

Representative Melissa G. Ballard proposes the following substitute bill:

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 department to:
 - create a reentry division that focuses on the successful reentry of inmates into the community;
 - coordinate with the Board of Pardons and Parole (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 board hearing 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 board hearing;
 - ensure that an inmate may continue participating in programs under certain circumstances;



- 26 • under certain circumstances, start an inmate in at least two of the inmate's
- 27 programs as soon as the inmate's case action plan is created;
- 28 • allow an inmate to participate in more than one program at a time throughout
- 29 the inmate's time within the correctional facility under certain circumstances;
- 30 • prioritize placement of inmates in county correctional facilities that meet
- 31 specified requirements regarding inmate programs;
- 32 • periodically confer with an inmate to determine whether the inmate is on track
- 33 to complete the inmate's programs by the inmate's board hearing;
- 34 • include in an inmate's record the reason why certain program requirements were
- 35 not met, if the department is unable to meet specified program requirements;
- 36 and
- 37 • provide an annual report on the department's public website concerning inmate
- 38 program data;
- 39 ▶ requires the board to use certain factors when setting an inmate's board hearing; and
- 40 ▶ makes technical and conforming changes.

41 **Money Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 None

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **64-13-6**, as last amended by Laws of Utah 2023, Chapter 177

48 **77-27-7**, as last amended by Laws of Utah 2022, Chapter 430

49 ENACTS:

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



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

53 Section 1. Section **64-13-6** is amended to read:

54 **64-13-6. Department duties.**

55 (1) The department shall:

56 (a) protect the public through institutional care and confinement, and supervision in the

- 57 community of offenders where appropriate;
- 58 (b) implement court-ordered punishment of offenders;
- 59 (c) provide evidence-based and evidence-informed program opportunities for offenders
60 designed to reduce offenders' criminogenic and recidivism risks, including behavioral,
61 cognitive, educational, and career-readiness program opportunities;
- 62 (d) ensure that offender participation in all program opportunities described in
63 Subsection (1)(c) is voluntary;
- 64 (e) where appropriate, utilize offender volunteers as mentors in the program
65 opportunities described in Subsection (1)(c);
- 66 (f) provide treatment for sex offenders who are found to be treatable based upon
67 criteria developed by the department;
- 68 (g) provide the results of ongoing clinical assessment of sex offenders and objective
69 diagnostic testing to sentencing and release authorities;
- 70 (h) manage programs that take into account the needs and interests of victims, where
71 reasonable;
- 72 (i) supervise probationers and parolees as directed by statute and implemented by the
73 courts and the Board of Pardons and Parole;
- 74 (j) subject to Subsection (2), investigate criminal conduct involving offenders
75 incarcerated in a state correctional facility;
- 76 (k) cooperate and exchange information with other state, local, and federal law
77 enforcement agencies to achieve greater success in prevention and detection of crime and
78 apprehension of criminals;
- 79 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
80 Offender Supervision;
- 81 (m) establish a case action plan based on appropriate validated risk, needs, and
82 responsibility assessments for each offender as follows:
- 83 (i) (A) if an offender is to be supervised in the community, the department shall
84 establish a case action plan for the offender no later than 60 days after the day on which the
85 department's community supervision of the offender begins; and
- 86 (B) if the offender is committed to the custody of the department, the department shall
87 establish a case action plan for the offender no later than 90 days after the day on which the

88 offender is committed to the custody of the department;

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

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

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

97 (n) ensure that any training or certification required of a public official or public
98 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
99 22, State Training and Certification Requirements, if the training or certification is required:

100 (i) under this title;

101 (ii) by the department; or

102 (iii) by an agency or division within the department; [~~and~~]

103 (o) when reporting on statewide recidivism, include the metrics and requirements
104 described in Section 63M-7-102;

105 (p) create a reentry division that focuses on the successful reentry of inmates into the
106 community;

107 (q) coordinate with the Board of Pardons and Parole regarding inmate records that are
108 necessary for the Board of Pardons and Parole to make necessary determinations regarding an
109 inmate; and

110 (r) ensure that inmate records regarding discipline, programs, and other relevant
111 metrics are:

112 (i) complete and updated in a timely manner; and

113 (ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

114 (2) The department may in the course of supervising probationers and parolees:

115 (a) respond in accordance with the graduated and evidence-based processes established
116 by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's
117 violation of one or more terms of the probation or parole; and

118 (b) upon approval by the court or the Board of Pardons and Parole, impose as a

119 sanction for an individual's violation of the terms of probation or parole a period of
120 incarceration of not more than three consecutive days and not more than a total of five days
121 within a period of 30 days.

122 (3) (a) By following the procedures in Subsection (3)(b), the department may
123 investigate the following occurrences at state correctional facilities:

- 124 (i) criminal conduct of departmental employees;
- 125 (ii) felony crimes resulting in serious bodily injury;
- 126 (iii) death of any person; or
- 127 (iv) aggravated kidnaping.

128 (b) Before investigating any occurrence specified in Subsection (3)(a), the department
129 shall:

130 (i) notify the sheriff or other appropriate law enforcement agency promptly after
131 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has
132 occurred; and

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

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

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

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

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

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

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

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

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

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

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

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

161 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the
162 time that the offender's sentence expires or terminates, the department shall be referred to the
163 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil
164 accounts receivable as described in Section 77-18-114.

165 (ii) If the board makes an order for restitution within 60 days from the day on which
166 the offender's sentence expires or terminates, the board shall refer the order for restitution to
167 the sentencing court to be entered as a civil judgment of restitution as described in Section
168 77-18-114.

169 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

170 Section 2. Section 64-13-50 is enacted to read:

171 **64-13-50. Inmate program requirements -- Records -- Reporting.**

172 (1) As used in this section:

173 (a) "Board" means the Board of Pardons and Parole.

174 (b) "Board hearing" means a hearing established under Subsection 77-27-7(1), which is
175 the earliest possible point at which the board may consider an inmate's release from a
176 correctional facility.

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

179 (A) sex offender treatment;

180 (B) substance use treatment;

- 181 (C) educational programs, including literacy programs;
182 (D) career-readiness programs;
183 (E) life-skills training; and
184 (F) transition programs meant to prepare an inmate who is about to leave a correctional
185 facility in accordance with Section [64-13-10.6](#).
186 (ii) "Program" includes online and in-person programs.
187 (2) On or before January 1, 2026, the department shall:
188 (a) use an inmate's board hearing when determining the timing of an inmate's programs
189 to ensure that an inmate will have the ability to complete all of the inmate's programs by the
190 inmate's board hearing;
191 (b) create an incentive plan to encourage an inmate to complete the inmate's programs
192 by the inmate's board hearing;
193 (c) in accordance with Subsection [64-13-48\(4\)](#) and Subsection (3), use the department's
194 best efforts to ensure that when an inmate is transferred within a correctional facility or to a
195 different correctional facility, the inmate is able to continue all programs that the inmate has
196 already started and has not yet completed, without requiring the inmate to restart a program
197 from the beginning or wait on a waiting list for the program, unless the program's continuation
198 would be impossible due to the inmate's transfer to a more restrictive setting due to a
199 behavioral or disciplinary violation;
200 (d) in accordance with Subsection (3), use the department's best efforts to ensure that if
201 an inmate opts out of an optional program, the inmate is able to rejoin the program within six
202 months without being required to restart the program from the beginning or wait on a waiting
203 list;
204 (e) in accordance with Subsection (3), as soon as an inmate's case action plan is created
205 in accordance with Subsection [64-13-6\(1\)\(m\)](#), use the department's best efforts to start the
206 inmate in at least two of the inmate's programs;
207 (f) in accordance with Subsection (3), use the department's best efforts to allow an
208 inmate to participate in more than one program at a time throughout the inmate's time within
209 the correctional facility, including, if applicable, providing technological methods for an inmate
210 to participate in an online program;
211 (g) in accordance with Section [64-13e-103](#), prioritize the placement of inmates within

212 county correctional facilities that:

213 (i) offer, allow, or facilitate department-specified programs for inmates; and
214 (ii) collect and provide inmate program completion data to the department; and
215 (h) periodically confer with an inmate and, if necessary, the board, to determine
216 whether the inmate is on track to complete all of the inmate's programs by the inmate's board
217 hearing.

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

220 (a) include in the inmate's records the reason why the requirement was not met; and
221 (b) ensure the information described in Subsection (3)(a) is made available to the
222 board.

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

225 (a) are currently participating in one or more programs; and
226 (b) have successfully completed one or more programs during the prior year.

227 Section 3. Section 77-27-7 is amended to read:

228 **77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists --**
229 **Mental competency.**

230 (1) (a) The Board of Pardons and Parole shall determine within six months after the
231 date of an offender's commitment to the custody of the Department of Corrections, for serving
232 a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the
233 offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and
234 shall promptly notify the offender of the date.

235 (b) When determining the hearing date under Subsection (1)(a), the board shall
236 consider:

237 (i) the type and severity of offenses;
238 (ii) prior criminal history;
239 (iii) criminogenic risk factors; and
240 (iv) evidence-based assessments.

241 (2) Before reaching a final decision to release any offender under this chapter, the chair
242 shall cause the offender to appear before the board, its panel, or any appointed hearing officer,

243 who shall personally interview the offender to consider the offender's fitness for release and
244 verify as far as possible information furnished from other sources. Any offender may waive a
245 personal appearance before the board. Any offender outside of the state shall, if ordered by the
246 board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in
247 which the offender is housed in lieu of an appearance before the board. The offender shall be
248 promptly notified in writing of the board's decision.

249 (3) (a) In the case of an offender convicted of violating or attempting to violate any of
250 the provisions of Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402,
251 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3,
252 or 76-5-405, the chair may appoint one or more alienists who shall examine the offender within
253 six months prior to a hearing at which an original parole date is granted on any offense listed in
254 this Subsection (3).

255 (b) The alienists shall report in writing the results of the examination to the board prior
256 to the hearing. The report of the appointed alienists shall specifically address the question of
257 the offender's current mental condition and attitudes as they relate to any danger the offender
258 may pose to children or others if the offender is released on parole.

259 (4) A parolee may petition the board for termination of lifetime parole as provided in
260 Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or
261 convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section
262 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, 76-5-404.3,
263 or 76-5-405, and released on parole before January 1, 2019.

264 (5) In any case where an offender's mental competency is questioned by the board, the
265 chair may appoint one or more alienists to examine the offender and report in writing to the
266 board, specifically addressing the issue of competency.

267 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
268 board shall make rules governing:

- 269 (a) the hearing process;
- 270 (b) alienist examination; and
- 271 (c) parolee petitions for termination of parole.

272 Section 4. **Effective date.**

273 This bill takes effect on May 1, 2024.

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