

PRISON RAPE ELIMINATION ACT COMPLIANCE

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Luz Escamilla

Cosponsor:

Travis M. Seegmiller

LONG TITLE

General Description:

This bill complies with national standards made under the federal Prison Rape Elimination Act of 2003 by mandating the implementation of policies and data collection relating to the sexual assault of inmates.

Highlighted Provisions:

This bill:

- ▶ requires the creation of policies to prevent, detect, and respond to inmate sexual assault;
- ▶ specifies requirements for investigations of inmate sexual assaults; and
- ▶ requires the collection and reporting of data regarding inmate sexual assaults.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

64-13-47, Utah Code Annotated 1953

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

29 Section 1. Section **64-13-47** is enacted to read:

30 **64-13-47. Prison Sexual Assault Prevention Program.**

31 (1) The department shall, in accordance with Title 63G, Chapter 3, Utah
32 Administrative Rulemaking Act, make rules establishing policies and procedures regarding
33 sexual assaults that occur in correctional facilities.

34 (2) The rules described in Subsection (1) shall:

35 (a) require education and training, including:

36 (i) providing to inmates, at intake and periodically, department-approved,
37 easy-to-understand information developed by the department on sexual assault prevention,
38 treatment, reporting, and counseling in consultation with community groups with expertise in
39 sexual assault prevention, treatment, reporting, and counseling; and

40 (ii) providing sexual-assault-specific training to department mental health professionals
41 and all employees who have direct contact with inmates regarding treatment and methods of
42 prevention and investigation;

43 (b) require reporting of sexual assault, including:

44 (i) ensuring the confidentiality of inmate sexual assault complaints and the protection
45 of inmates who make complaints of sexual assault; and

46 (ii) prohibiting retaliation and disincentives for reporting sexual assault;

47 (c) require safety and care for victims, including:

48 (i) providing, in situations in which there is reason to believe that a sexual assault has
49 occurred, reasonable and appropriate measures to ensure the victim's safety by separating the
50 victim from the assailant, if known;

51 (ii) providing acute trauma care for sexual assault victims, including treatment of
52 injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

53 (iii) providing confidential mental health counseling for victims of sexual assault,
54 including access to outside community groups or victim advocates that have expertise in sexual

55 assault counseling, and enable confidential communication between inmates and those
56 organizations and advocates; and
57 (iv) monitoring victims of sexual assault for suicidal impulses, post-traumatic stress
58 disorder, depression, and other mental health consequences resulting from the sexual assault;
59 (d) require investigations and staff discipline, including:
60 (i) requiring all employees to report any knowledge, suspicion, or information
61 regarding an incident of sexual assault to the executive director or designee, and require
62 disciplinary action for employees who fail to report as required;
63 (ii) requiring investigations described in Subsection (3);
64 (iii) requiring corrections investigators to submit all completed sexual assault
65 allegations to the executive director or the executive director's designee, who must then submit
66 any substantiated findings that may constitute a crime under state law to the district attorney
67 with jurisdiction over the facility in which the alleged sexual assault occurred; and
68 (iv) requiring employees to be subject to disciplinary sanctions up to and including
69 termination for violating agency sexual assault policies, with termination the presumptive
70 disciplinary sanction for employees who have engaged in sexual assault, consistent with
71 constitutional due process protections and state personnel laws and rules; and
72 (e) require data collection and reporting, including as provided in Subsection (4).
73 (3) (a) An investigator trained in the investigation of sex crimes shall conduct the
74 investigation of a sexual assault involving an inmate.
75 (b) The investigation shall include:
76 (i) using a forensic rape kit, if appropriate;
77 (ii) questioning suspects and witnesses; and
78 (iii) gathering and preserving relevant evidence.
79 (4) The department shall:
80 (a) collect and report data regarding all allegations of sexual assault from each
81 correctional facility in accordance with the federal Prison Rape Elimination Act of 2003, Pub.

82 L 108-79, as amended; and

83 (b) annually report the data described in Subsection (4)(a) to the Law Enforcement and

84 Criminal Justice Interim Committee.

85 Section 2. **Effective date.**

86 This bill takes effect on July 1, 2022.