

Representative James A. Dunnigan proposes the following substitute bill:

CORRECTIONAL OFFICER ELIGIBILITY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jani Iwamoto

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill removes the prohibition for 19-year-olds to work as correctional officers for the Department of Corrections.

Highlighted Provisions:

This bill:

- ▶ removes the prohibition for 19-year-olds to work as correctional officers for the Department of Corrections;
- ▶ removes the repeal date from the pilot program allowing 19-year-olds to work as correctional officers;
- ▶ allows 19-year-olds to become Special Function Officers; and
- ▶ adds Special Function Officers to the list of 19-year-olds who may work as correctional officers, as long as they are also certified as correctional officers.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



26 **53-6-203**, as last amended by Laws of Utah 2021, First Special Session, Chapter 13
 27 **53-13-104**, as last amended by Laws of Utah 2019, Chapter 90
 28 **53-13-105**, as last amended by Laws of Utah 2016, Chapter 300
 29 **63I-1-253**, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307
 30 **64-13-21.5**, as last amended by Laws of Utah 1998, Chapter 282

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

32 Section 1. Section **53-6-203** is amended to read:

33 **53-6-203. Applicants for admission to training programs or for certification**
 34 **examination -- Requirements.**

35 (1) Before being accepted for admission to the training programs conducted by a
 36 certified academy, and before being allowed to take a certification examination, each applicant
 37 for admission or certification examination shall meet the following requirements:

38 (a) be either:

39 (i) a United States citizen; or

40 (ii) a lawful permanent resident of the United States who:

41 (A) has been in the United States legally for the five years immediately before the day
 42 on which the application is made; and

43 (B) has legal authorization to work in the United States;

44 (b) be at least:

45 (i) 19 years old at the time of certification as a special function officer or correctional
 46 officer; or

47 ~~(i)~~ (ii) 21 years old at the time of certification as a ~~[special function]~~ law enforcement
 48 officer; [or]

49 ~~[(ii) as of July 1, 2019, 19 years old at the time of certification as a correctional~~
 50 ~~officer;]~~

51 (c) be a high school graduate or furnish evidence of successful completion of an
 52 examination indicating an equivalent achievement;

53 (d) have not been convicted of a crime for which the applicant could have been
 54 punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of
 55 this or another state;

57 (e) have demonstrated good moral character, as determined by a background
58 investigation;

59 (f) be free of any physical, emotional, or mental condition that might adversely affect
60 the performance of the applicant's duties as a peace officer; and

61 (g) meet all other standards required by POST.

62 (2) (a) An application for admission to a training program shall be accompanied by a
63 criminal history background check of local, state, and national criminal history files and a
64 background investigation.

65 (b) The costs of the background check and investigation shall be borne by the applicant
66 or the applicant's employing agency.

67 (3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any
68 conviction obtained in this state or other jurisdiction, including a conviction that has been
69 expunged, dismissed, or treated in a similar manner to either of these procedures, may be
70 considered for purposes of this section.

71 (b) This provision applies to convictions entered both before and after the effective
72 date of this section.

73 (4) Any background check or background investigation performed under the
74 requirements of this section shall be to determine eligibility for admission to training programs
75 or qualification for certification examinations and may not be used as a replacement for any
76 background investigations that may be required of an employing agency.

77 (5) An applicant shall be considered to be of good moral character under Subsection
78 (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection
79 [53-6-211\(1\)](#).

80 (6) An applicant seeking certification as a law enforcement officer, as defined in
81 Section [53-13-103](#), shall be qualified to possess a firearm under state and federal law.

82 Section 2. Section **53-13-104** is amended to read:

83 **53-13-104. Correctional officer.**

84 (1) (a) "Correctional officer" means a sworn and certified officer employed by the
85 Department of Corrections, any political subdivision of the state, or any private entity which
86 contracts with the state or its political subdivisions to incarcerate inmates who is charged with
87 the primary duty of providing community protection.

88 (b) "Correctional officer" includes an individual assigned to carry out any of the
89 following types of functions:

90 (i) controlling, transporting, supervising, and taking into custody of persons arrested or
91 convicted of crimes;

92 (ii) supervising and preventing the escape of persons in state and local incarceration
93 facilities;

94 (iii) guarding and managing inmates and providing security and enforcement services
95 at a correctional facility; and

96 (iv) employees of the Board of Pardons and Parole serving on or before September 1,
97 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes,
98 and provide security to the Board of Pardons and Parole, and who are designated by the Board
99 of Pardons and Parole, approved by the commissioner of public safety, and certified by the
100 Peace Officer Standards and Training Division.

101 (2) (a) Correctional officers have peace officer authority only while on duty. The
102 authority of correctional officers employed by the Department of Corrections is regulated by
103 Title 64, Chapter 13, Department of Corrections - State Prison.

104 (b) Correctional officers may carry firearms only if authorized by and under conditions
105 specified by the director of the Department of Corrections or the chief law enforcement officer
106 of the employing agency.

107 (3) (a) An individual may not exercise the authority of an adult correctional officer
108 until the individual has satisfactorily completed a basic training program for correctional
109 officers and the director of the Department of Corrections has certified the completion of
110 training to the director of the division.

111 (b) An individual may not exercise the authority of a county correctional officer until:

112 (i) the individual has satisfactorily completed a basic training program for correctional
113 officers and any other specialized training required by the local law enforcement agency; and

114 (ii) the chief administrator of the local law enforcement agency has certified the
115 completion of training to the director of the division.

116 (4) (a) The Department of Corrections of the state shall establish and maintain a
117 correctional officer basic course and in-service training programs as approved by the director of
118 the division with the advice and consent of the council.

- 119 (b) The in-service training shall:
- 120 (i) consist of no fewer than 40 hours per year; and
- 121 (ii) be conducted by the agency's own staff or other agencies.
- 122 (5) The local law enforcement agencies may establish correctional officer basic,
- 123 advanced, or in-service training programs as approved by the director of the division with the
- 124 advice and consent of the council.

125 (6) ~~[(a) Beginning July 1, 2019, an]~~ An individual shall be 19 years ~~[of age]~~ old or

126 older before being certified or employed as a correctional officer under this section.

127 ~~[(b) A person under the age of 21 years who is certified as a correctional officer may~~

128 ~~only be employed in a jail facility.]~~

129 Section 3. Section **53-13-105** is amended to read:

130 **53-13-105. Special function officer.**

131 (1) (a) "Special function officer" means a sworn and certified peace officer performing

132 specialized investigations, service of legal process, security functions, or specialized ordinance,

133 rule, or regulatory functions.

134 (b) "Special function officer" includes:

- 135 (i) state military police;
- 136 (ii) constables;
- 137 (iii) port-of-entry agents as defined in Section [72-1-102](#);
- 138 (iv) authorized employees or agents of the Department of Transportation assigned to
- 139 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;
- 140 (v) school district security officers;
- 141 (vi) Utah State Hospital security officers designated pursuant to Section [62A-15-603](#);
- 142 (vii) Utah State Developmental Center security officers designated pursuant to
- 143 Subsection [62A-5-206\(8\)](#);
- 144 (viii) fire arson investigators for any political subdivision of the state;
- 145 (ix) ordinance enforcement officers employed by municipalities or counties may be
- 146 special function officers;
- 147 (x) employees of the Department of Natural Resources who have been designated to
- 148 conduct supplemental enforcement functions as a collateral duty;
- 149 (xi) railroad special agents deputized by a county sheriff under Section [17-30-2](#) or

150 17-30a-104, or appointed pursuant to Section 56-1-21.5;

151 (xii) auxiliary officers, as described by Section 53-13-112;

152 (xiii) special agents, process servers, and investigators employed by city attorneys;

153 (xiv) criminal tax investigators designated under Section 59-1-206; and

154 (xv) all other persons designated by statute as having special function officer authority
155 or limited peace officer authority.

156 (2) (a) A special function officer may exercise that spectrum of peace officer authority
157 that has been designated by statute to the employing agency, and only while on duty, and not
158 for the purpose of general law enforcement.

159 (b) If the special function officer is charged with security functions respecting facilities
160 or property, the powers may be exercised only in connection with acts occurring on the
161 property where the officer is employed or when required for the protection of the employer's
162 interest, property, or employees.

163 (c) A special function officer may carry firearms only while on duty, and only if
164 authorized and under conditions specified by the officer's employer or chief administrator.

165 (3) (a) A special function officer may not exercise the authority of a [~~peace~~] special
166 function officer until:

167 (i) the officer has satisfactorily completed an approved basic training program for
168 special function officers as provided under Subsection (4); and

169 (ii) the chief law enforcement officer or administrator has certified this fact to the
170 director of the division.

171 (b) City and county constables and their deputies shall certify their completion of
172 training to the legislative governing body of the city or county they serve.

173 (4) (a) The agency that the special function officer serves may establish and maintain a
174 basic special function course and in-service training programs as approved by the director of
175 the division with the advice and consent of the council.

176 (b) The in-service training shall consist of no fewer than 40 hours per year and may be
177 conducted by the agency's own staff or by other agencies.

178 (5) (a) An individual shall be 19 years old or older before being certified or employed
179 as a special function officer.

180 (b) A special function officer who is under 21 years old may only work as a

181 correctional officer in accordance with Section 53-13-104.

182 Section 4. Section **63I-1-253** is amended to read:

183 **63I-1-253. Repeal dates, Titles 53 through 53G.**

184 (1) Section **53-2a-105**, which creates the Emergency Management Administration
185 Council, is repealed July 1, 2022.

186 (2) Sections **53-2a-1103** and **53-2a-1104**, which create the Search and Rescue Advisory
187 Board, are repealed July 1, 2022.

188 (3) Section **53-5-703**, which creates the Concealed Firearm Review Board, is repealed
189 July 1, 2023.

190 [~~(4)~~ Subsection **53-6-203**(1)(b)(ii), regarding being 19 years old at certification, is
191 repealed July 1, 2027.]

192 [~~(5)~~ Subsection **53-13-104**(6)(a), regarding being 19 years old at certification, is
193 repealed July 1, 2027.]

194 [~~(6)~~] (4) Section **53B-6-105.5**, which creates the Technology Initiative Advisory Board,
195 is repealed July 1, 2024.

196 [~~(7)~~] (5) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

197 [~~(8)~~] (6) Section **53B-17-1203**, which creates the SafeUT and School Safety
198 Commission, is repealed January 1, 2025.

199 [~~(9)~~] (7) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

200 [~~(10)~~] (8) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed
201 July 1, 2025.

202 [~~(11)~~] (9) Subsection **53C-3-203**(4)(b)(vii), which provides for the distribution of
203 money from the Land Exchange Distribution Account to the Geological Survey for test wells
204 and other hydrologic studies in the West Desert, is repealed July 1, 2030.

205 [~~(12)~~] (10) Section **53E-3-515** is repealed January 1, 2023.

206 [~~(13)~~] (11) In relation to a standards review committee, on January 1, 2023:

207 (a) in Subsection **53E-4-202**(8), the language "by a standards review committee and the
208 recommendations of a standards review committee established under Section **53E-4-203**" is
209 repealed; and

210 (b) Section **53E-4-203** is repealed.

211 [~~(14)~~] (12) Subsections **53E-3-503**(5) and (6), which create coordinating councils for

212 youth in custody, are repealed July 1, 2027.

213 ~~[(15)]~~ (13) Section 53E-4-402, which creates the State Instructional Materials
214 Commission, is repealed July 1, 2022.

215 ~~[(16)]~~ (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory
216 Commission, is repealed July 1, 2023.

217 ~~[(17)]~~ (15) Subsection 53E-8-204(4), which creates the advisory council for the Utah
218 Schools for the Deaf and the Blind, is repealed July 1, 2021.

219 ~~[(18)]~~ (16) Section 53F-2-420, which creates the Intensive Services Special Education
220 Pilot Program, is repealed July 1, 2024.

221 ~~[(19)]~~ (17) Section 53F-5-203 is repealed July 1, 2024.

222 ~~[(20)]~~ (18) Section 53F-5-212 is repealed July 1, 2024.

223 ~~[(21)]~~ (19) Section 53F-5-213 is repealed July 1, 2023.

224 ~~[(22)]~~ (20) Section 53F-5-214, in relation to a grant for professional learning, is
225 repealed July 1, 2025.

226 ~~[(23)]~~ (21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is
227 repealed July 1, 2025.

228 ~~[(24)]~~ (22) Subsection 53F-9-203(7), which creates the Charter School Revolving
229 Account Committee, is repealed July 1, 2024.

230 ~~[(25)]~~ (23) Section 53F-9-501 is repealed January 1, 2023.

231 ~~[(26)]~~ (24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety
232 Commission, are repealed January 1, 2025.

233 ~~[(27)]~~ (25) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class
234 C misdemeanor, is repealed July 1, 2022.

235 Section 5. Section 64-13-21.5 is amended to read:

236 **64-13-21.5. Powers of correctional officers and POST certified correctional**
237 **enforcement or investigation officers.**

238 (1) Employees of the department who are designated by the executive director as
239 correctional officers may exercise the powers and authority of a ~~[peace]~~ correctional officer
240 ~~[only when]~~ as needed to properly carry out the following functions:

241 (a) performing the officer's duties within the boundaries of a correctional facility;

242 (b) supervising an offender during transportation;

243 (c) when in fresh pursuit of an offender who has escaped from the custody of the
244 department; or

245 (d) when requested to assist a local, state, or federal law enforcement agency.

246 (2) Employees of the department who are POST certified as law enforcement officers
247 or correctional officers and who are designated as correctional enforcement or investigation
248 officers have the following duties as specified by the executive director:

249 (a) providing investigative services for the department;

250 (b) conducting criminal investigations and operations in cooperation with state, local,
251 and federal law enforcement agencies; and

252 (c) providing security and enforcement for the department.

253 Section 6. **Effective date.**

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