

1 **LOCAL GOVERNMENT INDIGENT DEFENSE REQUIREMENT**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel W. Thatcher**

5 House Sponsor: V. Lowry Snow

6 Cosponsor: Todd Weiler

7
8 **LONG TITLE**

9 **General Description:**

10 This bill requires local governments to include certain information in ordinances with
11 criminal penalties that include any possibility of imprisonment.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires local governments to include information regarding indigent legal defense
- 15 of an indigent individual in ordinances with criminal penalties that include any
- 16 possibility of imprisonment; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **10-3-704**, as last amended by Laws of Utah 2010, Chapter 378

25 **17-53-223**, as last amended by Laws of Utah 2000, Chapter 323 and renumbered and
26 amended by Laws of Utah 2000, Chapter 133

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

29 Section 1. Section **10-3-704** is amended to read:

30 **10-3-704. Form of ordinance.**

31 ~~[Any]~~ The governing body shall ensure that any ordinance [passed by] that the
32 governing body~~[, after the effective date of this act, shall contain and be]~~ passes contains the
33 following, in substantially the following order and form:

- 34 (1) a number;
- 35 (2) a title which indicates the nature of the subject matter of the ordinance;
- 36 (3) a preamble which states the need or reason for the ordinance;
- 37 (4) an ordaining clause which states "Be it ordained by the ____ (name of the
- 38 governing body and municipality):";
- 39 (5) the body or subject of the ordinance;
- 40 (6) when applicable, a statement indicating the penalty for violation of the ordinance or
- 41 a reference that the punishment is covered by an ordinance which prescribes the fines and
- 42 terms of imprisonment for the violation of a municipal ordinance; or, the penalty may establish
- 43 a classification of penalties and refer to such ordinance in which the penalty for such violation
- 44 is established;

45 (7) when a penalty for a violation of the ordinance includes any possibility of
46 imprisonment, a statement that the municipality is required, under Section [77-32-301](#), to
47 provide for indigent legal defense, as those terms are defined in Section [77-32-201](#);

48 ~~[(7)]~~ (8) a statement indicating the effective date of the ordinance or the date when the
49 ordinance shall become effective after publication or posting as required by this chapter;

50 ~~[(8)]~~ (9) a line for the signature of the mayor or acting mayor to sign the ordinance;

51 ~~[(9)]~~ (10) a place for the municipal recorder to attest the ordinance and fix the seal of
52 the municipality; and

53 ~~[(10)]~~ (11) in municipalities where the mayor may disapprove an ordinance passed by
54 the legislative body, ~~[the ordinance shall show, that it was passed]~~ a statement showing:

55 (a) if the mayor approves the ordinance, that the governing body passes the ordinance
56 with the mayor's approval ~~[or that];~~

57 (b) if the mayor [~~disapproved~~] disapproves the ordinance, that [~~it was passed~~] the
58 governing body passes the ordinance over [~~his~~] the mayor's disapproval[~~-If~~]; or

59 (c) if the mayor neither approves[;] or disapproves [~~an~~] the ordinance, that the
60 ordinance [~~shall show that it~~] became effective without the approval or disapproval of the
61 mayor.

62 Section 2. Section **17-53-223** is amended to read:

63 **17-53-223. Ordinances -- Power to enact -- Penalty for violation.**

64 (1) A county legislative body may:

65 (a) pass all ordinances and rules and make all regulations, not repugnant to law,
66 necessary for carrying into effect or discharging the powers and duties conferred by this title,
67 and as are necessary and proper to provide for the safety, and preserve the health, promote the
68 prosperity, improve the morals, peace, and good order, comfort, and convenience of the county
69 and its inhabitants, and for the protection of property in the county;

70 (b) enforce obedience to ordinances with fines or penalties as the county legislative
71 body considers proper; and

72 (c) pass ordinances to control air pollution.

73 (2) (a) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the
74 maximum fine for a class B misdemeanor under Section **76-3-301**, imprisonment, or [~~by~~] both
75 fine and imprisonment.

76 (b) When a penalty for a violation of an ordinance includes any possibility of
77 imprisonment, the county legislative body shall include in the ordinance a statement that the
78 county is required, under Section **77-32-301**, to provide for indigent legal defense, as those
79 terms are defined in Section **77-32-201**.

80 (3) (a) Except as specifically authorized by statute, the county legislative body may not
81 impose a civil penalty for the violation of a county traffic ordinance.

82 (b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles
83 on a highway.