SB0109S03 compared with SB0109S02

~~{deleted text}~~ shows text that was in SB0109S02 but was deleted in SB0109S03.

inserted text shows text that was not in SB0109S02 but was inserted into SB0109S03.

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 Derrin R. Owens proposes the following substitute bill:

CORRECTIONS MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill amends provisions related to the Department of Corrections.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the roles of county sheriffs and the Department of Corrections regarding the detention of probationers and parolees who have allegedly violated a condition of probation or parole;
- prohibits a county jail from releasing an individual booked on an allegation of violating probation or parole if the Department of Corrections has placed a hold on that individual under certain circumstances;
- clarifies that the Department of Health and Human Services shall provide

comprehensive health care to inmates at each health care facility owned or operated by the Department of Corrections;

- directs the Department of Corrections to create a reentry division that focuses on the successful reentry of inmates into the community;
- allows the Department of Corrections to use an inmate supervision model other than a direct supervision model in certain circumstances;
- clarifies the role of the Department of Corrections in probation supervision;
- provides that the executive director of the Department of Corrections may authorize the personal off-duty use of state vehicles;
- removes an internal Department of Corrections audit requirement of certain programs;
- prohibits the disclosure of information and records related to an execution; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-22-5.5, as last amended by Laws of Utah 2022, Chapter 115

26B-4-325, as enacted by Laws of Utah 2023, Chapter 322

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

64-13-14, as last amended by Laws of Utah 2021, Chapter 246

64-13-21, as last amended by Laws of Utah 2022, Chapter 187

64-13-25, as last amended by Laws of Utah 2023, Chapter 155

64-13-27, as last amended by Laws of Utah 1998, Chapter 263

64-13-29, as last amended by Laws of Utah 2022, Chapter 115

64-13-43, as enacted by Laws of Utah 2008, Chapter 368

77-20-203, as last amended by Laws of Utah 2023, Chapter 408

77-20-204, as last amended by Laws of Utah 2023, Chapters 34, 408

77-27-11, as last amended by Laws of Utah 2022, Chapter 115

ENACTS:

17-22-5.6, Utah Code Annotated 1953

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

Section 1. Section **17-22-5.5** is amended to read:

17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.

(1) (a) Except as provided in Subsection (4), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (4), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching the jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release

program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail an individual sentenced to the Department of Corrections.

(5) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a jail facility in accordance with Section 77-20-203 or 77-20-204.

[~~(6) (a) Subject to Subsection (6)(c), a jail facility shall detain an individual for up to 24 hours from booking if:~~]

[~~(i) the individual is on supervised probation or parole and that information is reasonably available; and~~]

[~~(ii) the individual was arrested for:~~]

[~~(A) a violent felony as defined in Section 76-3-203.5; or~~]

[~~(B) a qualifying domestic violence offense as defined in Subsection 77-36-1.1(4) that is not a criminal mischief offense.~~]

[~~(b) The jail facility shall notify the entity supervising the individual's probation or parole that the individual is being detained.~~]

[~~(c) (i) The jail facility shall release the individual:~~]

[~~(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or~~]

[~~(B) if a court or magistrate orders release.~~]

[~~(ii) Nothing in this Subsection (6) prohibits a jail facility from holding the individual in accordance with Title 77, Chapter 20, Bail, for new criminal conduct.~~]

Section 2. Section **17-22-5.6** is enacted to read:

17-22-5.6. Probation supervision -- Violation of probation -- Detention -- Hearing.

(1) As used in this section:

(a) "Probationer" means an individual on probation under the supervision of the county sheriff.

(b) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) A county sheriff shall ensure that the court is notified of violations of the terms and conditions of a probationer's probation when the county sheriff determines that:

(a) incarceration is recommended as a sanction;

(b) a graduated and evidence-based response is not an appropriate response to the offender's violation and recommends revocation of probation; or

(c) there is probable cause that the conduct that led to a violation of probation is:

(i) a violent felony; or

(ii) a qualifying domestic violence offense.

(3) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours, excluding weekends and holidays, if~~{:~~

~~(a) the probationer commits a major violation or repeated violations of probation;~~

~~(b) it is unlikely that the court will conduct a hearing within a reasonable time to determine if the probationer has violated the conditions of probation; and~~

~~(c) the county sheriff conducts a hearing, within a reasonable time, to determine if}~~ there is probable cause to believe that the probationer has ~~{violated the conditions}~~committed a violation of probation~~{, unless the hearing is waived by the probationer.~~

~~(4) If the requirements for}~~.

(4) A county sheriff may not detain a probationer or parolee for longer than 72 hours without obtaining a warrant issued by the court.

(5) If the county sheriff detains a probationer under Subsection (3)~~{ are met}~~, the county sheriff shall ensure the proper court is notified.

(~~{5}~~6) A written order from the county sheriff is sufficient authorization for a peace officer to incarcerate a probationer if the county sheriff has determined that there is probable cause to believe that the probationer has violated the conditions of probation.

(~~{6}~~7) If a probationer commits a violation outside of the jurisdiction of the county sheriff supervising the probationer, the arresting law enforcement agency is not required to

hold or transport the probationer to the county sheriff.

(8) This section does not require the a county sheriff to release a probationer who is being held for something other than a probation violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

Section 3. Section **26B-4-325** is amended to read:

26B-4-325. Medical care for inmates.

As used in this section:

(1) "Correctional facility" means a facility operated to house 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 26B-2-201.

(3) "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; and

[~~(b) create policies and procedures for providing services to inmates; and~~]

[~~(c)~~] (b) in coordination with the Department of Corrections[~~,~~], and as the Department of Correction's agent:

(i) create policies and procedures for providing comprehensive health care to inmates;

(ii) provide inmates with comprehensive health care; and

(iii) develop standard population indicators and performance measures relating to the health of inmates.

(7) In providing the comprehensive health care described in Subsection (6)(b)(ii), the department may not, without entering into an agreement with the Department of Corrections, provide, operate, or manage any treatment plans for inmates that are:

(a) required to be provided, operated, or managed by the Department of Corrections in accordance with Section 64-13-6; and

(b) not related to the comprehensive health care provided by the department.

[~~(7)~~] (8) 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)~~] (6)(b)(iii) available to the public through the Department of Corrections and the department websites.

[~~(8)~~] (9) Beginning July 1, 2024, and ending June 30, 2029, the department shall implement the pilot program.

[~~(9)~~] (10) 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)~~] (6)(b)(iii) 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)~~] (10)(b).

(11) An inmate receiving comprehensive health care from the department remains in the custody of the Department of Corrections.

Section 4. Section **64-13-6** is amended to read:

64-13-6. Department duties.

(1) The department shall:

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

(b) implement court-ordered punishment of offenders;

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

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

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

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

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

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

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

(j) subject to Subsection [~~(2)~~] (3), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

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

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

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

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

(B) if the offender is committed to the custody of the department, the department shall

establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

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

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

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

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

(i) under this title;

(ii) by the department; or

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

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

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

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

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

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole 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) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

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

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

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

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

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

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time.

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

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

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

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

(i) the parole period and any extension of that period in accordance with Subsection

(6)(c); and

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

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

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

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

Section 5. Section **64-13-14** is amended to read:

64-13-14. Secure correctional facilities.

(1) The department shall maintain and operate secure correctional facilities for the incarceration of offenders.

(2) For each compound of secure correctional facilities, as established by the executive director, wardens shall be appointed as the chief administrative officers by the executive director.

(3) The department may transfer offenders from one correctional facility to another and may, with the consent of the sheriff, transfer any offender to a county jail.

(4) Where new or modified facilities are designed appropriately, the department shall implement an evidence-based direct supervision system in accordance with Subsections (5) and (6).

(5) A direct supervision system shall be designed to meet the goals of:

(a) reducing offender violence;

(b) enhancing offenders' participation in treatment, program, and work opportunities;

(c) managing and reducing offender risk;

(d) promoting pro-social offender behaviors;

(e) providing a tiered-housing structure that:

(i) rewards an offender's pro-social behaviors and progress toward the completion

requirements of the offender's individual case action plan with less restrictive housing and increased privileges; and

(ii) houses similarly behaving offenders together; and

(f) reducing departmental costs.

(6) A direct supervision system shall include the following elements:

(a) department staff will interact continuously with offenders to actively manage offenders' behavior and to identify problems at early stages;

(b) department staff will use management techniques designed to prevent and discourage negative offender behavior and encourage positive offender behavior;

(c) department staff will establish and maintain a professional supervisory relationship with offenders; and

(d) barriers separating department staff and offenders shall be removed.

(7) (a) Notwithstanding Subsection (4), the department may implement a supervision model other than the direct supervision model described in Subsection (4) if the executive director:

(i) determines that the direct supervision model endangers:

(A) the health and safety of the inmates or correctional facility staff; or

(B) the security of the correctional facility; and

(ii) creates a policy detailing what the supervision model will be and why that model will increase the health and safety of the inmates or correctional facility staff or the security of the correctional facility over a direct supervision model.

(b) The department shall post on the department's website:

(i) the executive director's determinations regarding the dangers of using a direct supervision model as described in Subsection (7)(a)(i); and

(ii) the policy detailing the supervision model to be used as described in Subsection (7)(a)(ii).

[~~(7)~~] (8) [~~Beginning in the 2022 interim, the~~] The department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(a) the status of the implementation of direct supervision; and

(b) if applicable, the implementation of a supervision model other than the direct supervision model as described in Subsection (7).

Section 6. 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 a sentenced [~~offenders~~] offender placed in the community if the offender:

(i) (A) is placed on probation by [~~the courts,~~] a court;

(B) is released on parole by the Board of Pardons and Parole[~~,~~]; or

(C) [~~upon acceptance~~] is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers[~~.~~]; and

(ii) has been convicted of:

(A) a felony;

(B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or

(C) ~~{except as provided in}~~notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the department is ordered by a court to supervise the offender under Section 77-18-105.

(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~~] six 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, 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 7. Section **64-13-25** is amended to read:

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

(1) (a) 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 the department's 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.

(b) (i) The department shall promulgate the standards according to state rulemaking provisions.

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

(iii) Offenders are not a class of persons under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The standards shall provide for inquiring into and processing offender complaints.

(d) (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 Office of Substance Use 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)(d).

(e) (i) The department shall establish minimum standards for sex offense treatment, which shall include the requirements under Subsection 64-13-7.5(3) regarding licensure and competency.

(ii) The standards shall require the use of evidence-based practices to address criminal risk factors as determined by validated assessments.

(iii) The department shall collaborate with the Office of Substance Use 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 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The department shall establish a certification process for public and private providers of treatment for sex offenders on probation or parole that requires the providers' sex offense treatment practices meet the standards and practices established under Subsection (1)(e)(i) with the goal of reducing sex offender recidivism.

(b) The department shall collaborate with the Office of Substance Use and Mental Health to develop, coordinate, and implement the certification process.

(c) The department shall base the certification process on the standards under Subsection (1)(e)(i) and require renewal of certification every two years.

(d) All public and private providers of sex offense treatment, including those providing treatment to offenders housed in county jails by contract under Section 64-13e-103, shall comply with the standards in order to begin receiving or continue receiving payment from the department to provide sex offense treatment.

(e) The department shall establish the certification program by administrative rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3) (a) The department shall establish an audit process to ensure compliance with sex offense and substance use treatment standards established under this section in accordance with the department's policies and procedures.~~]

[~~(b) At least every three years, the department shall internally audit sex offense and~~

~~substance use treatment programs for compliance with standards established under this section.~~]

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

[~~(d) The department's internal audit reports shall:~~]

[~~(i) be classified as confidential internal working papers; and~~]

[~~(ii) be accessible at the discretion of the executive director or the governor, or upon court order.~~]

[~~(4)~~] (3) The department:

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

(b) shall collaborate with the Office of Substance Use and Mental Health to develop and coordinate the performance goals and outcome measurements, including recidivism rates and treatment success and failure rates;

(c) may use the data collected under Subsection [~~(4)(b)~~] (3)(b) to make decisions on the use of funds to provide treatment for which standards are established under this section;

(d) shall collaborate with the Office of Substance Use 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;

(e) shall collaborate with the Office of Substance Use 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; and

(f) shall annually provide data collected under this Subsection [~~(4)~~] (3) to the State Commission on Criminal and Juvenile Justice on or before August 31.

[~~(5)~~] (4) The State Commission on Criminal and Juvenile Justice shall compile a written report of the findings based on the data collected under Subsection [~~(4)~~] (3) and 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 8. Section **64-13-27** is amended to read:

64-13-27. Records -- Access.

(1) (a) The Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103, county attorneys' offices, and state and local law enforcement agencies shall furnish to the department upon request a copy of records of any person arrested in this state.

(b) The department shall maintain centralized files on all offenders under the jurisdiction of the department and make the files available for review by other criminal justice agencies upon request in cases where offenders are the subject of active investigations.

(2) All records maintained by programs under contract to the department providing services to public offenders are the property of the department.

(3) The following information is not a record under Title 63A, Chapter 12, Part 1, Division of Archives and Records Service and Management of Government Records, or Title 63G, Chapter 2, Government Records Access and Management Act, and may not be disclosed by the department:

(a) identifying information of a person who participates in or administers the execution of a death sentence, including the on-site medical administrator, correctional facility staff, contractors, consultants, executioners, or other staff or volunteers; or

(b) identifying information of a person that manufactures, supplies, compounds, or prescribes drugs, medical supplies, medical equipment, or any other equipment used in the execution of a death sentence.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, or any other provision of the Utah Code governing the release of information, the identifying information described in Subsection (3):

(a) is not subject to release through discovery or other judicial processes or orders; and

(b) may not be introduced as evidence in a civil proceeding, a criminal proceeding, an agency proceeding, or any other administrative or judicial proceeding.

(5) Within 90 days after the day on which an execution of a death sentence is performed, the department shall:

(a) create a copy of the department's records related to an execution of a death sentence that redacts the personal identifying information listed in Subsection (3); and

(b) destroy the original records containing the personal identifying information.

(6) A copy of a record created in Subsection (5)(a) shall be classified as protected under Title 63G, Chapter 2, Government Records Access and Management act.

(7) A violation of this section may be punished in accordance with Section 63G-2-801.

(8) (a) If any provision of this section or the application of any provision to any person or circumstance is held invalid by a final decision of a court, the remainder of this section shall be given effect without the invalid provision or application.

(b) The provisions of this section are severable.

Section ~~{8}~~9. Section **64-13-29** is amended to read:

64-13-29. Violation of parole or probation -- Detention -- Hearing.

(1) As used in this section:

(a) "72-hour hold" means a directive from the department:

(i) prohibiting the release of a parolee or probationer from correctional custody who has entered correctional custody due to a violation of a condition of parole or probation; and

(ii) lasting for a maximum of 72 hours, excluding weekends or holidays, from the time the parolee or probationer entered correctional custody.

(b) "Correctional custody" means when a parolee or probationer is physically detained in a county jail or a correctional facility operated by the department.

(c) "Parolee" means an individual on parole under the supervision of the department.

(d) "Probationer" means an individual on probation under the supervision of the department.

(e) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.~~{~~

~~(e) "Probationer" means an individual on probation under the supervision of the department.}~~

(f) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

[~~(a)~~] (2) The department [~~or local law enforcement agency~~] shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the supervision of the department[~~, the local law enforcement agency,~~] or the Board of Pardons and Parole in the case of parolees under the department's supervision when:

[~~(i)~~] (a) [~~a sanction of~~] incarceration is recommended as a sanction;

[~~(ii)~~] (b) the department [~~or local law enforcement agency~~] determines that a graduated and evidence-based response is not an appropriate response to the [~~offender's~~] violation and recommends revocation of probation or parole; or

[~~(iii)~~] (c) there is probable cause that the conduct that led to a violation of parole or probation is:

[~~(A)~~] (i) a violent felony [~~as defined in Section 76-3-203.5~~]; or

[~~(B)~~] (ii) a qualifying domestic violence offense. [~~as defined in Subsection 77-36-1.1(4) that is not a criminal mischief offense.~~]~~(.)~~

[~~(b) In cases where the department desires to detain an offender alleged to have violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or court will conduct a hearing within a reasonable time to determine if the offender has violated his conditions of parole or probation, the department shall hold an administrative hearing within a reasonable time, unless the hearing is waived by the parolee or probationer, to determine if there is probable cause to believe that a violation has occurred.~~]

[~~(c) If there is a conviction for a crime based on the same charges as the probation or parole violation, or a finding by a federal or state court that there is probable cause to believe that an offender has committed a crime based on the same charges as the probation or parole violation, the department need not hold an administrative hearing.~~]

[~~(2) The appropriate officer or officers of the department shall, as soon as practical following the department's administrative hearing, report to the court or the Board of Pardons and Parole, furnishing a summary of the hearing, and may make recommendations regarding the disposition to be made of the parolee or probationer.~~]

[~~(3) (a) Pending any proceeding under this section for a violation of probation or parole, the department:~~]

[~~(i) except as provided in Subsection (3)(b), may take custody of and detain the parolee or probationer who committed the violation for a period not to exceed 72 hours excluding weekends and holidays; and~~]

[~~(ii) if the department or the department's agent has probable cause that the conduct that led to the violation is an offense described in Subsection (1)(a)(iii), shall take custody of and detain the parolee or probationer who committed the violation for a period not to exceed 72~~

~~hours excluding weekends and holidays.~~]

[~~(b) The 72-hour period described in this Subsection (3) is reduced by the amount of time a probationer or parolee is detained under Subsection 17-22-5.5(6).~~]

[~~(4) In cases where probationers are supervised by a local law enforcement agency, the agency may take custody of and detain the probationer involved for a period not to exceed 72 hours excluding weekends and holidays if:~~]

[~~(a) the probationer commits a major violation or repeated violations of probation;~~]

[~~(b) it is unlikely that the court will conduct a hearing within a reasonable time to determine if the offender has violated the conditions of probation; and~~]

[~~(c) the law enforcement agency conducts an administrative hearing within a reasonable time to determine if there is probable cause to believe the offender has violated the conditions of probation, unless the hearing is waived by the probationer.~~]

[~~(5) If the requirements for Subsection (4) are met, the local law enforcement agency shall ensure the proper court is notified.~~]

~~{(3) (a) Except as provided in Subsection (3)(c), the department shall hold an administrative hearing, within a reasonable time, to determine if}~~[~~(6) If the hearing officer determines that~~ there is probable cause to believe that ~~{a probationer or parolee committed a violation of probation or parole if:~~

~~(i) the department seeks to detain, or have a county jail detain, the probationer or parolee for the violation; and~~

~~(ii) it is unlikely that the Board of Pardons and Parole or the court will conduct a hearing within a reasonable time to determine whether there is probable cause to believe the probationer or parolee committed a violation of probation or parole.~~

~~(b) A probationer or parolee may waive the administrative hearing described in Subsection (3)(a).~~

~~(c) The department shall:~~

~~(i) report to the Board of Pardons and Parole or the court as soon as practical following the administrative hearing described in Subsection (3)(a); and~~

~~(ii) provide a summary of the hearing to the Board of Pardons and Parole or the court.~~

~~(d) The department may make recommendations regarding the disposition of the probationer or parolee in a report under Subsection (3)(c).~~

(c) The department may detain a probationer or parolee without an administrative hearing described in Subsection (3)(a) if:

(i) the parolee or probationer has been convicted of an offense that is based on the same charges as the violation of probation or parole; or

(ii) a court has found that probable cause exists to believe that the probationer or parolee has committed an offense that is based on the same charges as the violation of probation or parole.

[(6)] (4) (a) [If] The department may detain a probationer or parolee who has violated a condition of probation or parole for a reasonable period of time as necessary to arrange for the incarceration of the probationer or parolee if:

(i) the probationer or parolee waives the hearing as described in Subsection (3);

(ii) at an administrative hearing described in Subsection (3), the hearing officer determines that [there is] probable cause exists to believe that the [offender] probationer or parolee has violated [}the offender has violated the conditions of the offender's parole or probation, the department may detain the offender for a reasonable period of time after the hearing or waiver, as necessary to arrange for the incarceration of the offender.{] a condition of probation or parole as described in Subsection (3); or

(iii) the department has determined that a hearing is not required as described in Subsection (3)(c).

(b) } A written order of the department is sufficient authorization for any peace officer to incarcerate the {[}offender. The department may promulgate rules for the implementation of this section.]{ probationer or parolee.}

[(7) A written order from the local law enforcement agency is sufficient authorization for any peace officer to incarcerate the offender if:]

[(a) the probationers are supervised by a local law enforcement agency; and]

[(b) the appropriate officer or officers determine that there is probable cause to believe that the offender has violated the conditions of probation.]

[(8) If a probationer supervised by a local law enforcement agency commits a violation outside of the jurisdiction of the supervising agency, the arresting agency is not required to hold or transport the probationer for the supervising agency.]

({5}3) {Pending the holding of a hearing under Subsection (3)(a), the}The department:

(a) may place a 72-hour hold on a parolee or probationer ~~{who}~~if there is probable cause to believe that the parolee or probationer has~~{ allegedly}~~ committed a violation other than a violent felony or qualifying domestic violence offense; and

(b) shall place a 72-hour hold on a parolee or probationer ~~{who}~~if there is probable cause to believe that the parolee or probationer has~~{ allegedly}~~ committed a violent felony or qualifying domestic violence offense.

(4) (a) The department may not detain, or have a county jail detain, a probationer or parolee for longer than 72 hours without a warrant or order issued by the court or Board of Pardons and Parole.

(b) To obtain a warrant or order to detain a probationer or parolee for longer than 72 hours, the department shall seek the warrant or order from the court for a probationer or the Board of Pardons and Parole for a parolee.

(c) The department may decline to seek a warrant or order under Subsection (4)(b) for a probationer or parolee subject to a 72-hour hold and remove the 72-hour hold.

(5) This section does not require the department to release a probationer or parolee who is being held for something other than a probation or parole violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

(6) The department may make rules as necessary to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section ~~{9}~~10. 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:

(1) official and commute purposes for a department employee who:

[~~(1)~~] (a) supervises probationers or parolees; or

[~~(2)~~] (b) investigates the criminal activity of inmates, probationers, or parolees[~~.~~]; and

(2) off-duty personal use.

Section ~~{10}~~11. Section **77-20-203** is amended to read:

77-20-203. County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a) (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

[~~(a)~~] (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

[~~(b)~~] (c) "Violent felony" means the same as that term is defined in [~~Subsection {[}76-3-203.5(1)(c)(i)~~] Section 76-3-203.5.

(2) [~~A~~] Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection 76-9-101(4);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection [~~(3)~~] (4) for the county.

(3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in ~~{Subsection}~~Section 64-13-29~~{(5)}~~.

[~~(3)~~] (4) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(5) (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony; or

(B) a qualifying domestic violence offense.

(b) The jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained; and

(ii) release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

[~~(4)~~] (6) [~~Nothing in this section prohibits~~] This section does not prohibit a court and a county from entering into an agreement regarding release.

Section ~~{11}~~12. Section **77-20-204** is amended to read:

77-20-204. County Jail authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section 23A-4-501 or 23A-4-502;

(b) Section 23A-5-311;

(c) Section 23A-5-313;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

(o) Title 76, Chapter 6a, Pyramid Scheme Act;

(p) Title 76, Chapter 7, Offenses Against the Family;

(q) Title 76, Chapter 7a, Abortion Prohibition;

(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(u) Title 76, Chapter 9, Part 5, Libel; or

(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C

misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b) (i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A county jail official may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:

(a) the county jail official shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a county jail official in accordance with this section.

(6) If a county jail official fixes a financial condition for an individual, law

enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the county jail official fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a county jail official may not fix or modify a financial condition for an individual; and

(b) if a county jail official fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) A jail facility may not release an individual subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Subsection 64-13-29~~((5))~~.

[~~(8)~~] (9) [~~Nothing in this section prohibits~~] This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 13. Section **77-27-11** is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any individual who is found to have violated any condition of the individual's parole.

(2) (a) If a parolee is confined by the department or any law enforcement official for a suspected violation of parole, the department:

(i) shall immediately report the alleged violation to the board, by means of an incident report; and

(ii) make any recommendation regarding the incident.

(b) A parolee may not be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(c) The board shall expeditiously consider warrant requests from the department under Section 64-13-29.

(3) Any member of the board may:

(a) issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee; and

(b) upon arrest of the parolee, determine, or direct the department to determine, if there is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned

again pending a hearing by the board or the board's appointed examiner.

(5) (a) The board or the board's appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

(b) The board or the board's appointed examiner shall provide the parolee the opportunity:

(i) to be present;

(ii) to be heard;

(iii) to present witnesses and documentary evidence;

(iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c) (i) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred.

(ii) The appointed examiner shall then refer the case to the board for disposition.

(d) (i) A final decision shall be reached by a majority vote of the sitting members of the board.

(ii) A parolee shall be promptly notified in writing of the board's findings and decision.

(6) (a) If a parolee is found to have violated the terms of parole, the board, at the board's discretion, may:

(i) return the parolee to parole;

(ii) modify the payment schedule for the parolee's criminal accounts receivable in accordance with Section 77-32b-105;

(iii) order the parolee to pay pecuniary damages that are proximately caused by a defendant's violation of the terms of the defendant's parole;

(iv) order the parolee to be imprisoned, but not to exceed the maximum term of imprisonment for the parolee's sentence; or

(v) order any other conditions for the parolee.

(b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.

(c) If the board revokes parole for a violation and orders incarceration, the board may impose a period of incarceration:

(i) consistent with the guidelines under Subsection 63M-7-404(5); or

(ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from the guidelines.

(d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(c):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Section ~~{12}~~14. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.