

**OFFENDER SUPERVISION AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**Committee Note:**

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

**General Description:**

This bill amends provisions relating to the preparation of a presentence investigation report.

**Highlighted Provisions:**

This bill:

▶ removes provisions requiring a POST certified Department of Corrections employee to provide investigative services;

▶ provides that a Department of Corrections employee who is trained to prepare a presentence investigation report may prepare a report for the courts, the department, or the Board of Pardons and Parole; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**64-13-20**, as last amended by Laws of Utah 2009, Chapter 81



28 **64-13-21**, as last amended by Laws of Utah 2018, Chapter 334



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

31 Section 1. Section **64-13-20** is amended to read:

32 **64-13-20. Investigative services -- Presentence investigation reports.**

33 (1) The department shall:

34 (a) provide investigative services and prepare reports to:

35 (i) assist the courts in sentencing;

36 (ii) assist the Board of Pardons and Parole in its decision-making responsibilities

37 regarding offenders;

38 (iii) assist the department in managing offenders; and

39 (iv) assure the professional and accountable management of the department;

40 (b) establish standards for providing investigative services based on available

41 resources, giving priority to felony cases; and

42 (c) employ staff for the purpose of conducting:

43 (i) thorough presentence investigations of the social, physical, and mental conditions

44 and backgrounds of offenders; and

45 (ii) examinations when required by the court or the Board of Pardons and Parole.

46 (2) The department may provide recommendations concerning appropriate measures to  
47 be taken regarding offenders.

48 (3) (a) An employee of the department who is trained to prepare a presentence  
49 investigation report may prepare a presentence investigation report for the courts, the  
50 department, or the Board of Pardons and Parole.

51 ~~(a)~~ (b) The presentence investigation reports prepared by the department are protected  
52 as defined in Section **63G-2-305** and after sentencing may not be released except by express  
53 court order or by ~~rules~~ rule made by the ~~Department of Corrections~~ department in  
54 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

55 ~~(b)~~ (c) The reports are intended only for use by:

56 (i) the ~~court~~ courts in the sentencing process;

57 (ii) the Board of Pardons and Parole in its ~~decisionmaking~~ decision-making  
58 responsibilities; and

59 (iii) the department in the supervision, confinement, and treatment of the offender.

60 (4) [~~Presentence investigation reports~~] A presentence investigation report shall be  
61 made available upon request to [~~other correctional programs~~] another correctional program  
62 within the state if the offender who is the subject of the report has been committed or is being  
63 evaluated for commitment to the facility for treatment as a condition of probation or parole.

64 (5) (a) The presentence investigation reports shall include a victim impact statement in  
65 all felony cases and in misdemeanor cases if the [~~defendant~~] offender caused bodily harm or  
66 death to the victim.

67 (b) Victim impact statements shall:

68 (i) identify the victim of the offense;

69 (ii) itemize any economic loss suffered by the victim as a result of the offense;

70 (iii) identify any physical, mental, or emotional injuries suffered by the victim as a  
71 result of the offense, and the seriousness and permanence;

72 (iv) describe any change in the victim's personal welfare or familial relationships as a  
73 result of the offense;

74 (v) identify any request for mental health services initiated by the victim or the victim's  
75 family as a result of the offense; and

76 (vi) contain any other information related to the impact of the offense upon the victim  
77 or the victim's family that the court requires.

78 (6) If the victim is deceased[;]<sub>2</sub> under a mental, physical, or legal disability[;]<sub>2</sub> or  
79 otherwise unable to provide the information required under this section, the information may  
80 be obtained from the personal representative, guardian, or family members, as necessary.

81 (7) The department shall employ staff necessary to pursue investigations of complaints  
82 from the public, staff, or offenders regarding the management of corrections programs.

83 Section 2. Section **64-13-21** is amended to read:

84 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**  
85 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**  
86 **fee.**

87 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced  
88 offenders placed in the community on probation by the courts, on parole by the Board of  
89 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate

90 Compact for the Supervision of Parolees and Probationers.

91 (b) The department shall establish standards for the supervision of offenders in  
92 accordance with sentencing guidelines and supervision length guidelines, including the  
93 graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority,  
94 based on available resources, to felony offenders and offenders sentenced pursuant to  
95 Subsection 58-37-8(2)(b)(ii).

96 (2) The department shall apply graduated sanctions established by the Utah Sentencing  
97 Commission to facilitate a prompt and appropriate response to an individual's violation of the  
98 terms of probation or parole, including:

99 (a) sanctions to be used in response to a violation of the terms of probation or parole;  
100 and

101 (b) requesting approval from the court or Board of Pardons and Parole to impose a  
102 sanction for an individual's violation of the terms of probation or parole, for a period of  
103 incarceration of not more than three consecutive days and not more than a total of five days  
104 within a period of 30 days.

105 (3) The department shall implement a program of graduated incentives as established  
106 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate  
107 response to an offender's:

108 (a) compliance with the terms of probation or parole; or  
109 (b) positive conduct that exceeds those terms.

110 (4) (a) The department shall, in collaboration with the Commission on Criminal and  
111 Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and  
112 procedures for the collection of information, including cost savings related to recidivism  
113 reduction and the reduction in the number of inmates, related to the use of the graduated  
114 sanctions and incentives, and offenders' outcomes.

115 (b) The collected information shall be provided to the Commission on Criminal and  
116 Juvenile Justice not less frequently than annually on or before August 31.

117 (5) Employees of the department who are POST certified as law enforcement officers  
118 or correctional officers and who are designated as parole and probation officers by the  
119 executive director have the following duties:

120 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance

121 with the conditions of the parole or probation agreement;

122 (b) investigating or apprehending any offender who has escaped from the custody of  
123 the department or absconded from supervision;

124 [~~(c) providing investigative services for the courts, the department, or the Board of~~  
125 ~~Pardons and Parole;~~]

126 [~~(d)~~] (c) supervising any offender during transportation; or

127 [~~(e)~~] (d) collecting DNA specimens when the specimens are required under Section  
128 53-10-404.

129 (6) (a) A monthly supervision fee of \$30 shall be collected from each offender on  
130 probation or parole. The fee may be suspended or waived by the department upon a showing  
131 by the offender that imposition would create a substantial hardship or if the offender owes  
132 restitution to a victim.

133 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
134 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the  
135 supervision fee and the circumstances under which an offender may request a hearing.

136 (ii) In determining whether the imposition of the supervision fee would constitute a  
137 substantial hardship, the department shall consider the financial resources of the offender and  
138 the burden that the fee would impose, with regard to the offender's other obligations.

139 (7) (a) For offenders placed on probation under Section 77-18-1 or parole under  
140 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the  
141 department shall establish a program allowing an offender to earn credits for the offender's  
142 compliance with the terms of the offender's probation or parole, which shall be applied to  
143 reducing the period of probation or parole as provided in this Subsection (7).

144 (b) The program shall provide that an offender earns a reduction credit of 30 days from  
145 the offender's period of probation or parole for each month the offender completes without any  
146 violation of the terms of the offender's probation or parole agreement, including the case action  
147 plan.

148 (c) The department shall maintain a record of credits earned by an offender under this  
149 Subsection (7) and shall request from the court or the Board of Pardons and Parole the  
150 termination of probation or parole not fewer than 30 days prior to the termination date that  
151 reflects the credits earned under this Subsection (7).

152 (d) This Subsection (7) does not prohibit the department from requesting a termination  
153 date earlier than the termination date established by earned credits under Subsection (7)(c).

154 (e) The court or the Board of Pardons and Parole shall terminate an offender's  
155 probation or parole upon completion of the period of probation or parole accrued by time  
156 served and credits earned under this Subsection (7) unless the court or the Board of Pardons  
157 and Parole finds that termination would interrupt the completion of a necessary treatment  
158 program, in which case the termination of probation or parole shall occur when the treatment  
159 program is completed.

160 (f) The department shall report annually to the Commission on Criminal and Juvenile  
161 Justice on or before August 31:

162 (i) the number of offenders who have earned probation or parole credits under this  
163 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the  
164 offenders on probation or parole during that time that this number represents;

165 (ii) the average number of credits earned by those offenders who earned credits;

166 (iii) the number of offenders who earned credits by county of residence while on  
167 probation or parole;

168 (iv) the cost savings associated with sentencing reform programs and practices; and

169 (v) a description of how the savings will be invested in treatment and

170 early-intervention programs and practices at the county and state levels.