

**Senator Michael K. McKell** proposes the following substitute bill:

**STATE COMMISSION ON CRIMINAL AND JUVENILE**

**JUSTICE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: Karianne Lisonbee

**LONG TITLE**

**General Description:**

This bill amends provisions regarding the State Commission on Criminal and Juvenile Justice.

**Highlighted Provisions:**

This bill:

- ▶ adjusts the number of members on:
  - the State Commission on Criminal and Juvenile Justice; and
  - the sentencing commission;
- ▶ amends the duties of the Sentencing Commission;
- ▶ requires the Legislature to approve the sentencing and supervision length guidelines

and the juvenile disposition guidelines developed by the State Commission on Criminal and Juvenile Justice; and

- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.



26 **Utah Code Sections Affected:**

27 AMENDS:

- 28 **36-29-108**, as last amended by Laws of Utah 2023, Chapter 112
- 29 **63M-7-102**, as enacted by Laws of Utah 2023, Chapter 177
- 30 **63M-7-202**, as last amended by Laws of Utah 2023, Chapter 150
- 31 **63M-7-204**, as last amended by Laws of Utah 2023, Chapters 158, 330, 382, and 500
- 32 **63M-7-402**, as last amended by Laws of Utah 2020, Chapter 154
- 33 **63M-7-405**, as last amended by Laws of Utah 2022, Chapter 274
- 34 **63M-7-406**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 35 **64-13-6**, as last amended by Laws of Utah 2023, Chapter 177
- 36 **64-13-14.5**, as last amended by Laws of Utah 2015, Chapter 412
- 37 **64-13-21**, as last amended by Laws of Utah 2022, Chapter 187
- 38 **64-13g-102**, as last amended by Laws of Utah 2023, Chapter 177
- 39 **76-3-202**, as last amended by Laws of Utah 2022, Chapter 181
- 40 **76-5-102.1**, as last amended by Laws of Utah 2023, Chapters 111, 415
- 41 **76-5-207**, as last amended by Laws of Utah 2023, Chapter 415
- 42 **77-2a-2**, as last amended by Laws of Utah 2020, Chapter 281
- 43 **77-18-105**, as last amended by Laws of Utah 2023, Chapters 111, 257
- 44 **77-18-108**, as last amended by Laws of Utah 2023, Chapter 113
- 45 **77-27-5**, as last amended by Laws of Utah 2023, Chapters 151, 173
- 46 **77-27-10**, as last amended by Laws of Utah 2022, Chapter 430
- 47 **77-27-11**, as last amended by Laws of Utah 2022, Chapter 115
- 48 **77-27-32**, as enacted by Laws of Utah 2023, Chapter 151
- 49 **80-6-307**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 50 **80-6-607**, as renumbered and amended by Laws of Utah 2021, Chapter 261

51 ENACTS:

- 52 **63M-7-101.5**, Utah Code Annotated 1953
- 53 **63M-7-401.1**, Utah Code Annotated 1953
- 54 **63M-7-402.5**, Utah Code Annotated 1953
- 55 **63M-7-404.1**, Utah Code Annotated 1953
- 56 **63M-7-404.3**, Utah Code Annotated 1953

57 **63M-7-404.5**, Utah Code Annotated 1953

58 RENUMBERS AND AMENDS:

59 **63M-7-401.2**, (Renumbered from 63M-7-401, as last amended by Laws of Utah 2021,  
60 Chapter 173)

61 REPEALS:

62 **63M-7-403**, as renumbered and amended by Laws of Utah 2008, Chapter 382

63 **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111

64 **Utah Code Sections Affected By Coordination Clause:**

65 **63M-7-404.3**, as Utah Code Annotated 1953



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

68 Section 1. Section **36-29-108** is amended to read:

69 **36-29-108. Criminal Code Evaluation Task Force.**

70 (1) As used in this section, "task force" means the Criminal Code Evaluation Task  
71 Force created in this section.

72 (2) There is created the Criminal Code Evaluation Task Force consisting of the  
73 following 15 members:

74 (a) three members of the Senate appointed by the president of the Senate, no more than  
75 two of whom may be from the same political party;

76 (b) three members of the House of Representatives appointed by the speaker of the  
77 House of Representatives, no more than two of whom may be from the same political party;

78 (c) the executive director of the State Commission on Criminal and Juvenile Justice or  
79 the executive director's designee;

80 (d) the executive director of the [~~Utah~~] Sentencing Commission or the executive  
81 director's designee;

82 (e) one member appointed by the presiding officer of the Utah Judicial Council;

83 (f) one member of the Utah Prosecution Council appointed by the chair of the Utah  
84 Prosecution Council;

85 (g) the executive director of the Department of Corrections or the executive director's  
86 designee;

87 (h) the commissioner of the Department of Public Safety or the commissioner's

88 designee;

89 (i) the director of the Utah Office for Victims of Crime or the director's designee;

90 (j) an individual who represents an association of criminal defense attorneys, appointed  
91 by the president of the Senate; and

92 (k) an individual who represents an association of victim advocates, appointed by the  
93 speaker of the House of Representatives.

94 (3) (a) The president of the Senate shall designate a member of the Senate appointed  
95 under Subsection (2)(a) as a cochair of the task force.

96 (b) The speaker of the House of Representatives shall designate a member of the House  
97 of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

98 (4) (a) A majority of the members of the task force constitutes a quorum.

99 (b) The action of a majority of a quorum constitutes an action of the task force.

100 (5) (a) Salaries and expenses of the members of the task force who are legislators shall  
101 be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3,  
102 Legislator Compensation.

103 (b) A member of the task force who is not a legislator:

104 (i) may not receive compensation for the member's work associated with the task force;  
105 and

106 (ii) may receive per diem and reimbursement for travel expenses incurred as a member  
107 of the task force at the rates established by the Division of Finance under Sections 63A-3-106  
108 and 63A-3-107.

109 (6) The Office of Legislative Research and General Counsel shall provide staff support  
110 to the task force.

111 (7) The task force shall review the state's criminal code and related statutes and make  
112 recommendations regarding:

113 (a) the proper classification of crimes by degrees of felony and misdemeanor;

114 (b) standardizing the format of criminal statutes; and

115 (c) other modifications related to the criminal code and related statutes.

116 (8) On or before November 30 of each year that the task force is in effect, the task  
117 force shall provide a report, including any proposed legislation, to:

118 (a) the Law Enforcement and Criminal Justice Interim Committee; and

119 (b) the Legislative Management Committee.

120 (9) The task force is repealed July 1, 2028.

121 Section 2. Section **63M-7-101.5** is enacted to read:

122 **63M-7-101.5. Definitions for chapter.**

123 As used in this chapter:

124 (1) "Commission" means the State Commission on Criminal and Juvenile Justice  
125 created in Section [63M-7-201](#).

126 (2) "Desistance" means an individual's abstinence from further criminal activity after a  
127 previous criminal conviction.

128 (3) "Intervention" means a program, sanction, supervision, or event that may impact  
129 recidivism.

130 (4) "Recidivism" means a return to criminal activity after a previous criminal  
131 conviction.

132 (5) "Recidivism standard metric" means the number of individuals who are returned to  
133 prison for a new conviction within the three years after the day on which the individuals were  
134 released from prison.

135 Section 3. Section **63M-7-102** is amended to read:

136 **63M-7-102. Recidivism metrics -- Reporting.**

137 [~~(1) For purposes of this chapter:~~]

138 [~~(a) "Commission" means the State Commission on Criminal and Juvenile Justice~~  
139 ~~created in Section [63M-7-201](#).]~~

140 [~~(b) "Desistance" means an individual's abstinence from further criminal activity after a~~  
141 ~~previous criminal conviction.]~~

142 [~~(c) "Intervention" means a program, sanction, supervision, or event that may impact~~  
143 ~~recidivism.]~~

144 [~~(d) "Recidivism" means a return to criminal activity after a previous criminal~~  
145 ~~conviction.]~~

146 [~~(e) "Recidivism standard metric" means the number of individuals who are returned to~~  
147 ~~prison for a new conviction within the three years after the day on which the individuals were~~  
148 ~~released from prison.]~~

149 [~~(2)~~] (1) (a) The commission, the Department of Corrections, and the Board of Pardons

150 and Parole, when reporting data on statewide recidivism, shall include data reflecting the  
151 recidivism standard metric.

152 (b) (i) On or before August 1, 2024, the commission shall reevaluate the recidivism  
153 standard metric to determine whether new data streams allow for a broader definition, which  
154 may include criminal convictions that do not include prison time.

155 (ii) On or before November 1, 2024, the commission shall report to the Law  
156 Enforcement and Criminal Justice Interim Committee:

157 (A) the result of the reevaluation described in Subsection [~~(2)(b)(i)~~] (1)(b)(i); and

158 (B) other recommendations regarding standardized recidivism metrics.

159 [~~(3)~~] (2) A report on statewide criminal recidivism may also include other information  
160 reflecting available recidivism, intervention, or desistance data.

161 [~~(4)~~] (3) A criminal justice institution, agency, or entity required to report adult  
162 recidivism data to the commission:

163 (a) shall include:

164 (i) a clear description of the eligible individuals, including:

165 (A) the criminal population being evaluated for recidivism; and

166 (B) the interventions that are being evaluated;

167 (ii) a clear description of the beginning and end of the evaluation period; and

168 (iii) a clear description of the events that are considered as a recidivism-triggering  
169 event; and

170 (b) may include supplementary data including:

171 (i) the length of time that elapsed before a recidivism-triggering event described in  
172 Subsection [~~(4)(a)(iii)~~] (3)(a)(iii) occurred;

173 (ii) the severity of a recidivism-triggering event described in Subsection [~~(4)(a)(iii)~~]  
174 (3)(a)(iii);

175 (iii) measures of personal well-being, education, employment, housing, health, family  
176 or social support, civic or community engagement, or legal involvement; or

177 (iv) other desistance metrics that may capture an individual's behavior following the  
178 individual's release from an intervention.

179 [~~(5)~~] (4) Unless otherwise specified in statute:

180 (a) the evaluation period described in Subsection [~~(4)(a)(ii)~~] (3)(a)(ii) is three years;

181 and

182 (b) a recidivism-triggering event under Subsection [~~(4)(a)(iii)~~] (3)(a)(iii) shall include:

183 (i) an arrest;

184 (ii) an admission to prison;

185 (iii) a criminal charge; or

186 (iv) a criminal conviction.

187 Section 4. Section **63M-7-202** is amended to read:

188 **63M-7-202. Composition -- Appointments -- Ex officio members -- Terms --**

189 **United States Attorney as nonvoting member.**

190 (1) The State Commission on Criminal and Juvenile Justice is composed of [~~26~~] 17

191 voting members as follows:

192 [~~(a) the chief justice of the supreme court, as the presiding officer of the judicial~~  
193 ~~council, or a judge designated by the chief justice;~~]

194 [~~(b)~~] (a) the state court administrator or the state court administrator's designee;

195 [~~(c)~~] (b) the executive director of the Department of Corrections or the executive  
196 director's designee;

197 [~~(d)~~] (c) the executive director of the Department of Health and Human Services or the  
198 executive director's designee;

199 [~~(e)~~] (d) the commissioner of the Department of Public Safety or the commissioner's  
200 designee;

201 [~~(f)~~] (e) the attorney general or an attorney designated by the attorney general;

202 [~~(g)~~] (f) the president of the chiefs of police association or a chief of police designated  
203 by the association's president;

204 [~~(h)~~] (g) the president of the sheriffs' association or a sheriff designated by the  
205 association's president;

206 [~~(i)~~] (h) the chair of the Board of Pardons and Parole or a member of the Board of  
207 Pardons and Parole designated by the chair;

208 [~~(j)~~] (i) the chair of the Utah Sentencing Commission or a member of the Utah  
209 Sentencing Commission designated by the chair;

210 [~~(k) the chair of the Utah Substance Use and Mental Health Advisory Council or a~~  
211 ~~member of the Utah Substance Use and Mental Health Advisory Council designated by the~~

212 chair;]

213 ~~[(h)]~~ (j) ~~[the chair of the Utah Board of Juvenile Justice or a member of the Utah Board~~  
214 ~~of Juvenile Justice designated by the chair]~~ the chair of the Juvenile Justice Oversight  
215 Committee or a member of the Juvenile Justice Oversight Committee;

216 ~~[(m)]~~ (k) the chair of the Utah Victim Services Commission or a member of the Utah  
217 Victim Services Commission designated by the chair;

218 ~~[(n) the chair of the Utah Council on Victims of Crime or a member of the Utah~~  
219 ~~Council on Victims of Crime designated by the chair;]~~

220 ~~[(o) the executive director of the Salt Lake Legal Defender Association or an attorney~~  
221 ~~designated by the executive director;]~~

222 ~~[(p)]~~ (l) ~~[the chair of the]~~ an indigent defense attorney, appointed by the Utah Indigent  
223 Defense Commission ~~[or a member of the Indigent Defense Commission designated by the~~  
224 ~~chair];~~

225 ~~[(q) the Salt Lake County District Attorney or an attorney designated by the district~~  
226 ~~attorney; and]~~

227 ~~[(r) the following members designated to serve four-year terms:]~~

228 ~~[(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the~~  
229 ~~Judicial Council;]~~

230 ~~[(ii) a representative of the statewide association of public attorneys designated by the~~  
231 ~~association's officers;]~~

232 ~~[(iii) one member of the House of Representatives who is appointed by the speaker of~~  
233 ~~the House of Representatives; and]~~

234 ~~[(iv) one member of the Senate who is appointed by the president of the Senate.]~~

235 (m) a criminal prosecutor, appointed by the Statewide Association of Public Attorneys  
236 and Prosecutors;

237 (n) a criminal defense attorney, appointed by the Utah Association of Criminal Defense  
238 Lawyers;

239 (o) the executive director of the commission;

240 (p) an education professional, appointed by the State Board of Education; and

241 (q) the director of the Division of Juvenile Justice and Youth Services or the director's  
242 designee.



243           ~~[(2) The governor shall appoint the remaining five members to four-year staggered~~  
244 ~~terms as follows:]~~

245           ~~[(a) one criminal defense attorney appointed from a list of three nominees submitted by~~  
246 ~~the Utah State Bar Association;]~~

247           ~~[(b) one attorney who primarily represents juveniles in delinquency matters appointed~~  
248 ~~from a list of three nominees submitted by the Utah Bar Association;]~~

249           ~~[(c) one representative of public education;]~~

250           ~~[(d) one citizen representative; and]~~

251           ~~[(e) a representative from a local faith who has experience with the criminal justice~~  
252 ~~system.]~~

253           ~~[(3) In addition to the members designated under Subsections (1) and (2), the United~~  
254 ~~States Attorney for the district of Utah or an attorney designated by the United States Attorney~~  
255 ~~may serve as a nonvoting member.]~~

256           ~~[(4)]~~ (2) In addition to the members designated in Subsection (1), the following may  
257 serve as non-voting members:

258           (a) a district court judge appointed by the Judicial Council; and

259           (b) a juvenile court judge appointed by the Judicial Council.

260           (3) In appointing the members under [Subsection (2)] Subsections (1) and (2), the  
261 [governor] appointing authority shall take into account the geographical makeup of the  
262 commission.

263           Section 5. Section **63M-7-204** is amended to read:

264           **63M-7-204. Duties of commission.**

265           (1) The State Commission on Criminal and Juvenile Justice administration shall:

266           (a) promote the commission's purposes as enumerated in Section **63M-7-201**;

267           (b) promote the communication and coordination of all criminal and juvenile justice  
268 agencies;

269           (c) study, evaluate, and report on the status of crime in the state and on the  
270 effectiveness of criminal justice policies, procedures, and programs that are directed toward the  
271 reduction of crime in the state;

272           (d) study, evaluate, and report on programs initiated by state and local agencies to  
273 address reducing recidivism, including changes in penalties and sentencing guidelines intended

274 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and  
275 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an  
276 alternative to incarceration, as resources allow;

277 (e) study, evaluate, and report on policies, procedures, and programs of other  
278 jurisdictions which have effectively reduced crime;

279 (f) identify and promote the implementation of specific policies and programs the  
280 commission determines will significantly reduce crime in Utah;

281 (g) provide analysis and recommendations on all criminal and juvenile justice  
282 legislation, state budget, and facility requests, including program and fiscal impact on all  
283 components of the criminal and juvenile justice system;

284 (h) provide analysis, accountability, recommendations, and supervision for state and  
285 federal criminal justice grant money;

286 (i) provide public information on the criminal and juvenile justice system and give  
287 technical assistance to agencies or local units of government on methods to promote public  
288 awareness;

289 (j) promote research and program evaluation as an integral part of the criminal and  
290 juvenile justice system;

291 (k) provide a comprehensive criminal justice plan annually;

292 (l) review agency forecasts regarding future demands on the criminal and juvenile  
293 justice systems, including specific projections for secure bed space;

294 (m) promote the development of criminal and juvenile justice information systems that  
295 are consistent with common standards for data storage and are capable of appropriately sharing  
296 information with other criminal justice information systems by:

297 (i) developing and maintaining common data standards for use by all state criminal  
298 justice agencies;

299 (ii) annually performing audits of criminal history record information maintained by  
300 state criminal justice agencies to assess their accuracy, completeness, and adherence to  
301 standards;

302 (iii) defining and developing state and local programs and projects associated with the  
303 improvement of information management for law enforcement and the administration of  
304 justice; and

305 (iv) establishing general policies concerning criminal and juvenile justice information  
306 systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this  
307 Subsection (1)(m);

308 (n) allocate and administer grants, from money made available, for approved education  
309 programs to help prevent the sexual exploitation of children;

310 (o) allocate and administer grants for law enforcement operations and programs related  
311 to reducing illegal drug activity and related criminal activity;

312 (p) request, receive, and evaluate data and recommendations collected and reported by  
313 agencies and contractors related to policies recommended by the commission regarding  
314 recidivism reduction, including the data described in Section 13-53-111 and Subsection  
315 26B-5-102(2)(l);

316 (q) establish and administer a performance incentive grant program that allocates funds  
317 appropriated by the Legislature to programs and practices implemented by counties that reduce  
318 recidivism and reduce the number of offenders per capita who are incarcerated;

319 (r) oversee or designate an entity to oversee the implementation of juvenile justice  
320 reforms;

321 (s) make rules and administer the juvenile holding room standards and juvenile jail  
322 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements  
323 pursuant to 42 U.S.C. Sec. 5633;

324 (t) allocate and administer grants, from money made available, for pilot qualifying  
325 education programs;

326 (u) oversee the trauma-informed justice program described in Section 63M-7-209;

327 (v) request, receive, and evaluate the aggregate data collected from prosecutorial  
328 agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216  
329 and 78A-2-109.5;

330 (w) report annually to the Law Enforcement and Criminal Justice Interim Committee  
331 on the progress made on each of the following goals of the Justice Reinvestment Initiative:

332 (i) ensuring oversight and accountability;

333 (ii) supporting local corrections systems;

334 (iii) improving and expanding reentry and treatment services; and

335 (iv) strengthening probation and parole supervision;

336 (x) compile a report of findings based on the data and recommendations provided  
337 under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

338 (i) separates the data provided under Section 13-53-111 by each residential, vocational  
339 and life skills program; and

340 (ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental  
341 health or substance use treatment program;

342 (y) publish the report described in Subsection (1)(x) on the commission's website and  
343 annually provide the report to the Judiciary Interim Committee, the Health and Human Services  
344 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the  
345 related appropriations subcommittees ; and

346 (z) receive, compile, and publish on the commission's website the data provided under:

347 (i) Section 53-23-101;

348 (ii) Section 53-24-102; and

349 (iii) Section 53-26-101.

350 (2) If the commission designates an entity under Subsection (1)(r), the commission  
351 shall ensure that the membership of the entity includes representation from the three branches  
352 of government and, as determined by the commission, representation from relevant stakeholder  
353 groups across all parts of the juvenile justice system, including county representation.

354 (3) In fulfilling the commission's duties under Subsection (1), the commission may  
355 seek input and request assistance from groups with knowledge and expertise in criminal justice,  
356 including other boards and commissions affiliated or housed within the commission.

357 Section 6. Section 63M-7-401.1 is enacted to read:

358 **63M-7-401.1. Definitions for part.**

359 As used in this part:

360 (1) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102,  
361 of an offense under Section 80-6-701.

362 (2) "Adult sentencing and supervision length guidelines" means the guidelines  
363 established in Section 63M-7-404.3.

364 (3) "Civil disability" means a legal right or privilege that is revoked as a result of the  
365 individual's conviction or adjudication.

366 (4) "Collateral consequence" means:

367 (a) a discretionary disqualification; or

368 (b) a mandatory sanction.

369 (5) "Conviction" means the same as that term is defined in Section [77-38b-102](#).

370 (6) "Disadvantage" means any legal or regulatory restriction that:

371 (a) is imposed on an individual as a result of the individual's conviction or  
372 adjudication; and

373 (b) is not a civil disability or a legal penalty.

374 (7) "Discretionary disqualification" means a penalty, a civil disability, or a  
375 disadvantage that a court in a civil proceeding, or a federal, state, or local government agency  
376 or official, may impose on an individual as a result of the individual's adjudication or  
377 conviction for an offense regardless of whether the penalty, the civil disability, or the  
378 disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.

379 (8) "Juvenile" means a minor as defined in Section [80-1-102](#).

380 (9) "Juvenile disposition guidelines" means the guidelines established in Section  
381 [63M-7-404.5](#).

382 (10) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:

383 (a) is imposed on an individual as a result of the individual's adjudication or conviction  
384 for an offense regardless of whether the penalty, the civil disability, or the disadvantage is  
385 specifically designated as a penalty, a civil disability, or a disadvantage; and

386 (b) is not included in the judgment for the adjudication or conviction.

387 (11) "Master offense list" means a document that contains all offenses that exist in  
388 statute and each offense's associated penalty.

389 (12) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under  
390 the laws of this state, another state, or the United States.

391 (13) "Penalty" means an administrative, civil, or criminal sanction imposed to punish  
392 the individual for the individual's conviction or adjudication.

393 (14) "Sentencing commission" means the sentencing commission created in Section  
394 [63M-7-401.2](#).

395 Section 7. Section **63M-7-401.2**, which is renumbered from Section 63M-7-401 is  
396 renumbered and amended to read:

397 **~~[63M-7-401]~~. 63M-7-401.2. Creation -- Members -- Appointment --**

398 **Qualifications.**

399 (1) There is created [~~a state commission to be known as the Sentencing Commission~~]  
400 the sentencing commission, within the commission, that is composed of [~~28~~] 15 members.

401 (2) The [~~commission shall~~] sentencing commission shall:

402 (a) develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah  
403 Administrative Rulemaking Act[~~, and elect its~~]; and

404 (b) elect the sentencing commission's officers.

405 [(2)] (3) The sentencing commission's members shall be:

406 [(a) two members of the House of Representatives, appointed by the speaker of the  
407 House and not of the same political party;]

408 [(b) two members of the Senate, appointed by the president of the Senate and not of the  
409 same political party;]

410 [(c)] (a) the executive director of the Department of Corrections or [a designee  
411 appointed by the executive director] the executive director's designee;

412 [(d)] (b) the director of the Division of Juvenile Justice and Youth Services or [a  
413 designee appointed by the director] the director's designee;

414 [(e)] (c) the executive director of the [~~Commission on Criminal and Juvenile Justice or~~  
415 ~~a designee appointed by the executive director~~] commission or the executive director's  
416 designee;

417 [(f)] (d) the chair of the Board of Pardons and Parole or [a designee appointed by the  
418 chair] the chair's designee;

419 [(g) the chair of the Youth Parole Authority or a designee appointed by the chair;]

420 [(h) two trial judges and an appellate judge appointed by the chair of the Judicial  
421 Council;]

422 [(i) two juvenile court judges designated by the chair of the Judicial Council;]

423 [(j) an attorney in private practice who is a member of the Utah State Bar, experienced  
424 in criminal defense, and appointed by the Utah Bar Commission;]

425 [(k) an attorney who is a member of the Utah State Bar, experienced in the defense of  
426 minors in juvenile court, and appointed by the Utah Bar Commission;]

427 [(l) the director of Salt Lake Legal Defenders or a designee appointed by the director;]

428 [(m)] (e) the state court administrator or the state court administrator's designee;

- 429 (f) a criminal defense attorney, appointed by the Utah Association of Criminal Defense  
430 Lawyers;
- 431 (g) an indigent defense attorney, appointed by the Indigent Defense Commission;  
432 (h) the attorney general or [a designee appointed by the attorney general] the attorney  
433 general's designee;
- 434 ~~[(n)]~~ (i) a criminal prosecutor, appointed by the Statewide Association of Public  
435 Attorneys and Prosecutors;
- 436 ~~[(o)]~~ a juvenile court prosecutor appointed by the Statewide Association of Public  
437 Attorneys;]
- 438 ~~[(p)]~~ (j) a representative of the Utah Sheriff's Association appointed by the governor;  
439 ~~[(q)]~~ a chief of police appointed by the governor;]
- 440 ~~[(r)]~~ (k) a licensed professional, appointed by the governor, who assists in the  
441 rehabilitation of [adult offenders] individuals convicted of an offense;
- 442 ~~[(s)]~~ a licensed professional appointed by the governor who assists in the rehabilitation  
443 of juvenile offenders;]
- 444 ~~[(t)]~~ two members from the public appointed by the governor who exhibit sensitivity to  
445 the concerns of victims of crime and the ethnic composition of the population;]
- 446 ~~[(u)]~~ one member from the public at large appointed by the governor; and]
- 447 ~~[(v)]~~ a representative of an organization that specializes in civil rights or civil liberties  
448 on behalf of incarcerated individuals appointed by the governor.]
- 449 (l) the chair of the Utah Victim Services Commission or a member of the Utah Victim  
450 Services Commission designated by the chair;
- 451 (m) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of  
452 Juvenile Justice designated by the chair;
- 453 (n) a juvenile prosecuting attorney, appointed by the Statewide Association of Public  
454 Attorneys and Prosecutors; and
- 455 (o) a juvenile defense attorney, appointed by the Utah Association of Criminal  
456 Defense.
- 457 (4) In addition to the members described in Subsection (3), the following may serve as  
458 non-voting members:
- 459 (a) a district court judge appointed by the Judicial Council; and

460 (b) a juvenile court judge appointed by the Judicial Council.

461 (5) The executive director of the commission shall hire an executive director of the  
462 sentencing commission to administer and manage the sentencing commission.

463 Section 8. Section **63M-7-402** is amended to read:

464 **63M-7-402. Terms of members -- Reappointment -- Vacancy.**

465 (1) (a) Except as required by Subsection (1)(b), [~~as terms of current commission~~  
466 ~~members expire,~~] the appointing authority shall appoint each new member or reappointed  
467 member to a four-year term as the terms of members of the sentencing commission expire.

468 (b) [~~Notwithstanding the requirements of Subsection (1)(a), the~~] The appointing  
469 authority shall, at the time of appointment or reappointment, adjust the length of terms to  
470 ensure that the terms of [~~commission members~~] members of the sentencing commission are  
471 staggered so that approximately half of the sentencing commission is appointed every two  
472 years.

473 (2) If a member of the sentencing commission no longer holds a qualifying position,  
474 resigns, or is unable to serve, the appointing authority shall fill the vacancy.

475 [~~(2)~~] (3) When a vacancy occurs in the membership for any reason, the replacement  
476 shall be appointed for the unexpired term.

477 Section 9. Section **63M-7-402.5** is enacted to read:

478 **63M-7-402.5. Compensation of members.**

479 (1) A member of the sentencing commission who is not a legislator may not receive  
480 compensation or benefits for the member's service, but may receive per diem and travel  
481 expenses as allowed in:

482 (a) Section [63A-3-106](#);

483 (b) Section [63A-3-107](#); and

484 (c) rules made by the Division of Finance according to Sections [63A-3-106](#) and  
485 [63A-3-107](#).

486 (2) Compensation and expenses of a member of the sentencing commission who is a  
487 legislator are governed by Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative  
488 Compensation and Expenses.

489 Section 10. Section **63M-7-404.1** is enacted to read:

490 **63M-7-404.1. Duties of the sentencing commission.**



- 491 (1) The sentencing commission shall establish and maintain:  
492 (a) the adult sentencing and supervision length guidelines described in Section  
493 63M-7-404.3;  
494 (b) the juvenile disposition guidelines described in Section 63M-7-404.5;  
495 (c) a master offense list described in Section 63M-7-405; and  
496 (d) a collateral consequences guide described in Section 63M-7-405.  
497 (2) The sentencing commission may make recommendations to the Legislature, the  
498 governor, and the Judicial Council regarding:  
499 (a) the adult sentencing and supervision length guidelines described in Section  
500 63M-7-404.3;  
501 (b) the juvenile disposition guidelines described in Section 63M-7-404.5;  
502 (c) a master offense list described in Section 63M-7-405; and  
503 (d) a collateral consequences guide described in Section 63M-7-405.  
504 (3) The sentencing commission shall use existing data and resources from state  
505 criminal justice agencies in carrying out the duties of the sentencing commission.  
506 (4) The sentencing commission shall:  
507 (a) provide training and recommendations regarding the adult sentencing and  
508 supervision length guidelines, the juvenile disposition guidelines, and other documents  
509 maintained by the sentencing commission to the three branches of government, in coordination  
510 with the commission; and  
511 (b) assist and respond to questions from all three branches of government.  
512 (5) (a) The sentencing commission may provide analysis and recommendations to the  
513 commission regarding proposed legislation or other policy changes that may impact sentencing,  
514 release, or supervision of individuals convicted of crimes.  
515 (b) The sentencing commission may not take public positions on proposed legislation  
516 or other proposed policy changes by the Legislature.  
517 (6) The sentencing commission may employ professional assistance and other staff  
518 members that the sentencing commission considers necessary to comply with this part.  
519 (7) The sentencing commission shall coordinate with the commission on criminal and  
520 juvenile justice issues, budget, and administrative support.  
521 *The following section is affected by a coordination clause at the end of this bill.*

522 Section 11. Section **63M-7-404.3** is enacted to read:

523 **63M-7-404.3. Adult sentencing and supervision length guidelines.**

524 (1) The sentencing commission shall establish and maintain adult sentencing and  
525 supervision length guidelines regarding:

526 (a) the sentencing and release of offenders in order to:

527 (i) respond to public comment;

528 (ii) relate sentencing practices and correctional resources;

529 (iii) increase equity in sentencing;

530 (iv) better define responsibility in sentencing; and

531 (v) enhance the discretion of the sentencing court while preserving the role of the

532 Board of Pardons and Parole;

533 (b) the length of supervision of offenders on probation or parole in order to:

534 (i) respond to public comment;

535 (ii) increase equity in criminal supervision lengths;

536 (iii) relate the length of supervision to an offender's progress;

537 (iv) take into account an offender's risk of offending again;

538 (v) relate the length of supervision to the amount of time an offender has remained  
539 under supervision in the community; and

540 (vi) enhance the discretion of the sentencing court while preserving the role of the

541 Board of Pardons and Parole; and

542 (c) appropriate, evidence-based probation and parole supervision policies and services  
543 that assist offenders in successfully completing supervision and reduce incarceration rates from  
544 community supervision programs while ensuring public safety, including:

545 (i) treatment and intervention completion determinations based on individualized case  
546 action plans;

547 (ii) measured and consistent processes for addressing violations of conditions of  
548 supervision;

549 (iii) processes that include using positive reinforcement to recognize an offender's  
550 progress in supervision;

551 (iv) engaging with social services agencies and other stakeholders who provide  
552 services that meet the needs of an offender; and

553 (v) identifying community violations that may not warrant revocation of probation or  
554 parole.

555 (2) The sentencing commission shall modify:

556 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the  
557 purposes of protecting the public and ensuring efficient use of state funds; and

558 (b) the criminal history score in the adult sentencing and supervision length guidelines  
559 to reduce recidivism, including factors in an offender's criminal history that are relevant to the  
560 accurate determination of an individual's risk of offending again.

561 Section 12. Section **63M-7-404.5** is enacted to read:

562 **63M-7-404.5. Juvenile disposition guidelines.**

563 (1) The sentencing commission shall establish and maintain juvenile disposition  
564 guidelines that:

565 (a) respond to public comment;

566 (b) relate dispositional practices and rehabilitative resources;

567 (c) increase equity in disposition orders;

568 (d) better define responsibility for disposition orders; and

569 (e) enhance the discretion of the juvenile court while preserving the role of the Youth  
570 Parole Authority.

571 (2) The juvenile disposition guidelines shall address how to appropriately respond to  
572 negative and positive behavior of juveniles who are:

573 (a) nonjudicially adjusted;

574 (b) placed on diversion;

575 (c) placed on probation;

576 (d) placed on community supervision;

577 (e) placed in an out-of-home placement; or

578 (f) placed in a secure care facility.

579 (3) The juvenile disposition guidelines shall include:

580 (a) other sanctions and incentives including:

581 (i) recommended responses that are swift and certain;

582 (ii) a continuum of community-based options for juveniles living at home;

583 (iii) recommended responses that target the juvenile's criminogenic risk and needs; and

584 (iv) recommended incentives for compliance, including earned discharge credits;  
585 (b) a recommendation that, when a juvenile court interacts with a juvenile described in  
586 Subsection (2), the juvenile court shall consider:  
587 (i) the seriousness of the negative and positive behavior of the juvenile;  
588 (ii) the juvenile's conduct postadjudication; and  
589 (iii) the juvenile's delinquency history; and  
590 (c) appropriate sanctions for a juvenile who commits sexual exploitation of a minor as  
591 described in Sections [76-5b-201](#), or aggravated sexual exploitation of a minor as described in  
592 Section [76-5b-201.1](#), including the application of aggravating and mitigating factors specific to  
593 the offense.

594 Section 13. Section **63M-7-405** is amended to read:

595 **63M-7-405. Master offense list -- Collateral consequences guide.**

596 ~~[(1) (a) A member who is not a legislator may not receive compensation or benefits for~~  
597 ~~the member's service, but may receive per diem and travel expenses as allowed in:]~~

598 ~~[(i) Section [63A-3-106](#);~~

599 ~~[(ii) Section [63A-3-107](#); and]~~

600 ~~[(iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and~~  
601 ~~[63A-3-107](#).]~~

602 ~~[(b) Compensation and expenses of a member who is a legislator are governed by~~  
603 ~~Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.]~~

604 ~~[(2) (a) The commission shall submit to the Legislature, the courts, and the governor at~~  
605 ~~least 60 days before the annual general session of the Legislature the commission's reports and~~  
606 ~~recommendations for sentencing guidelines and supervision length guidelines and~~  
607 ~~amendments.]~~

608 ~~[(b) The commission shall use existing data and resources from state criminal justice~~  
609 ~~agencies.]~~

610 ~~[(c) The commission may employ professional assistance and other staff members as it~~  
611 ~~considers necessary or desirable.]~~

612 ~~[(3) The commission shall assist and respond to questions from all three branches of~~  
613 ~~government, but is part of the Commission on Criminal and Juvenile Justice for coordination~~  
614 ~~on criminal and juvenile justice issues, budget, and administrative support.]~~

615 ~~[(4) (a) As used in this Subsection (4), "master offense list" means a document that~~  
616 ~~contains all offenses that exist in statute and each offense's associated penalty.]~~

617 ~~[(b) (1) (a) [No later than May 1, 2017, the] The sentencing commission shall create a~~  
618 ~~master offense list.~~

619 ~~[(c) (b) [No later than June 30 of each calendar] On or before June 30 of each year, the~~  
620 ~~sentencing commission shall:~~

621 ~~(i) after the last day of the general legislative session, update the master offense list;~~  
622 ~~and~~

623 ~~(ii) present the updated master offense list to the Law Enforcement and Criminal~~  
624 ~~Justice Interim Committee.~~

625 ~~[(5) As used in Subsection (6):]~~

626 ~~[(a) "Adjudication" means an adjudication, as that term is defined in Section ~~80-1-102~~,~~  
627 ~~of an offense under Section ~~80-6-701~~.]~~

628 ~~[(b) "Civil disability" means a legal right or privilege that is revoked as a result of the~~  
629 ~~individual's conviction or adjudication.]~~

630 ~~[(c) "Collateral consequence" means:]~~

631 ~~[(i) a discretionary disqualification; or]~~

632 ~~[(ii) a mandatory sanction.]~~

633 ~~[(d) "Conviction" means the same as that term is defined in Section ~~77-38b-102~~.]~~

634 ~~[(e) "Disadvantage" means any legal or regulatory restriction that:]~~

635 ~~[(i) is imposed on an individual as a result of the individual's conviction or~~  
636 ~~adjudication; and]~~

637 ~~[(ii) is not a civil disability or a legal penalty.]~~

638 ~~[(f) "Discretionary disqualification" means a penalty, a civil disability, or a~~  
639 ~~disadvantage that a court in a civil proceeding, or a federal, state, or local government agency~~  
640 ~~or official, may impose on an individual as a result of the individual's adjudication or~~  
641 ~~conviction for an offense regardless of whether the penalty, the civil disability, or the~~  
642 ~~disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.]~~

643 ~~[(g) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:]~~

644 ~~[(i) is imposed on an individual as a result of the individual's adjudication or~~  
645 ~~conviction for an offense regardless of whether the penalty, the civil disability, or the~~

646 ~~disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage; and]~~

647 ~~[(ii) is not included in the judgment for the adjudication or conviction.]~~

648 ~~[(h) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under~~  
649 ~~the laws of this state, another state, or the United States.]~~

650 ~~[(i) "Penalty" means an administrative, civil, or criminal sanction imposed to punish~~  
651 ~~the individual for the individual's conviction or adjudication.]~~

652 ~~[(6)]~~ (2) (a) The sentencing commission shall:

653 (i) identify any provision of state law, including the Utah Constitution, and any  
654 administrative rule that imposes a collateral consequence;

655 (ii) prepare and compile a guide that contains all the provisions identified in  
656 Subsection ~~[(6)(a)(i) on or before October 1, 2022]~~ (2)(a)(i); and

657 (iii) update the guide described in Subsection ~~[(6)(a)(ii)]~~ (2)(a)(ii) annually.

658 (b) The sentencing commission shall state in the guide described in Subsection ~~[(6)(a)]~~  
659 (2)(a) that:

660 (i) the guide has not been enacted into law;

661 (ii) the guide does not have the force of law;

662 (iii) the guide is for informational purposes only;

663 (iv) an error or omission in the guide, or in any reference in the guide:

664 (A) has no effect on a plea, an adjudication, a conviction, a sentence, or a disposition;  
665 and

666 (B) does not prevent a collateral consequence from being imposed;

667 (v) any laws or regulations for a county, a municipality, another state, or the United  
668 States, imposing a collateral consequence are not included in the guide; and

669 (vi) the guide does not include any provision of state law or any administrative rule  
670 imposing a collateral consequence that is enacted on or after March 31 of each year.

671 (c) The sentencing commission shall:

672 (i) place the statements described in Subsection ~~[(6)(b)]~~ (2)(b) in a prominent place at  
673 the beginning of the guide; and

674 (ii) make the guide available to the public on the sentencing commission's website.

675 (d) The sentencing commission shall:

676 (i) present the updated guide described in Subsection ~~[(6)(a)(iii)]~~ (2)(a)(iii) annually to

677 the Law Enforcement and Criminal Justice Interim Committee; and

678 (ii) identify and recommend legislation on collateral consequences to the Law  
679 Enforcement and Criminal Justice Interim Committee.

680 Section 14. Section **63M-7-406** is amended to read:

681 **63M-7-406. Reports -- Legislative approval -- Publication of reports.**

682 (1) (a) On or before October 31 of each year, the commission shall submit the  
683 sentencing and supervision length guidelines and juvenile disposition guidelines created in  
684 accordance with this section to the Law Enforcement and Criminal Justice Interim Committee  
685 and the Judiciary Interim Committee for review, including any legislative recommendations.

686 (b) Beginning January 1, 2025, the Legislature shall annually authorize, by passing a  
687 concurrent resolution, the sentencing and supervision length guidelines and the juvenile  
688 disposition guidelines submitted in accordance with Subsection (1)(a).

689 (c) The existing sentencing and supervision length guidelines and juvenile disposition  
690 guidelines that were approved in accordance with Subsection (1)(b) shall remain in effect until  
691 the day on which the Legislature reauthorizes the sentencing and supervision length guidelines  
692 and juvenile disposition guidelines as described in Subsection (1)(b).

693 (2) The sentencing commission shall also be authorized to prepare, publish, and  
694 distribute from time to time reports of [its] studies, recommendations, and statements from the  
695 sentencing commission.

696 Section 15. Section **64-13-6** is amended to read:

697 **64-13-6. Department duties.**

698 (1) The department shall:

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

701 (b) implement court-ordered punishment of offenders;

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

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

707 (e) where appropriate, utilize offender volunteers as mentors in the program

708 opportunities described in Subsection (1)(c);

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

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

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

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

717 (j) subject to Subsection (2), investigate criminal conduct involving offenders  
718 incarcerated in a state correctional facility;

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

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

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

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

729 (B) if the offender is committed to the custody of the department, the department shall  
730 establish a case action plan for the offender no later than 90 days after the day on which the  
731 offender is committed to the custody of the department;

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

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

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



739 the day of the change;

740 (n) ensure that any training or certification required of a public official or public  
741 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter  
742 22, State Training and Certification Requirements, if the training or certification is required:

743 (i) under this title;

744 (ii) by the department; or

745 (iii) by an agency or division within the department; and

746 (o) when reporting on statewide recidivism, include the metrics and requirements  
747 described in Section [63M-7-102](#).

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

749 (a) respond [~~in accordance with the graduated and evidence-based processes~~  
750 ~~established by the Utah Sentencing Commission under Subsection [63M-7-404\(6\)](#);~~] to an  
751 individual's violation of one or more terms of the probation or parole in accordance with the  
752 graduated and evidence-based processes established by the adult sentencing and supervision  
753 length guidelines, as defined in Section [63M-7-401.1](#); and

754 (b) upon approval by the court or the Board of Pardons and Parole, impose as a  
755 sanction for an individual's violation of the terms of probation or parole a period of  
756 incarceration of not more than three consecutive days and not more than a total of five days  
757 within a period of 30 days.

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

760 (i) criminal conduct of departmental employees;

761 (ii) felony crimes resulting in serious bodily injury;

762 (iii) death of any person; or

763 (iv) aggravated kidnaping.

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

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

769 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to

770 conduct an investigation involving an occurrence specified in Subsection (3)(a).

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

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

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

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

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

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

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

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

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

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

799 (ii) If the board makes an order for restitution within 60 days from the day on which  
800 the offender's sentence expires or terminates, the board shall refer the order for restitution to

801 the sentencing court to be entered as a civil judgment of restitution as described in Section  
802 [77-18-114](#).

803 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.  
804 Section 16. Section [64-13-14.5](#) is amended to read:

805 **[64-13-14.5. Limits of confinement place -- Release status -- Work release.](#)**

806 (1) The department may extend the limits of the place of confinement of an inmate  
807 when, as established by department policies and procedures, there is cause to believe the  
808 inmate will honor the trust, by authorizing the inmate under prescribed conditions:

809 (a) to leave temporarily for purposes specified by department policies and procedures  
810 to visit specifically designated places for a period not to exceed 30 days;

811 (b) to participate in a voluntary training program in the community while housed at a  
812 correctional facility or to work at paid employment;

813 (c) to be housed in a nonsecure community correctional center operated by the  
814 department; or

815 (d) to be housed in any other facility under contract with the department.

816 (2) (a) The department shall establish rules governing offenders on release status.

817 (b) A copy of the rules established under Subsection (2)(a) shall be furnished to the  
818 offender and to any employer or other person participating in the offender's release program.

819 (c) Any employer or other participating person shall agree in writing to abide by the  
820 rules established under Subsection (2)(a) and to notify the department of the offender's  
821 discharge or other release from a release program activity, or of any violation of the rules  
822 governing release status.

823 (3) The willful failure of an inmate to remain within the extended limits of his  
824 confinement or to return within the time prescribed to an institution or facility designated by  
825 the department is an escape from custody.

826 (4) If an offender is arrested for the commission of a crime, the arresting authority shall  
827 immediately notify the department of the arrest.

828 (5) The department may impose appropriate sanctions pursuant to Section [64-13-21](#)  
829 upon offenders who violate [~~guidelines established by the Utah Sentencing Commission~~] the  
830 adult sentencing and supervision length guidelines, as defined in Section [63M-7-401.1](#),  
831 including prosecution for escape under Section [76-8-309](#) and for unauthorized absence.

832 (6) An inmate who is housed at a nonsecure correctional facility and on work release  
833 may not be required to work for less than the current federally established minimum wage, or  
834 under substandard working conditions.

835 Section 17. Section **64-13-21** is amended to read:

836 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**  
837 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**  
838 **fee.**

839 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced  
840 offenders placed in the community on probation by the courts, on parole by the Board of  
841 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate  
842 Compact for the Supervision of Parolees and Probationers.

843 (b) If a sentenced offender participates in substance use treatment or a residential,  
844 vocational and life skills program, as defined in Section [13-53-102](#), while under supervision on  
845 probation or parole, the department shall monitor the offender's compliance with and  
846 completion of the treatment or program.

847 (c) The department shall establish standards for:

848 (i) the supervision of offenders in accordance with ~~[sentencing guidelines and~~  
849 ~~supervision length guidelines, including the graduated and evidence-based responses,~~  
850 ~~established by the Utah Sentencing Commission]~~ the adult sentencing and supervision length  
851 guidelines, as defined in Section [63M-7-401.1](#), giving priority, based on available resources, to  
852 felony offenders and offenders sentenced under Subsection [58-37-8 \(2\)\(b\)\(ii\)](#); and

853 (ii) the monitoring described in Subsection (1)(b).

854 (2) The department shall apply the graduated and evidence-based responses established  
855 ~~[by the Utah Sentencing Commission]~~ in the adult sentencing and supervision length  
856 guidelines, as defined in Section [63M-7-401.1](#), to facilitate a prompt and appropriate response  
857 to an individual's violation of the terms of probation or parole, including:

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

860 (b) requesting approval from the court or Board of Pardons and Parole to impose a  
861 sanction for an individual's violation of the terms of probation or parole, for a period of  
862 incarceration of not more than three consecutive days and not more than a total of five days

863 within a period of 30 days.

864 (3) The department shall implement a program of graduated incentives as established  
865 [~~by the Utah Sentencing Commission~~] in the adult sentencing and supervision length  
866 guidelines, as defined in Section 63M-7-401.1, to facilitate the department's prompt and  
867 appropriate response to an offender's:

868 (a) compliance with the terms of probation or parole; or

869 (b) positive conduct that exceeds those terms.

870 (4) (a) The department shall, in collaboration with the State Commission on Criminal  
871 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards  
872 and procedures for the collection of information, including cost savings related to recidivism  
873 reduction and the reduction in the number of inmates, related to the use of the graduated and  
874 evidence-based responses and graduated incentives, and offenders' outcomes.

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

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

880 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance  
881 with the conditions of the parole or probation agreement;

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

884 (c) supervising any offender during transportation; or

885 (d) collecting DNA specimens when the specimens are required under Section  
886 53-10-404.

887 (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on  
888 probation or parole.

889 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the  
890 department upon a showing by the offender that imposition would create a substantial hardship  
891 or if the offender owes restitution to a victim.

892 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
893 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the

894 supervision fee and the circumstances under which an offender may request a hearing.

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

898 (7) (a) For offenders placed on probation under Section 77-18-105 or parole under  
899 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the  
900 department shall establish a program allowing an offender to earn credits for the offender's  
901 compliance with the terms of the offender's probation or parole, which shall be applied to  
902 reducing the period of probation or parole as provided in this Subsection (7).

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

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

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

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

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

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

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

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

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

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

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

930 Section 18. Section **64-13g-102** is amended to read:

931 **64-13g-102. Adult Probation and Parole Employment Incentive Program.**

932 (1) There is created the Adult Probation and Parole Employment Incentive Program.

933 (2) The department and the office shall implement the program in accordance with the  
934 requirements of this chapter.

935 (3) Beginning July 2026, and each July after 2026, the department shall calculate and  
936 report to the office, for the preceding fiscal year, for each region and statewide:

937 (a) the parole employment rate and the average length of employment of individuals on  
938 parole;

939 (b) the probation employment rate and average length of employment of individuals on  
940 felony probation;

941 (c) the recidivism percentage, using applicable recidivism metrics described in  
942 Subsections [~~63M-7-102(2) and (4)~~] 63M-7-102(1) and (3);

943 (d) the number and percentage of individuals who successfully complete parole or  
944 felony probation;

945 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in  
946 the recidivism percentage when compared to the fiscal year immediately preceding the fiscal  
947 year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated  
948 costs of incarceration savings to the state, based on the marginal cost of incarceration;

949 (f) the number of individuals who successfully complete parole and, during the entire  
950 six months before the day on which the individuals' parole ends, held eligible employment; and

951 (g) the number of individuals who successfully complete felony probation and, during  
952 the entire six months before the day on which the individuals' parole ended, held eligible  
953 employment.

954 (4) In addition to the information described in Subsection (3), the department shall  
955 report, for each region, the number and types of parole or probation programs that were

956 created, replaced, or discontinued during the preceding fiscal year.

957 (5) After receiving the information described in Subsections (3) and (4), the office, in  
958 consultation with the department, shall, for each region:

959 (a) add the region's baseline parole employment rate and the region's baseline probation  
960 employment rate;

961 (b) add the region's parole employment rate and the region's probation employment  
962 rate;

963 (c) subtract the sum described in Subsection (5)(a) from the sum described in  
964 Subsection (5)(b); and

965 (d) (i) if the rate difference described in Subsection (5)(c) is zero or less than zero,  
966 assign an employment incentive payment of zero to the region; or

967 (ii) except as provided in Subsection (7), if the rate difference described in Subsection  
968 (5)(c) is greater than zero, assign an employment incentive payment to the region by:

969 (A) multiplying the rate difference by the average daily population for that region; and

970 (B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by  
971 \$2,500.

972 (6) In addition to the employment incentive payment described in Subsection (5), after  
973 receiving the information described in Subsections (3) and (4), the office, in consultation with  
974 the department, shall, for each region, multiply the sum of the numbers described in  
975 Subsections (3)(f) and (g) for the region by \$2,500 to determine the end-of-supervision  
976 employment incentive payment for the region.

977 (7) The employment incentive payment, or end-of-supervision employment supervision  
978 payment, for a region is zero if the recidivism percentage for the region, described in  
979 Subsection (3)(c), represents an increase in the recidivism percentage when compared to the  
980 fiscal year immediately preceding the fiscal year to which the recidivism percentage for the  
981 region, described in Subsection (3)(c), relates.

982 (8) Upon determining an employment incentive payment for a region in accordance  
983 with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the  
984 restricted account, of the incentive payment as follows:

985 (a) 15% of the payment may be used by the department for expenses related to  
986 administering the program; and



987 (b) 85% of the payment shall be used by the region to improve and expand supervision  
988 and rehabilitative services to individuals on parole or adult probation, including by:

989 (i) implementing and expanding evidence-based practices for risk and needs  
990 assessments for individuals;

991 (ii) implementing and expanding intermediate sanctions, including mandatory  
992 community service, home detention, day reporting, restorative justice programs, and furlough  
993 programs;

994 (iii) expanding the availability of evidence-based practices for rehabilitation programs,  
995 including drug and alcohol treatment, mental health treatment, anger management, cognitive  
996 behavior programs, and job training and other employment services;

997 (iv) hiring additional officers, contractors, or other personnel to implement  
998 evidence-based practices for rehabilitative and vocational programing;

999 (v) purchasing and adopting new technologies or equipment that are relevant to, and  
1000 enhance, supervision, rehabilitation, or vocational training; or

1001 (vi) evaluating the effectiveness of rehabilitation and supervision programs and  
1002 ensuring program fidelity.

1003 (9) (a) The report described in Subsections (3) and (4) is a public record.

1004 (b) The department shall maintain a complete and accurate accounting of the payment  
1005 and use of funds under this section.

1006 (c) If the money in the restricted account is insufficient to make the full employment  
1007 incentive payments or the full end-of-supervision employment incentive payments, the office  
1008 shall authorize the payments on a prorated basis.

1009 Section 19. Section **76-3-202** is amended to read:

1010 **76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time**  
1011 **served on parole -- Discretion of Board of Pardons and Parole.**

1012 (1) [Every] As described in Subsection 77-27-5(7), every individual committed to the  
1013 state prison to serve an indeterminate term and, after December 31, 2018, released on parole  
1014 shall complete a term of parole that extends through the expiration of the individual's  
1015 maximum sentence unless the parole is earlier terminated by the Board of Pardons and Parole  
1016 in accordance with the [~~supervision length guidelines established by the Utah Sentencing~~  
1017 ~~Commission under Section 63M-7-404, as described in Subsection 77-27-5(7);~~] adult

1018 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent  
1019 the guidelines are consistent with the requirements of the law.

1020 (2) (a) Except as provided in Subsection (2)(b), ~~every~~ an individual committed to the  
1021 state prison to serve an indeterminate term and released on parole on or after October 1, 2015,  
1022 but before January 1, 2019, shall, upon completion of three years on parole outside of  
1023 confinement and without violation, be terminated from the individual's sentence unless the  
1024 parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to  
1025 Section 64-13-21.

1026 (b) ~~Every~~ An individual committed to the state prison to serve an indeterminate term  
1027 and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was  
1028 convicted of ~~any~~ a felony offense under Chapter 5, Offenses Against the Individual, or ~~any~~  
1029 an attempt, conspiracy, or solicitation to commit ~~any of these felony offenses~~ the offense,  
1030 shall complete a term of parole that extends through the expiration of the individual's  
1031 maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.

1032 (3) ~~Every~~ An individual convicted of a second degree felony for violating Section  
1033 76-5-404, forcible sexual abuse; Section 76-5-404.1, sexual abuse of a child; or Section  
1034 76-5-404.3, aggravated sexual abuse of a child; or attempting, conspiring, or soliciting the  
1035 commission of a violation of any of those sections, and who is paroled before July 1, 2008,  
1036 shall, upon completion of 10 years parole outside of confinement and without violation, be  
1037 terminated from the sentence unless the individual is earlier terminated by the Board of  
1038 Pardons and Parole.

1039 (4) An individual who violates the terms of parole, while serving parole, for any  
1040 offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and  
1041 Parole be recommitted to prison to serve the portion of the balance of the term as determined  
1042 by the Board of Pardons and Parole, but not to exceed the maximum term.

1043 (5) An individual paroled following a former parole revocation may not be discharged  
1044 from the individual's sentence until:

1045 (a) the individual has served the applicable period of parole under this section outside  
1046 of confinement;

1047 (b) the individual's maximum sentence has expired; or

1048 (c) the Board of Pardons and Parole orders the individual to be discharged from the

1049 sentence.

1050 (6) (a) All time served on parole, outside of confinement and without violation,  
1051 constitutes service toward the total sentence.

1052 (b) Any time an individual spends outside of confinement after commission of a parole  
1053 violation does not constitute service toward the total sentence unless the individual is  
1054 exonerated at a parole revocation hearing.

1055 (c) (i) Any time an individual spends in confinement awaiting a hearing before the  
1056 Board of Pardons and Parole or a decision by the board concerning revocation of parole  
1057 constitutes service toward the total sentence.

1058 (ii) In the case of exoneration by the board, the time spent is included in computing the  
1059 total parole term.

1060 (7) When a parolee causes the parolee's absence from the state without authority from  
1061 the Board of Pardons and Parole or avoids or evades parole supervision, the period of absence,  
1062 avoidance, or evasion tolls the parole period.

1063 (8) (a) While on parole, time spent in confinement outside the state may not be credited  
1064 toward the service of any Utah sentence.

1065 (b) Time in confinement outside the state or in the custody of any tribal authority or the  
1066 United States government for a conviction obtained in another jurisdiction tolls the expiration  
1067 of the Utah sentence.

1068 (9) This section does not preclude the Board of Pardons and Parole from paroling or  
1069 discharging an inmate at any time within the discretion of the Board of Pardons and Parole  
1070 unless otherwise specifically provided by law.

1071 (10) A parolee sentenced to lifetime parole may petition the Board of Pardons and  
1072 Parole for termination of lifetime parole.

1073 Section 20. Section **76-5-102.1** is amended to read:

1074 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

1075 (1) (a) As used in this section:

1076 (i) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

1077 (ii) "Drug" means the same as that term is defined in Section [76-5-207](#).

1078 (iii) "Negligent" or "negligence" means the same as that term is defined in Section  
1079 [76-5-207](#).

- 1080 (iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.
- 1081 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1082 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:
- 1083 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and
- 1084 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
- 1085 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
- 1086 time of the test;
- 1087 (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and
- 1088 a drug to a degree that renders the actor incapable of safely operating a vehicle; or
- 1089 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
- 1090 operation; or
- 1091 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to
- 1092 another; and
- 1093 (ii) has in the actor's body any measurable amount of a controlled substance.
- 1094 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:
- 1095 (a) (i) a class A misdemeanor; or
- 1096 (ii) a third degree felony if the bodily injury is serious bodily injury; and
- 1097 (b) a separate offense for each victim suffering bodily injury as a result of the actor's
- 1098 violation of this section, regardless of whether the injuries arise from the same episode of
- 1099 driving.
- 1100 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under
- 1101 Subsection (2)(b) if:
- 1102 (a) the controlled substance was obtained under a valid prescription or order, directly
- 1103 from a practitioner while acting in the course of the practitioner's professional practice, or as
- 1104 otherwise authorized by Title 58, Occupations and Professions;
- 1105 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
- 1106 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
- 1107 58-37-4.2 if:
- 1108 (i) the actor is the subject of medical research conducted by a holder of a valid license
- 1109 to possess controlled substances under Section 58-37-6; and
- 1110 (ii) the substance was administered to the actor by the medical researcher.

- 1111 (5) (a) A judge imposing a sentence under this section may consider:
- 1112 (i) the ~~[sentencing guidelines developed in accordance with Section 63M-7-404]~~ adult
- 1113 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;
- 1114 (ii) the defendant's history;
- 1115 (iii) the facts of the case;
- 1116 (iv) aggravating and mitigating factors; or
- 1117 (v) any other relevant fact.
- 1118 (b) The judge may not impose a lesser sentence than would be required for a conviction
- 1119 based on the defendant's history under Section 41-6a-505.
- 1120 (c) The standards for chemical breath analysis under Section 41-6a-515 and the
- 1121 provisions for the admissibility of chemical test results under Section 41-6a-516 apply to
- 1122 determination and proof of blood alcohol content under this section.
- 1123 (d) A calculation of blood or breath alcohol concentration under this section shall be
- 1124 made in accordance with Subsection 41-6a-502(3).
- 1125 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
- 1126 this section is or has been legally entitled to use alcohol or a drug is not a defense.
- 1127 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
- 1128 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,
- 1129 or the Utah Constitution.
- 1130 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
- 1131 described in this section may not be held in abeyance.
- 1132 Section 21. Section 76-5-207 is amended to read:
- 1133 **76-5-207. Negligently operating a vehicle resulting in death -- Penalties --**
- 1134 **Evidence.**
- 1135 (1) (a) As used in this section:
- 1136 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 1137 (ii) "Criminally negligent" means the same as that term is described in Subsection
- 1138 76-2-103(4).
- 1139 (iii) "Drug" means:
- 1140 (A) a controlled substance;
- 1141 (B) a drug as defined in Section 58-37-2; or

1142 (C) a substance that, when knowingly, intentionally, or recklessly taken into the human  
1143 body, can impair the ability of an individual to safely operate a vehicle.

1144 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that  
1145 degree of care that reasonable and prudent persons exercise under like or similar circumstances.

1146 (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

1147 (b) Terms defined in Section 76-1-101.5 apply to this section.

1148 (2) An actor commits negligently operating a vehicle resulting in death if the actor:

1149 (a) (i) operates a vehicle in a negligent or criminally negligent manner causing the  
1150 death of another individual;

1151 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test  
1152 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the  
1153 time of the test;

1154 (B) is under the influence of alcohol, any drug, or the combined influence of alcohol  
1155 and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

1156 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of  
1157 operation; or

1158 (b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

1159 (ii) has in the actor's body any measurable amount of a controlled substance.

1160 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty  
1161 of:

1162 (a) a second degree felony; and

1163 (b) a separate offense for each victim suffering death as a result of the actor's violation  
1164 of this section, regardless of whether the deaths arise from the same episode of driving.

1165 (4) An actor is not guilty of a violation of negligently operating a vehicle resulting in  
1166 death under Subsection (2)(b) if:

1167 (a) the controlled substance was obtained under a valid prescription or order, directly  
1168 from a practitioner while acting in the course of the practitioner's professional practice, or as  
1169 otherwise authorized by Title 58, Occupations and Professions;

1170 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

1171 (c) the actor possessed, in the actor's body, a controlled substance listed in Section  
1172 58-37-4.2 if:

1173 (i) the actor is the subject of medical research conducted by a holder of a valid license  
1174 to possess controlled substances under Section 58-37-6; and

1175 (ii) the substance was administered to the actor by the medical researcher.

1176 (5) (a) A judge imposing a sentence under this section may consider:

1177 (i) the ~~[sentencing guidelines developed in accordance with Section 63M-7-404]~~ adult  
1178 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

1179 (ii) the defendant's history;

1180 (iii) the facts of the case;

1181 (iv) aggravating and mitigating factors; or

1182 (v) any other relevant fact.

1183 (b) The judge may not impose a lesser sentence than would be required for a conviction  
1184 based on the defendant's history under Section 41-6a-505.

1185 (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and  
1186 the provisions for the admissibility of chemical test results as provided by Section 41-6a-516  
1187 apply to determination and proof of blood alcohol content under this section.

1188 (d) A calculation of blood or breath alcohol concentration under this section shall be  
1189 made in accordance with Subsection 41-6a-502(3).

1190 (e) Except as provided in Subsection (4), the fact that an actor charged with violating  
1191 this section is or has been legally entitled to use alcohol or a drug is not a defense.

1192 (f) Evidence of a defendant's blood or breath alcohol content or drug content is  
1193 admissible except when prohibited by the Utah Rules of Evidence, the United States  
1194 Constitution, or the Utah Constitution.

1195 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense  
1196 described in this section may not be held in abeyance.

1197 Section 22. Section 77-2a-2 is amended to read:

1198 **77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of**  
1199 **agreement -- Waiver of time for sentencing.**

1200 (1) At any time after acceptance of a plea of guilty or no contest but before entry of  
1201 judgment of conviction and imposition of sentence, the court may, upon motion of both the  
1202 prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of  
1203 conviction against the defendant nor impose sentence upon the defendant within the time

1204 periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

1205 (2) A defendant shall be represented by counsel during negotiations for a plea in  
1206 abeyance and at the time of acknowledgment and affirmation of any plea in abeyance  
1207 agreement unless the defendant knowingly and intelligently waives the defendant's right to  
1208 counsel.

1209 (3) A defendant has the right to be represented by counsel at any court hearing relating  
1210 to a plea in abeyance agreement.

1211 (4) (a) Any plea in abeyance agreement entered into between the prosecution and the  
1212 defendant and approved by the court shall include a full, detailed recitation of the requirements  
1213 and conditions agreed to by the defendant and the reason for requesting the court to hold the  
1214 plea in abeyance.

1215 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the  
1216 agreement shall be in writing and shall, before acceptance by the court, be executed by the  
1217 prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

1218 (5) (a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for  
1219 a period longer than 18 months if the plea is to any class of misdemeanor or longer than three  
1220 years if the plea is to any degree of felony or to any combination of misdemeanors and felonies.

1221 (b) (i) For a plea in abeyance agreement that [~~Adult Probation and Parole~~] the  
1222 Department of Corrections supervises, the plea may not be held in abeyance for a period longer  
1223 than the initial term of probation required under the [~~supervision length guidelines described in~~  
1224 ~~Section 63M-7-404~~] adult sentencing and supervision length guidelines, as defined in Section  
1225 63M-7-401.1, if the initial term of probation is shorter than the period required under  
1226 Subsection (5)(a).

1227 (ii) Subsection (5)(b)(i) does not:

1228 (A) apply to a plea that is held in abeyance in a drug court created under Title 78A,  
1229 Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

1230 (B) prohibit court supervision of a plea in abeyance agreement after the day on which  
1231 the [~~Adult Probation and Parole~~] Department of Corrections supervision described in  
1232 Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

1233 (6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years  
1234 if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a



1235 condition that the defendant participate in a problem solving court approved by the Judicial  
1236 Council.

1237 (7) A plea in abeyance agreement may not be approved unless the defendant, before the  
1238 court, and any written agreement, knowingly and intelligently waives time for sentencing as  
1239 designated in Rule 22(a), Utah Rules of Criminal Procedure.

1240 Section 23. Section 77-18-105 is amended to read:

1241 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**  
1242 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**  
1243 **supervision for payments on criminal accounts receivable.**

1244 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in  
1245 abeyance agreement, the court may hold the plea in abeyance:

1246 (a) in accordance with Chapter 2a, Pleas in Abeyance; and

1247 (b) under the terms of the plea in abeyance agreement.

1248 (2) If a defendant is convicted, the court:

1249 (a) shall impose a sentence in accordance with Section 76-3-201; and

1250 (b) subject to Subsection (5), may suspend the execution of the sentence and place the  
1251 defendant:

1252 (i) on probation under the supervision of the department;

1253 (ii) on probation under the supervision of an agency of a local government or a private  
1254 organization; or

1255 (iii) on court probation under the jurisdiction of the sentencing court.

1256 (3) (a) The legal custody of all probationers under the supervision of the department is  
1257 with the department.

1258 (b) The legal custody of all probationers under the jurisdiction of the sentencing court  
1259 is vested as ordered by the court.

1260 (c) The court has continuing jurisdiction over all probationers.

1261 (4) (a) Court probation may include an administrative level of services, including  
1262 notification to the sentencing court of scheduled periodic reviews of the probationer's  
1263 compliance with conditions.

1264 (b) Supervised probation services provided by the department, an agency of a local  
1265 government, or a private organization shall specifically address the defendant's risk of

1266 reoffending as identified by a screening or an assessment.

1267 (c) If a court orders supervised probation and determines that a public probation  
1268 provider is unavailable or inappropriate to supervise the defendant, the court shall make  
1269 available to the defendant the list of private probation providers prepared by a criminal justice  
1270 coordinating council under Section 17-55-201.

1271 (5) (a) Before ordering supervised probation, the court shall consider the supervision  
1272 costs to the defendant for each entity that can supervise the defendant.

1273 (b) (i) A court may order an agency of a local government to supervise the probation  
1274 for an individual convicted of any crime if:

1275 (A) the agency has the capacity to supervise the individual; and

1276 (B) the individual's supervision needs will be met by the agency.

1277 (ii) A court may only order:

1278 (A) the department to supervise the probation for an individual convicted of a class A  
1279 misdemeanor or any felony; or

1280 (B) a private organization to supervise the probation for an individual convicted of a  
1281 class A, B, or C misdemeanor or an infraction.

1282 (c) A court may not order a specific private organization to supervise an individual  
1283 unless there is only one private organization that can provide the specific supervision services  
1284 required to meet the individual's supervision needs.

1285 (6) (a) If a defendant is placed on probation, the court may order the defendant as a  
1286 condition of the defendant's probation:

1287 (i) to provide for the support of persons for whose support the defendant is legally  
1288 liable;

1289 (ii) to participate in available treatment programs, including any treatment program in  
1290 which the defendant is currently participating if the program is acceptable to the court;

1291 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and  
1292 Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

1293 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an  
1294 initial condition of probation that does not exceed one year in a county jail designated by the  
1295 department, after considering any recommendation by the court as to which jail the court finds  
1296 most appropriate;

- 1297 (v) to serve a term of home confinement in accordance with Section [77-18-107](#);
- 1298 (vi) to participate in compensatory service programs, including the compensatory  
1299 service program described in Section [76-3-410](#);
- 1300 (vii) to pay for the costs of investigation, probation, or treatment services;
- 1301 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime  
1302 Victims Restitution Act; or
- 1303 (ix) to comply with other terms and conditions the court considers appropriate to  
1304 ensure public safety or increase a defendant's likelihood of success on probation.
- 1305 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a  
1306 defendant to include a period of time that is served in a county jail immediately before the  
1307 termination of probation as long as that period of time does not exceed one year.
- 1308 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation  
1309 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply  
1310 to the period of time that the court orders the defendant to serve in a county jail under this  
1311 Subsection (6)(b)(ii).
- 1312 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on  
1313 probation after December 31, 2018:
- 1314 (i) may not exceed the individual's maximum sentence;
- 1315 (ii) shall be for a period of time that is in accordance with the ~~[supervision length~~  
1316 ~~guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#)] adult~~  
1317 ~~sentencing and supervision length guidelines, as defined in Section [63M-7-401.1](#)~~, to the extent  
1318 the guidelines are consistent with the requirements of the law; and
- 1319 (iii) shall be terminated in accordance with the ~~[supervision length guidelines~~  
1320 ~~established by the Utah Sentencing Commission under Section [63M-7-404](#)] adult sentencing~~  
1321 ~~and supervision length guidelines, as defined in Section [63M-7-401.1](#)~~, to the extent the  
1322 guidelines are consistent with the requirements of the law.
- 1323 (b) Probation of an individual placed on probation after December 31, 2018, whose  
1324 maximum sentence is one year or less, may not exceed 36 months.
- 1325 (c) Probation of an individual placed on probation on or after October 1, 2015, but  
1326 before January 1, 2019, may be terminated at any time at the discretion of the court or upon  
1327 completion without violation of 36 months probation in felony or class A misdemeanor cases,

1328 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance  
1329 with Section 64-13-21 regarding earned credits.

1330 (d) This Subsection (7) does not apply to the probation of an individual convicted of an  
1331 offense for criminal nonsupport under Section 76-7-201.

1332 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal  
1333 accounts receivable for the defendant upon termination of the probation period for the  
1334 defendant under Subsection (7), the court may require the defendant to continue to make  
1335 payments towards the criminal accounts receivable in accordance with the payment schedule  
1336 established by the court under Section 77-32b-103.

1337 (b) A court may not require the defendant to make payments as described in Subsection  
1338 (8)(a) beyond the expiration of the defendant's sentence.

1339 (c) If the court requires a defendant to continue to pay in accordance with the payment  
1340 schedule for the criminal accounts receivable under this Subsection (8) and the defendant  
1341 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil  
1342 judgment of restitution and a civil accounts receivable for the defendant as described in Section  
1343 77-18-114.

1344 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's  
1345 own motion, the court may require a defendant to show cause as to why the defendant's failure  
1346 to pay in accordance with the payment schedule should not be treated as contempt of court.

1347 (ii) A court may hold a defendant in contempt for failure to make payments for a  
1348 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

1349 (e) This Subsection (8) does not apply to the probation of an individual convicted of an  
1350 offense for criminal nonsupport under Section 76-7-201.

1351 (9) When making any decision regarding probation, the court shall consider  
1352 information provided by the Department of Corrections regarding a defendant's individual case  
1353 action plan, including any progress the defendant has made in satisfying the case action plan's  
1354 completion requirements.

1355 Section 24. Section 77-18-108 is amended to read:

1356 **77-18-108. Termination, revocation, modification, or extension of probation --**  
1357 **Violation of probation -- Hearing on violation.**

1358 (1) (a) The department shall send a written notice to the court:

1359 (i) when the department is recommending termination of supervision for a defendant;

1360 or

1361 (ii) before a defendant's supervision will be terminated by law.

1362 (b) The written notice under this Subsection (1) shall include:

1363 (i) a probation progress report; and

1364 (ii) if the department is responsible for the collection of the defendant's criminal  
1365 accounts receivable, a summary of the criminal accounts receivable, including the amount of  
1366 restitution ordered and the amount of restitution that has been paid.

1367 (c) (i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

1368 (A) file the written notice on the docket; and

1369 (B) provide notice to all parties in the criminal case.

1370 (ii) A party shall have a reasonable opportunity to respond to the written notice under  
1371 Subsection (1)(a).

1372 (d) If a defendant's probation is being terminated, and the defendant's criminal accounts  
1373 receivable has an unpaid balance or there is any outstanding debt with the department, the  
1374 department shall send a written notice to the Office of State Debt Collection with a summary of  
1375 the defendant's criminal accounts receivable, including the amount of restitution ordered and  
1376 the amount of restitution that has been paid.

1377 (2) (a) The court may modify the defendant's probation in accordance with the  
1378 ~~[supervision length guidelines and the graduated and evidence-based responses and graduated~~  
1379 ~~incentives developed by the Utah Sentencing Commission under Section 63M-7-404]~~ adult  
1380 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

1381 (b) The court may not:

1382 (i) extend the length of a defendant's probation, except upon:

1383 (A) waiver of a hearing by the defendant; or

1384 (B) a hearing and a finding by the court that the defendant has violated the terms of  
1385 probation;

1386 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court  
1387 that the terms of probation have been violated; or

1388 (iii) terminate a defendant's probation before expiration of the probation period until  
1389 the court:

1390 (A) reviews the docket to determine whether the defendant owes a balance on the  
1391 defendant's criminal accounts receivable; and

1392 (B) enters a finding of whether the defendant owes restitution under Section  
1393 77-38b-205.

1394 (c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe  
1395 restitution if no request for restitution has been filed with the court.

1396 (3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in  
1397 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act,  
1398 alleging with particularity facts asserted to constitute violation of the terms of a defendant's  
1399 probation, the court shall determine if the affidavit or unsworn written declaration establishes  
1400 probable cause to believe that revocation, modification, or extension of the defendant's  
1401 probation is justified.

1402 (b) (i) If the court determines there is probable cause, the court shall order that the  
1403 defendant be served with:

1404 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written  
1405 declaration; and

1406 (B) an order to show cause as to why the defendant's probation should not be revoked,  
1407 modified, or extended.

1408 (ii) The order under Subsection (3)(b)(i)(B) shall:

1409 (A) be served upon the defendant at least five days before the day on which the hearing  
1410 is held;

1411 (B) specify the time and place of the hearing; and

1412 (C) inform the defendant of the right to be represented by counsel at the hearing, the  
1413 right to have counsel appointed if the defendant is indigent, and the right to present evidence at  
1414 the hearing.

1415 (iii) The defendant shall show good cause for a continuance of the hearing.

1416 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or  
1417 unsworn written declaration.

1418 (d) (i) If the defendant denies the allegations of the affidavit or unsworn written  
1419 declaration, the prosecuting attorney shall present evidence on the allegations.

1420 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is

1421 delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall  
1422 present evidence to establish, by a preponderance of the evidence, that the defendant:

1423 (A) was aware of the defendant's obligation to pay the balance of the criminal accounts  
1424 receivable;

1425 (B) failed to pay on the balance of the criminal accounts receivable as ordered by the  
1426 court; and

1427 (C) had the ability to make a payment on the balance of the criminal accounts  
1428 receivable if the defendant opposes an order to show cause, in writing, and presents evidence  
1429 that the defendant was unable to make a payment on the balance of the criminal accounts  
1430 receivable.

1431 (e) The persons who have given adverse information on which the allegations are  
1432 based shall be presented as witnesses subject to questioning by the defendant, unless the court  
1433 for good cause otherwise orders.

1434 (f) At the hearing, the defendant may:

1435 (i) call witnesses;

1436 (ii) appear and speak in the defendant's own behalf; and

1437 (iii) present evidence.

1438 (g) (i) After the hearing, the court shall make findings of fact.

1439 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,  
1440 the court may order the defendant's probation terminated, revoked, modified, continued, or  
1441 reinstated for all or a portion of the original term of probation.

1442 (4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a  
1443 defendant to remain on probation for a period of time that exceeds the length of the defendant's  
1444 maximum sentence.

1445 (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is  
1446 revoked and later reinstated, the total time of all periods of probation that the defendant serves,  
1447 in relation to the same sentence, may not exceed the defendant's maximum sentence.

1448 (b) If the court orders a sanction for a defendant who violated terms of probation, the  
1449 court may:

1450 (i) order a period of incarceration that is consistent with the ~~[guidelines established by~~  
1451 ~~the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4)]~~ adult

1452 sentencing and supervision length guidelines, as defined in Section [63M-7-401.1](#);

1453 (ii) order a period of incarceration that deviates from the guidelines with an  
1454 explanation for the deviation on the record;

1455 (iii) order treatment services that are immediately available in the community for a  
1456 defendant that needs substance abuse or mental health treatment, as determined by a screening  
1457 and assessment;

1458 (iv) execute the sentence previously imposed; or

1459 (v) order any other appropriate sanction.

1460 (c) If the defendant had, before the imposition of a term of incarceration or the  
1461 execution of the previously imposed sentence under this section, served time in jail as a term of  
1462 probation or due to a violation of probation, the time that the defendant served in jail  
1463 constitutes service of time toward the sentence previously imposed.

1464 (5) (a) Any time served by a defendant:

1465 (i) outside of confinement after having been charged with a probation violation, and  
1466 before a hearing to revoke probation, does not constitute service of time toward the total  
1467 probation term, unless the defendant is exonerated at a hearing to revoke the defendant's  
1468 probation;

1469 (ii) in confinement awaiting a hearing or a decision concerning revocation of the  
1470 defendant's probation does not constitute service of time toward the total probation term, unless  
1471 the defendant is exonerated at the hearing to revoke probation; or

1472 (iii) in confinement awaiting a hearing or a decision concerning revocation of the  
1473 defendant's probation constitutes service of time toward a term of incarceration imposed as a  
1474 result of the revocation of probation or a graduated and evidence-based response imposed  
1475 under the ~~[guidelines established by the Utah Sentencing Commission in accordance with~~  
1476 ~~Section [63M-7-404](#)]~~ adult sentencing and supervision length guidelines, as defined in Section  
1477 [63M-7-401.1](#).

1478 (b) The running of the probation period is tolled upon:

1479 (i) the filing of a report with the court alleging a violation of the terms of the  
1480 defendant's probation; or

1481 (ii) the issuance of an order or a warrant under Subsection (3).

1482 Section 25. Section ~~77-27-5~~ is amended to read:



1483 **77-27-5. Board of Pardons and Parole authority.**

1484 (1) (a) Subject to this chapter and other laws of the state, and except for a conviction  
1485 for treason or impeachment, the board shall determine by majority decision when and under  
1486 what conditions an offender's conviction may be pardoned or commuted.

1487 (b) The Board of Pardons and Parole shall determine by majority decision when and  
1488 under what conditions an offender committed to serve a sentence at a penal or correctional  
1489 facility, which is under the jurisdiction of the department, may:

1490 (i) be released upon parole;

1491 (ii) have a fine or forfeiture remitted;

1492 (iii) have the offender's criminal accounts receivable remitted in accordance with  
1493 Section [77-32b-105](#) or [77-32b-106](#);

1494 (iv) have the offender's payment schedule modified in accordance with Section  
1495 [77-32b-103](#); or

1496 (v) have the offender's sentence terminated.

1497 (c) The board shall prioritize public safety when making a determination under  
1498 Subsection (1)(a) or (1)(b).

1499 (d) (i) The board may sit together or in panels to conduct hearings.

1500 (ii) The chair shall appoint members to the panels in any combination and in  
1501 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative  
1502 Rulemaking Act, by the board.

1503 (iii) The chair may participate on any panel and when doing so is chair of the panel.

1504 (iv) The chair of the board may designate the chair for any other panel.

1505 (e) (i) Except after a hearing before the board, or the board's appointed examiner, in an  
1506 open session, the board may not:

1507 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
1508 receivable;

1509 (B) release the offender on parole; or

1510 (C) commute, pardon, or terminate an offender's sentence.

1511 (ii) An action taken under this Subsection (1) other than by a majority of the board  
1512 shall be affirmed by a majority of the board.

1513 (f) A commutation or pardon may be granted only after a full hearing before the board.

1514 (2) (a) In the case of any hearings, timely prior notice of the time and location of the  
1515 hearing shall be given to the offender.

1516 (b) The county or district attorney's office responsible for prosecution of the case, the  
1517 sentencing court, and law enforcement officials responsible for the defendant's arrest and  
1518 conviction shall be notified of any board hearings through the board's website.

1519 (c) Whenever possible, the victim or the victim's representative, if designated, shall be  
1520 notified of original hearings and any hearing after that if notification is requested and current  
1521 contact information has been provided to the board.

1522 (d) (i) Notice to the victim or the victim's representative shall include information  
1523 provided in Section [77-27-9.5](#), and any related rules made by the board under that section.

1524 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
1525 reasonable for the lay person to understand.

1526 (3) (a) A decision by the board is final and not subject for judicial review if the  
1527 decision is regarding:

- 1528 (i) a pardon, parole, commutation, or termination of an offender's sentence;
- 1529 (ii) the modification of an offender's payment schedule for restitution; or
- 1530 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

1531 (b) Deliberative processes are not public and the board is exempt from Title 52,  
1532 Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's  
1533 deliberative process.

1534 (c) Pursuant to Subsection [63G-2-103\(25\)\(b\)\(xi\)](#), records of the deliberative process  
1535 are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

1536 (d) Unless it will interfere with a constitutional right, deliberative processes are not  
1537 subject to disclosure, including discovery.

1538 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

1539 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's  
1540 power to grant respite or reprieves in all cases of convictions for offenses against the state,  
1541 except treason or conviction on impeachment.

1542 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the  
1543 next session of the Board of Pardons and Parole.

1544 (c) At the next session of the board, the board:

- 1545 (i) shall continue or terminate the respite or reprieve; or  
1546 (ii) may commute the punishment or pardon the offense as provided.
- 1547 (d) In the case of conviction for treason, the governor may suspend execution of the  
1548 sentence until the case is reported to the Legislature at the Legislature's next session.
- 1549 (e) The Legislature shall pardon or commute the sentence or direct the sentence's  
1550 execution.
- 1551 (5) (a) In determining when, where, and under what conditions an offender serving a  
1552 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's  
1553 criminal accounts receivable remitted, or have the offender's sentence commuted or terminated,  
1554 the board shall:
- 1555 (i) consider whether the offender has made restitution ordered by the court under  
1556 Section [77-38b-205](#), or is prepared to pay restitution as a condition of any parole, pardon,  
1557 remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or  
1558 termination of the offender's sentence;
- 1559 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for  
1560 making determinations under this Subsection (5);
- 1561 (iii) consider information provided by the Department of Corrections regarding an  
1562 offender's individual case action plan; and
- 1563 (iv) review an offender's status within 60 days after the day on which the board  
1564 receives notice from the Department of Corrections that the offender has completed all of the  
1565 offender's case action plan components that relate to activities that can be accomplished while  
1566 the offender is imprisoned.
- 1567 (b) The board shall determine whether to remit an offender's criminal accounts  
1568 receivable under this Subsection (5) in accordance with Section [77-32b-105](#) or [77-32b-106](#).
- 1569 (6) In determining whether parole may be terminated, the board shall consider:
- 1570 (a) the offense committed by the parolee; and  
1571 (b) the parole period under Section [76-3-202](#), and in accordance with Section  
1572 [77-27-13](#).
- 1573 (7) For an offender placed on parole after December 31, 2018, the board shall  
1574 terminate parole in accordance with the ~~[supervision length guidelines established by the Utah~~  
1575 ~~Sentencing Commission under Section [63M-7-404](#)]~~ adult sentencing and supervision length

1576 guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with  
1577 the requirements of the law.

1578 Section 26. Section 77-27-10 is amended to read:

1579 **77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking --**  
1580 **Intensive early release parole program.**

1581 (1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall,  
1582 in accordance with Section 64-13-21, issue to the parolee a certificate setting forth the  
1583 conditions of parole, including the graduated and evidence-based responses to a violation of a  
1584 condition of parole established [~~by the Sentencing Commission in accordance with Section~~  
1585 ~~64-13-21~~] in the adult sentencing and supervision length guidelines, as defined in Section  
1586 63M-7-401.1, which the offender shall accept and agree to as evidenced by the offender's  
1587 signature affixed to the agreement.

1588 (b) The parole agreement shall require that the inmate agree in writing that the board  
1589 may issue a warrant and conduct a parole revocation hearing if:

1590 (i) the board determines after the grant of parole that the inmate willfully provided to  
1591 the board false or inaccurate information that the board finds was significant in the board's  
1592 determination to grant parole; or

1593 (ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole; and  
1594 (B) the board did not have information regarding the conduct at the time parole was  
1595 granted.

1596 (c) (i) A copy of the agreement shall be delivered to the Department of Corrections and  
1597 a copy shall be given to the parolee.

1598 (ii) The original agreement shall remain with the board's file.

1599 (2) (a) If an offender convicted of violating or attempting to violate Section  
1600 76-5-301.1, 76-5-302, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1,  
1601 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall order  
1602 outpatient mental health counseling and treatment as a condition of parole.

1603 (b) The board shall develop standards and conditions of parole under this Subsection  
1604 (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1605 (c) This Subsection (2) does not apply to intensive early release parole.

1606 (3) (a) (i) In addition to the conditions set out in Subsection (1), the board may place

1607 offenders in an intensive early release parole program.

1608       (ii) The board shall determine the conditions of parole which are reasonably necessary  
1609 to protect the community as well as to protect the interests of the offender and to assist the  
1610 offender to lead a law-abiding life.

1611       (b) The offender is eligible for this program only if the offender:

1612           (i) has not been convicted of a sexual offense; or

1613           (ii) has not been sentenced pursuant to Section 76-3-406.

1614       (c) The department shall:

1615           (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
1616 Rulemaking Act, for operation of the program;

1617           (ii) adopt and implement internal management policies for operation of the program;

1618           (iii) determine whether or not to refer an offender into this program within 120 days  
1619 from the date the offender is committed to prison by the sentencing court; and

1620           (iv) make the final recommendation to the board regarding the placement of an  
1621 offender into the program.

1622       (d) The department may not consider credit for time served in a county jail awaiting  
1623 trial or sentencing when calculating the 120-day period.

1624       (e) The prosecuting attorney or sentencing court may refer an offender for  
1625 consideration by the department for participation in the program.

1626       (f) The board shall determine whether or not to place an offender into this program  
1627 within 30 days of receiving the department's recommendation.

1628       (4) This program shall be implemented by the department within the existing budget.

1629       (5) During the time the offender is on parole, the department shall collect from the  
1630 offender the monthly supervision fee authorized by Section 64-13-21.

1631       (6) When a parolee commits a violation of the parole agreement, the department may:

1632           (a) respond in accordance with the graduated and evidence-based responses established  
1633 in accordance with Section 64-13-21; or

1634           (b) when the graduated and evidence-based responses established in accordance with  
1635 Section 64-13-21 indicate, refer the parolee to the Board of Pardons and Parole for revocation  
1636 of parole.

1637       Section 27. Section 77-27-11 is amended to read:

1638           **77-27-11. Revocation of parole.**

1639           (1) The board may revoke the parole of any individual who is found to have violated  
1640 any condition of the individual's parole.

1641           (2) (a) If a parolee is confined by the department or any law enforcement official for a  
1642 suspected violation of parole, the department:

1643                 (i) shall immediately report the alleged violation to the board, by means of an incident  
1644 report; and

1645                 (ii) make any recommendation regarding the incident.

1646           (b) A parolee may not be held for a period longer than 72 hours, excluding weekends  
1647 and holidays, without first obtaining a warrant.

1648           (3) Any member of the board may:

1649                 (a) issue a warrant based upon a certified warrant request to a peace officer or other  
1650 persons authorized to arrest, detain, and return to actual custody a parolee; and

1651                 (b) upon arrest of the parolee, determine, or direct the department to determine, if there  
1652 is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

1653           (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned  
1654 again pending a hearing by the board or the board's appointed examiner.

1655           (5) (a) The board or the board's appointed examiner shall conduct a hearing on the  
1656 alleged violation, and the parolee shall have written notice of the time and location of the  
1657 hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

1658                 (b) The board or the board's appointed examiner shall provide the parolee the  
1659 opportunity:

1660                         (i) to be present;

1661                         (ii) to be heard;

1662                         (iii) to present witnesses and documentary evidence;

1663                         (iv) to confront and cross-examine adverse witnesses, absent a showing of good cause  
1664 for not allowing the confrontation; and

1665                         (v) to be represented by counsel when the parolee is mentally incompetent or pleading  
1666 not guilty.

1667           (c) (i) If heard by an appointed examiner, the examiner shall make a written decision  
1668 which shall include a statement of the facts relied upon by the examiner in determining the

1669 guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the  
1670 alleged violation occurred.

1671 (ii) The appointed examiner shall then refer the case to the board for disposition.

1672 (d) (i) A final decision shall be reached by a majority vote of the sitting members of the  
1673 board.

1674 (ii) A parolee shall be promptly notified in writing of the board's findings and decision.

1675 (6) (a) If a parolee is found to have violated the terms of parole, the board, at the  
1676 board's discretion, may:

1677 (i) return the parolee to parole;

1678 (ii) modify the payment schedule for the parolee's criminal accounts receivable in  
1679 accordance with Section [77-32b-105](#);

1680 (iii) order the parolee to pay pecuniary damages that are proximately caused by a  
1681 defendant's violation of the terms of the defendant's parole;

1682 (iv) order the parolee to be imprisoned, but not to exceed the maximum term of  
1683 imprisonment for the parolee's sentence; or

1684 (v) order any other conditions for the parolee.

1685 (b) If the board returns the parolee to parole, the length of parole may not be for a  
1686 period of time that exceeds the length of the parolee's maximum sentence.

1687 (c) If the board revokes parole for a violation and orders incarceration, the board may  
1688 impose a period of incarceration:

1689 (i) consistent with the ~~[guidelines under Subsection [63M-7-404\(5\)](#)] adult sentencing~~  
1690 and supervision length guidelines, as defined in Section [63M-7-401.1](#); or

1691 (ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from  
1692 the guidelines.

1693 (d) The following periods of time constitute service of time toward the period of  
1694 incarceration imposed under Subsection (6)(c):

1695 (i) time served in jail by a parolee awaiting a hearing or decision concerning revocation  
1696 of parole; and

1697 (ii) time served in jail by a parolee due to a violation of parole under Subsection  
1698 [64-13-6\(2\)](#).

1699 Section 28. Section [77-27-32](#) is amended to read:

1700 **77-27-32. Reporting requirements.**

1701 (1) The board shall publicly display metrics on the board's website, including:

1702 (a) a measure of recidivism;

1703 (b) a measure of time under board jurisdiction;

1704 (c) a measure of prison releases by category;

1705 (d) a measure of parole revocations;

1706 (e) a measure of alignment of board decisions with the ~~[guidelines established by the~~

1707 ~~Sentencing Commission under Section 63M-7-404]~~ adult sentencing and supervision length

1708 guidelines, as defined in Section 63M-7-401.1; and

1709 (f) a measure of the aggregate reasons for departing from the guidelines described in

1710 Subsection (1)(e).

1711 (2) On or before September 30 of each year, the board shall submit to the commission

1712 and the Law Enforcement and Criminal Justice Interim Committee a report for the previous

1713 fiscal year that summarizes the metrics in Subsection (1).

1714 Section 29. Section **80-6-307** is amended to read:

1715 **80-6-307. Dispositional report required in minors' cases -- Exceptions.**

1716 (1) A juvenile probation officer, or other agency designated by the juvenile court, shall

1717 make a dispositional report in writing in all minors' cases in which a petition has been filed,

1718 except in cases involving violations of traffic laws or ordinances, violations of wildlife laws

1719 and boating laws, and other minor cases.

1720 (2) When preparing a dispositional report and recommendation in a minor's case, the

1721 juvenile probation officer, or other agency designated by the juvenile court, shall consider the

1722 juvenile disposition guidelines ~~[developed in accordance with Section 63M-7-404]~~, as defined

1723 in Section 63M-7-401.1, and any other factors relevant to the disposition designated in the

1724 juvenile disposition guidelines .

1725 (3) Where the allegations of a petition filed under Section **80-6-305** are denied, the

1726 investigation may not be made until the juvenile court has made an adjudication.

1727 Section 30. Section **80-6-607** is amended to read:

1728 **80-6-607. Case planning and appropriate responses.**

1729 (1) For a minor adjudicated and placed on probation under Section **80-6-702** or

1730 committed to the division under Section **80-6-703** , a case plan shall be created and:



- 1731 (a) developed in collaboration with the minor and the minor's family;
- 1732 (b) individualized to the minor;
- 1733 (c) informed by the results of a validated risk and needs assessment under Section
- 1734 [80-6-606](#) ; and
- 1735 (d) tailored to the minor's offense and history.
- 1736 (2) (a) The Administrative Office of the Courts and the division shall develop a
- 1737 statewide system of appropriate responses to guide responses to the behaviors of minors:
- 1738 (i) undergoing nonjudicial adjustments;
- 1739 (ii) whose case is under the jurisdiction of the juvenile court; and
- 1740 (iii) in the custody of the division.
- 1741 (b) The system of responses shall include both sanctions and incentives that:
- 1742 (i) are swift and certain;
- 1743 (ii) include a continuum of community based responses for minors living at home;
- 1744 (iii) target a minor's criminogenic risks and needs, as determined by the results of a
- 1745 validated risk and needs assessment under Section [80-6-606](#) , and the severity of the violation;
- 1746 and
- 1747 (iv) authorize earned discharge credits as one incentive for compliance.
- 1748 (c) After considering the [~~juvenile disposition guidelines established by the Sentencing~~
- 1749 ~~Commission, in accordance with Section [63M-7-404](#)]~~ juvenile disposition guidelines, as
- 1750 defined in Section [63M-7-401.1](#), the system of appropriate responses under Subsections (2)(a)
- 1751 and (b) shall be developed.
- 1752 (3) (a) A response to compliant or noncompliant behavior under Subsection (2) shall be
- 1753 documented in the minor's case plan.
- 1754 (b) Documentation under Subsection (3)(a) shall include:
- 1755 (i) positive behaviors and incentives offered;
- 1756 (ii) violations and corresponding sanctions; and
- 1757 (iii) whether the minor has a subsequent violation after a sanction.
- 1758 (4) Before referring a minor to a juvenile court for judicial review, or to the authority if
- 1759 the minor is under the jurisdiction of the authority, in response to a contempt filing under
- 1760 Section [78A-6-353](#) or an order to show cause, a pattern of appropriate responses shall be
- 1761 documented in the minor's case plan in accordance with Subsections (3)(a) and (b) .

1762 (5) Notwithstanding Subsection (4), if a minor violates a protective order or an ex parte  
1763 protective order listed in Section 78B-7-803, the violation may be filed directly with the  
1764 juvenile court.

1765 Section 31. **Repealer.**

1766 This bill repeals:

1767 Section 63M-7-403, **Vacancies.**

1768 Section 63M-7-404, **Purpose -- Duties.**

1769 Section 32. **Effective date.**

1770 This bill takes effect on May 1, 2024.

1771 Section 33. **Coordinating S.B. 200 with H.B. 395 if S.B. 213 does not pass and**  
1772 **become law.**

1773 If S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, and H.B.  
1774 395, DUI Offense Amendments, both pass and become law, and S.B. 213, Criminal Justice  
1775 Modifications, does not pass and become law, the Legislature intends that, on July 1, 2024,  
1776 Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

1777 "63M-7-404.3. Adult sentencing and supervision length guidelines.

1778 (1) The sentencing commission shall establish and maintain adult sentencing and  
1779 supervision length guidelines regarding:

1780 (a) the sentencing and release of offenders in order to:

1781 (i) respond to public comment;

1782 (ii) relate sentencing practices and correctional resources;

1783 (iii) increase equity in sentencing;

1784 (iv) better define responsibility in sentencing; and

1785 (v) enhance the discretion of the sentencing court while preserving the role of the

1786 Board of Pardons and Parole;

1787 (b) the length of supervision of offenders on probation or parole in order to:

1788 (i) respond to public comment;

1789 (ii) increase equity in criminal supervision lengths;

1790 (iii) relate the length of supervision to an offender's progress;

1791 (iv) take into account an offender's risk of offending again;

1792 (v) relate the length of supervision to the amount of time an offender has remained

1793 under supervision in the community; and

1794 (vi) enhance the discretion of the sentencing court while preserving the role of the

1795 Board of Pardons and Parole; and

1796 (c) appropriate, evidence-based probation and parole supervision policies and services

1797 that assist offenders in successfully completing supervision and reduce incarceration rates from

1798 community supervision programs while ensuring public safety, including:

1799 (i) treatment and intervention completion determinations based on individualized case

1800 action plans;

1801 (ii) measured and consistent processes for addressing violations of conditions of

1802 supervision;

1803 (iii) processes that include using positive reinforcement to recognize an offender's

1804 progress in supervision;

1805 (iv) engaging with social services agencies and other stakeholders who provide

1806 services that meet the needs of an offender; and

1807 (v) identifying community violations that may not warrant revocation of probation or

1808 parole.

1809 (2) The sentencing commission shall modify:

1810 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the

1811 purposes of protecting the public and ensuring efficient use of state funds; and

1812 (b) the criminal history score in the adult sentencing and supervision length guidelines

1813 to reduce recidivism, including factors in an offender's criminal history that are relevant to the

1814 accurate determination of an individual's risk of offending again.

1815 (3) (a) Before July 1, 2024, the commission shall create sentencing guidelines and

1816 supervision length guidelines for the following offenses:

1817 (i) negligently operating a vehicle resulting in injury, Section [76-5-102.1](#); and

1818 (ii) negligently operating a vehicle resulting in death, Section [76-5-207](#).

1819 (b) The guidelines under Subsection (3)(a) shall consider the following:

1820 (i) the current sentencing requirements for driving under the influence of alcohol,

1821 drugs, or a combination of both as identified in Section [41-6a-505](#) when injury or death do not

1822 result;

1823 (ii) the degree of injury and the number of victims suffering injury or death as a result

1824 of the offense;  
1825 (iii) the offender's number of previous convictions for driving under the influence  
1826 related offenses as defined in Subsection 41-6a-501(2)(a); and  
1827 (iv) whether the offender had a blood or breath alcohol level of .16 or higher, had a  
1828 blood or breath alcohol level of .05 or higher in addition to any measurable controlled  
1829 substance, or had a combination of two or more controlled substances in the individual's body  
1830 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid  
1831 Research and Medical Cannabis, or prescribed."