

RESTITUTION REPORTING

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: Todd Weiler

Cosponsors: V. Lowry Snow
Eric K. Hutchings

LONG TITLE

General Description:

This bill requires reporting and collection of certain data related to inmates of county jails and authorizes a study of that data.

Highlighted Provisions:

This bill:

- defines terms;
- requires county jails to report specified data regarding certain fees collected from inmates to the Commission on Criminal and Juvenile Justice;
- creates a task force for the purpose of reviewing the collected data and making findings and recommendations based on that data;
- requires the Commission on Criminal and Juvenile Justice to compile the data collected and submit it to the Jail Incarceration and Transportation Costs Study Council;
- directs the membership and purpose of the Jail Incarceration and Transportation Costs Study Council; and
- provides a repeal date for provisions relating to the Jail Incarceration and Transportation Costs Study Council.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456

ENACTS:

17-22-32.2, Utah Code Annotated 1953

17-22-32.3, Utah Code Annotated 1953

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

Section 1. Section **17-22-32.2** is enacted to read:

17-22-32.2. Restitution reporting.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice.

(b) "Inmate" means an individual who is currently incarcerated or who was formerly incarcerated at a county jail, regardless of whether the individual is convicted of a crime.

(c) "Incarceration fee" means a fee assessed to or collected from an inmate that is based on the length of time the inmate is incarcerated at a county jail.

(d) "Restitution fees" means incarceration fees or transportation fees.

(e) "Sentencing court" means the court that exercises jurisdiction over an inmate incarcerated at a county jail.

(f) "Transportation fee" means a fee assessed to or collected from an inmate if the inmate is transported by a state entity for any reason, except extradition.

(2) Each county jail within the state shall submit a report to the commission, before June 1, 2020, disclosing whether the county jail:

- 55 (a) requires restitution for incarceration fees under Subsection 76-3-201(6);
56 (b) requires restitution for transportation fees under Subsection 76-3-201(5); or
57 (c) otherwise requires restitution fees.
58 (3) If a county jail requires restitution for incarceration fees, the jail shall include the
59 following data, reflecting the 2019 calendar year, in the jail's report to the commission:
60 (a) the jail's policies and procedures related to incarceration fees, including:
61 (i) factors considered before assessing an incarceration fee;
62 (ii) the daily or nightly rate at which an inmate is charged;
63 (iii) whether an inmate's indigency may allow for waiver or reduction of an
64 incarceration fee;
65 (iv) if the jail allows a waiver or reduction described in Subsection (3)(a)(iii), how
66 indigency is determined; and
67 (v) the jail's methods for collecting an incarceration fee, including:
68 (A) whether the incarceration fee is collected by the sentencing court, the jail, or
69 another method; and
70 (B) methods used to collect payment of an incarceration fee;
71 (b) the total amount of incarceration fees assessed to inmates by the jail, the sentencing
72 court, or another method;
73 (c) the total amount of incarceration fees collected from inmates by the jail, the
74 sentencing court, or another method;
75 (d) the total number of inmates that paid the amount assessed for incarceration fees in
76 full;
77 (e) the total number of inmates that paid the amount assessed for incarceration fees in
78 part;
79 (f) the total amount of unpaid incarceration fees that are sent to the Office of State Debt
80 Collection;
81 (g) the total amount of incarceration fees that are written off as unpaid;

(h) the total amount of incarceration fees assessed to inmates who are acquitted or whose charges are dismissed;

(i) the total amount of incarceration fees collected from inmates who are acquitted or whose charges are dismissed;

(j) costs incurred related to administering incarceration fees; and

(k) costs incurred related to collecting incarceration fees.

(4) If a county jail requires restitution for transportation fees, the jail shall include the following data, reflecting the 2019 calendar year, in the jail's report to the commission:

(a) the jail's policies and procedures related to transportation fees, including:

(i) factors considered before assessing a transportation fee;

(ii) the rates at which an inmate is charged per transportation, and by distance;

(iii) whether an inmate's indigency may allow waiver or reduction of transportation fees;

(iv) if the jail allows the waiver or reduction described in Subsection (4)(a)(iii), how indigency is determined; and

(v) the methods for collecting a transportation fee, including:

(A) whether the transportation fee is collected by the court, the jail, or another method; and

(B) methods used to collect payment of a transportation fee;

(b) the total amount of transportation fees assessed to inmates by the jail, the sentencing court, or another method;

(c) the total amount of transportation fees collected from inmates by the jail, the sentencing court, or another method;

(d) the total number of inmates that paid the amount assessed for transportation fees in full;

(e) the total number of inmates that paid the amount assessed for transportation fees in part;

(f) the total amount of unpaid transportation fees that are sent to the Office of State Debt Collection;

(g) the total amount of transportation fees that are written off as unpaid;

(h) the total amount of transportation fees assessed to inmates who are acquitted or whose charges are dismissed;

(i) the total amount of transportation fees collected from inmates who are acquitted or whose charges are dismissed;

(j) costs incurred related to administering transportation fees; and

(k) costs incurred related to collecting transportation fees.

(5) After receiving the reports described in this section, the commission shall:

(a) compile the information from the reports;

(b) omit or redact any identifying information of an inmate in the compilation, to the extent omission or redaction is necessary to comply with state or federal law; and

(c) on or before September 1, 2020, submit the compilation and all reports provided by the county jails to the Jail Incarceration and Transportation Costs Study Council created in Section 17-22-32.3.

(6) If a county jail's policies or procedures relating to restitution fees changed during the years 2018 or 2019, the county jail shall include in the county jail's report to the commission:

(a) the specific policies or procedures that changed; and

(b) a description of the changed policies and procedures as they existed in 2018.

Section 2. Section 17-22-32.3 is enacted to read:

17-22-32.3. Jail incarceration and transportation costs study -- Creation -- Membership -- Duties.

(1) There is created the Jail Incarceration and Transportation Costs Study Council under the Commission on Criminal and Juvenile Justice, consisting of the following individuals:

- 136 (a) a county jail commander or an individual representing the Utah Sheriffs'
137 Association;
- 138 (b) an individual representing the Utah Association of Counties;
- 139 (c) two district or county attorneys actively engaged in the practice of civil or
140 constitutional law as follows:
- 141 (i) one attorney representing a county of the first or second class described in Section
142 17-50-501; and
- 143 (ii) one attorney representing a county of the third, fourth, fifth, or sixth class described
144 in Section 17-50-501;
- 145 (d) two public defender coordinators as follows:
- 146 (i) one public defender coordinator from a county of the first or second class described
147 in Section 17-50-501; and
- 148 (ii) one public defender coordinator from a county of the third, fourth, fifth, or sixth
149 class described in Section 17-50-501;
- 150 (e) one individual representing the Legal Defenders Association;
- 151 (f) one individual representing the Utah Indigent Defense Commission;
- 152 (g) one individual representing the Utah Sentencing Commission; and
- 153 (h) other stakeholders, as determined by the Commission on Criminal and Juvenile
154 Justice.
- 155 (2) Following the reporting described in Section 17-22-32.2, and upon receiving the
156 reports and compilation described in Subsection 17-22-32.2(5), the council shall:
- 157 (a) provide an overview of the county jail policies and practices regarding the
158 assessment and collection of restitution fees;
- 159 (b) provide a cost benefit analysis regarding the practice of assessing and collecting
160 restitution fees;
- 161 (c) provide best practice recommendations for assessing or collecting restitution fees,
162 taking into account an inmate's:

(i) potential indigency;
(ii) opportunities or ability to post bail or bond;
(iii) time spent in custody as a result of the inmate's inability to post bail or bond; and
(iv) time spent in custody beyond what a judge would have likely imposed under the
standard sentencing matrix, due to the inmate's inability to post bail or bond; and
(d) report any additional data or findings the council finds significant.

(3) The council shall present a report of the council's findings, including any
recommendations for legislation, to the Law Enforcement and Criminal Justice Interim
Committee before November 30, 2020.

Section 3. Section **63I-2-217** is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study
Council, is repealed January 1, 2021.

~~[(1)]~~ (3) Subsection 17-27a-102(1)(b), the language that states "or a designated
mountainous planning district" is repealed June 1, 2020.

~~[(2)]~~ (4) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2020.

(b) Subsection 17-27a-103(37) is repealed June 1, 2020.

~~[(3)]~~ (5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous
planning district area" is repealed June 1, 2020.

~~[(4)]~~ (6) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2020.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, 2020.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection
(1)(a) or (c)" is repealed June 1, 2020.

~~[(5)]~~ (7) Subsection 17-27a-302(1), the language that states ", or mountainous planning
district" and "or the mountainous planning district," is repealed June 1, 2020.

~~[(6)]~~ (8) Subsection 17-27a-305(1)(a), the language that states "a mountainous

190 planning district or" and ", as applicable" is repealed June 1, 2020.

191 ~~[(7)]~~ (9) (a) Subsection [17-27a-401](#)(1)(b)(ii) is repealed June 1, 2020.

192 (b) Subsection [17-27a-401](#)(6) is repealed June 1, 2020.

193 ~~[(8)]~~ (10) (a) Subsection [17-27a-403](#)(1)(b)(ii) is repealed June 1, 2020.

194 (b) Subsection [17-27a-403](#)(1)(c)(iii) is repealed June 1, 2020.

195 (c) Subsection (2)(a)(iii), the language that states "or the mountainous planning

196 district" is repealed June 1, 2020.

197 (d) Subsection [17-27a-403](#)(2)(c)(i), the language that states "or mountainous planning

198 district" is repealed June 1, 2020.

199 ~~[(9)]~~ (11) Subsection [17-27a-502](#)(1)(d)(i)(B) is repealed June 1, 2020.

200 ~~[(10)]~~ (12) Subsection [17-27a-505.5](#)(2)(a)(iii) is repealed June 1, 2020.

201 ~~[(11)]~~ (13) Subsection [17-27a-602](#)(1)(b), the language that states "or, in the case of a

202 mountainous planning district, the mountainous planning district" is repealed June 1, 2020.

203 ~~[(12)]~~ (14) Subsection [17-27a-604](#)(1)(b)(i)(B) is repealed June 1, 2020.

204 ~~[(13)]~~ (15) Subsection [17-27a-605](#)(1), the language that states "or mountainous

205 planning district land" is repealed June 1, 2020.

206 ~~[(14)]~~ (16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed

207 June 1, 2020.

208 ~~[(15)]~~ (17) On June 1, 2020, when making the changes in this section, the Office of

209 Legislative Research and General Counsel shall:

210 (a) in addition to its authority under Subsection [36-12-12](#)(3), make corrections

211 necessary to ensure that sections and subsections identified in this section are complete

212 sentences and accurately reflect the office's understanding of the Legislature's intent; and

213 (b) identify the text of the affected sections and subsections based upon the section and

214 subsection numbers used in Laws of Utah 2017, Chapter 448.

215 ~~[(16)]~~ (18) On June 1, 2020:

216 (a) Section [17-52a-104](#) is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(2)," is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states "or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018," is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states "or, for a county under a pending process described in Section 17-52a-104, the attorney's report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018," is repealed.

~~[(17)]~~ (19) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

Section 4. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.