Subsection (3), use the department's best efforts to allow an
354 inmate to participate in more than one program at a time throughout the inmate's time within
355 the correctional facility, including, if applicable, providing technological methods for an inmate
356 to participate in an online program;

357 (g) in accordance with Section 64-13e-103, prioritize the placement of inmates within
358 county correctional facilities that:

359 (i) offer, allow, or facilitate department-specified programs for inmates; and

360 (ii) collect and provide inmate program completion data to the department; and

361 (h) periodically confer with an inmate and, if necessary, the Board of Pardons and
362 Parole, to determine whether the inmate is on track to complete all of the inmate's programs by
363 the inmate's earliest estimated release date.

364 (3) If the department is unable to meet a requirement described in Subsection (2)(c),
365 (2)(d), (2)(e), or (2)(f), the department shall:

366 (a) include in the inmate's records the reason why the requirement was not met; and

367 (b) ensure the information described in Subsection (3)(a) is made available to the
368 Board of Pardons and Parole.

369 (4) The department shall provide an annual report on the department's public website
370 that states how many inmates:

371 (a) are currently participating in one or more programs; and

372 (b) have successfully completed one or more programs during the prior year.

373 Section 4. **Effective date.**

374 This bill takes effect on May 1, 2024.