

1                    **DEPARTMENT OF CORRECTIONS AMENDMENTS**

2    2012 GENERAL SESSION

3    STATE OF UTAH

4    **Chief Sponsor: Eric K. Hutchings**

5    Senate Sponsor: Daniel W. Thatcher

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7 **LONG TITLE**

8 **General Description:**

9                    This bill modifies provisions regarding the Department of Corrections and inmate  
10 capacity.

11 **Highlighted Provisions:**

12                    This bill:

- 13                    ▶ defines levels of capacity regarding inmates in correctional institutions;
- 14                    ▶ requires notice to the legislative leadership and the Board of Pardons, in addition to  
15 the governor, when an overcrowding emergency is approaching; and
- 16                    ▶ provides process for an emergency inmate release, including requiring that inmate  
17 information be provided to the Board of Pardons and Parole for use in carrying out  
18 an emergency release.

19 **Money Appropriated in this Bill:**

20                    None

21 **Other Special Clauses:**

22                    None

23 **Utah Code Sections Affected:**

24 AMENDS:

25                    **64-13-38**, as last amended by Laws of Utah 2008, Chapter 382

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

28                    Section 1. Section **64-13-38** is amended to read:

29                    **64-13-38. Emergency release due to overcrowding.**

30 (1) Definitions:

31 (a) "Maximum capacity" means every physical and funded prison bed is occupied by  
32 an inmate.

33 (b) "Operational capacity" means 96.5% of every physical and funded bed is occupied  
34 by an inmate.

35 (c) "Emergency release capacity" means 98% of every physical and funded bed is  
36 occupied by an inmate.

37 ~~[(1)]~~ (2) When the executive director of the department finds that either the male or  
38 female inmate population of the Utah State Prison has exceeded [physical] operational capacity  
39 for at least 45 [calendar] consecutive days, the executive director [may: (a)] shall notify the  
40 governor [that], the legislative leadership, and the Board of Pardons and Parole that the  
41 department is approaching an overcrowding emergency [exists] and provide [him] them with  
42 information relevant to that determination[; and].

43 ~~[(b) notify the Board of Pardons and Parole of the existence of the overcrowding~~  
44 ~~emergency so that the board may commence emergency releases pursuant to Subsection (2).]~~

45 (3) When the executive director of the department finds that either the male or female  
46 inmate population of the Utah State Prison has exceeded emergency release capacity for at least  
47 45 consecutive days, the executive director shall:

48 (a) notify the governor and the legislative leadership that the emergency release  
49 capacity has been reached and provide them with information relevant to that determination;  
50 and

51 (b) notify the Board of Pardons and Parole that the emergency release capacity has  
52 been reached so that the board may commence the emergency release process pursuant to  
53 Subsection (4).

54 ~~[(2)]~~ (4) Upon the [governor's receipt of notification] department's notifying the  
55 governor and the legislative leadership of the [existence of an] emergency release capacity  
56 under Subsection (3), the department shall:

57 (a) notify the [board] Board of Pardons and Parole of the number of inmates who need

58 to be released in order to ~~[eliminate the overcrowding emergency;]~~ return the prison inmate  
59 population to operational capacity; and

60 (b) in cooperation and consultation with the ~~[board]~~ Board of Pardons and Parole,  
61 compile a list of inmates ~~[by chronological order according to their existing parole release~~  
62 ~~dates, sufficient to eliminate the overcrowding emergency; and],~~ the release of whom would be  
63 sufficient to return the prison inmate population to operational capacity.

64 ~~[(c) for each inmate listed in accordance with Subsection (2)(b), notify the board if the~~  
65 ~~department has any reason to believe that the inmate has violated a disciplinary rule or for~~  
66 ~~some other reason recommends that the inmate's existing parole date be rescinded.]~~

67 ~~[(3) Unless the board has identified a reason to believe that the inmate's existing parole~~  
68 ~~date should be rescinded, the parole release date of each inmate identified in Subsection (2)(b)~~  
69 ~~may be advanced a sufficient number of days to allow for release.]~~

70 ~~[(4) When the process described in Subsections (2) and (3) has been completed, the~~  
71 ~~board may order the release of the eligible inmates.]~~

72 ~~[(5) The department shall:]~~

73 ~~[(a) send to the Commission on Criminal and Juvenile Justice a list of names of the~~  
74 ~~inmates released under this section; and]~~

75 ~~[(b) provide the name and address of each inmate to the local law enforcement agency~~  
76 ~~for the political subdivision in which the inmate intends to reside.]~~

77 (5) After 45 consecutive days of emergency release capacity, the Board of Pardons and  
78 Parole may order the release of a sufficient number of inmates identified under Subsection (4)  
79 to return the prison inmate population to operational capacity.

80 (6) The department shall inform the governor and the legislative leadership when the  
81 emergency release has been completed.

82 (7) The ~~[board]~~ Board of Pardons and Parole shall make rules in accordance with Title  
83 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this  
84 section.