

2015 Legislative Session

Bold Experiments in Criminal Law
(or The Unexpected Cooling of Hell)

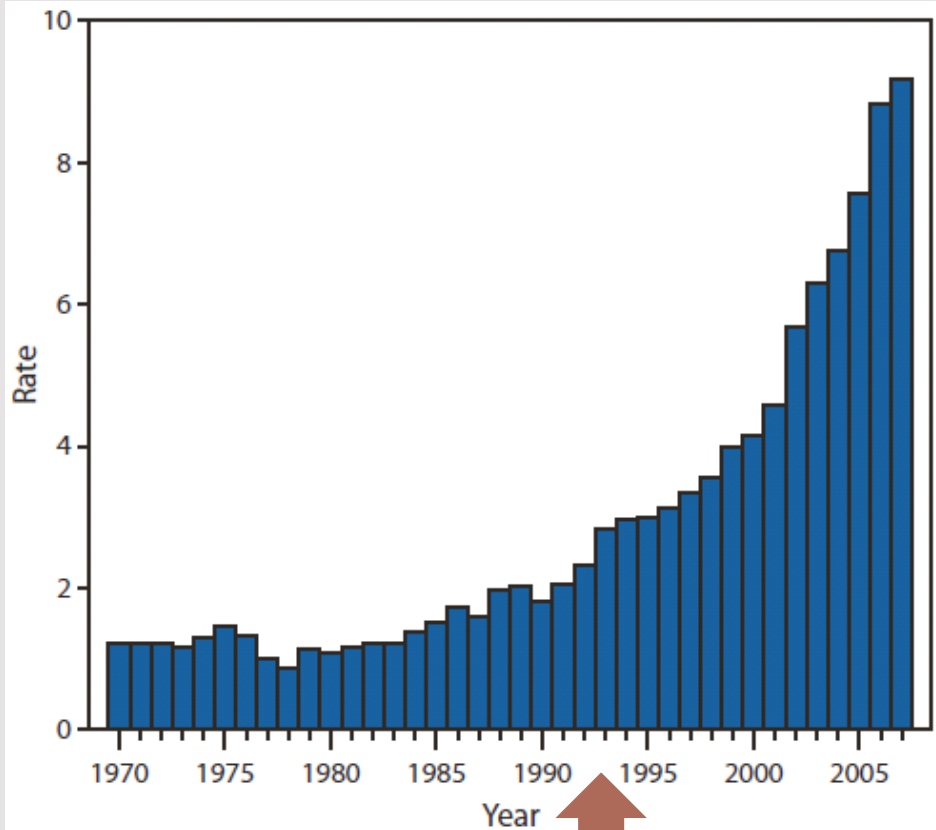


Most Bills Become Effective May 12, 2015

(unless otherwise specified)



Drug Overdose Deaths in US



ABOUT NADCP

AN ASSOCIATION OF DETERMINED PROFESSIONALS AND CITIZENS COMMITTED TO A JUSTICE SYSTEM THAT WORKS.

The National Association of Drug Court Professionals (NADCP) is a national non-profit 501(c)(3) corporation founded in 1994 by pioneers from the first twelve Drug Courts in the nation.

This extraordinary group of innovative judges, prosecutors, defense attorneys, and clinical professionals created a common-sense approach to improving the justice system by using a combination of judicial monitoring and effective treatment to compel drug-using offenders to change their lives.

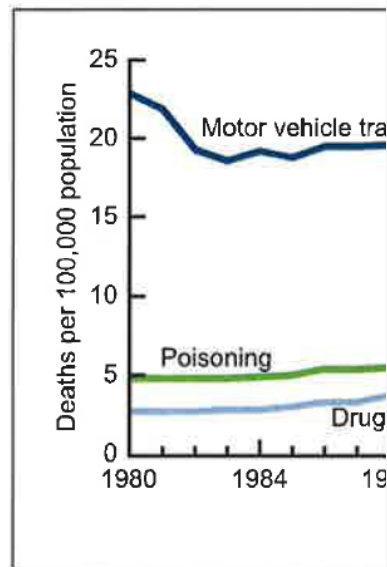
From those visionaries came the Drug Court movement and ultimately the broader "problem-solving court" principles taught in law schools and utilized in everyday court practice throughout numerous municipal, state and federal court systems nationwide. Today with 2,734 Drug Courts and another 1,122 problem-solving courts (mental health courts, community courts, reentry courts, DWI courts, etc.) in operation **in all 50 states and U.S. territories**, NADCP has forever changed the face of the justice system.

1993 – Creation of First “Drug Court” in US – Florida.

By 2013 there are 2,734 Drug Courts in All 50 States – access to drug treatment as the standard alternative to incarceration has proliferated.

Poisoning is now the leading cause of death from injuries in the United States and nearly 9 out of 10 poisoning deaths are caused by drugs.

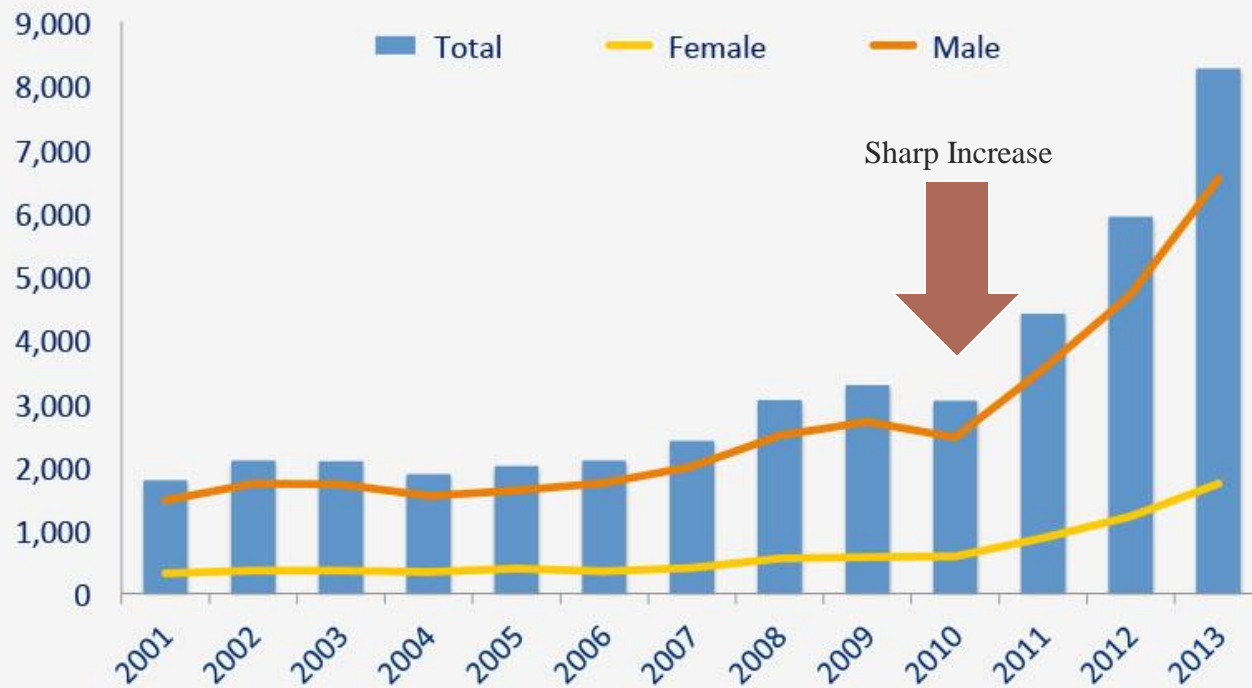
Figure 1. Motor vehicle traffic, poisoning, and drug poisoning death rates: United States, 1980–2008



NOTE: In 1999, the *International Classification of Diseases* (ICD-9). This resulted in approximately 5% of deaths being classified as poisoning-related deaths computed after 1998. Access data tab
SOURCE: CDC/NCHS, National Vital Statistics



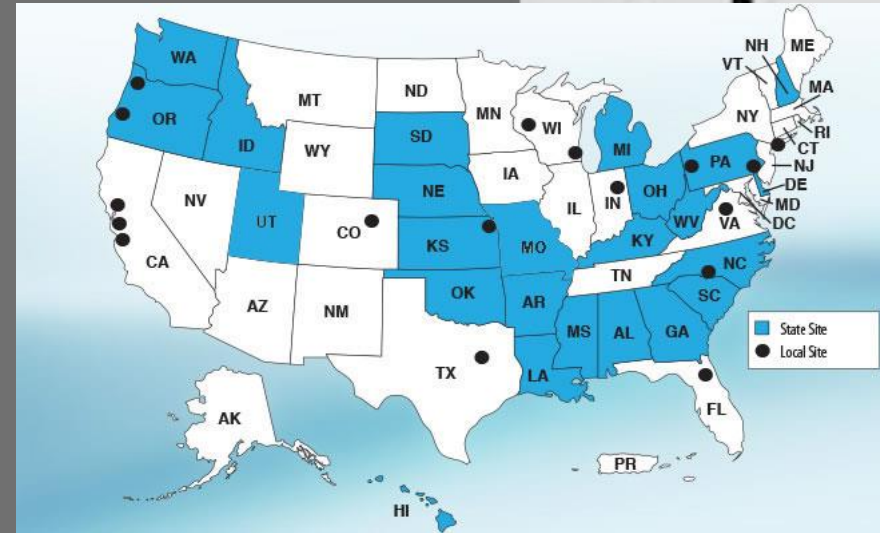
National Overdose Deaths Number of Deaths from Heroin



Source: National Center for Health Statistics, CDC Wonder

General-Fund Corrections Spending in the Year JRI Started

State	Year Started JRI	Share of Expenditures (%)	Corrections Spending
AR	2009	8	\$353,000,000
DE	2011	8	\$245,000,000
GA	2011	8	\$1,278,000,000
HI	2011	4	\$207,000,000
KS	2012	5	\$332,000,000
KY	2010	5	\$441,000,000
LA	2010	9	\$761,000,000
MO	2011	8	\$571,000,000
NH	2009	6	\$87,000,000
NC	2010	7	\$1,264,000,000
OH	2010	7	\$1,879,000,000
OK	2011	6	\$378,000,000
OR	2012	12	\$817,000,000
PA	2012	8	\$2,098,000,000
SC	2009	8	\$471,000,000
SD	2012	7	\$80,000,000
WV	2012	5	\$214,000,000



Justice Reinvestment Initiatives Begin to be Adopted Around the Nation.

Texas – 2007

Ohio – 2010



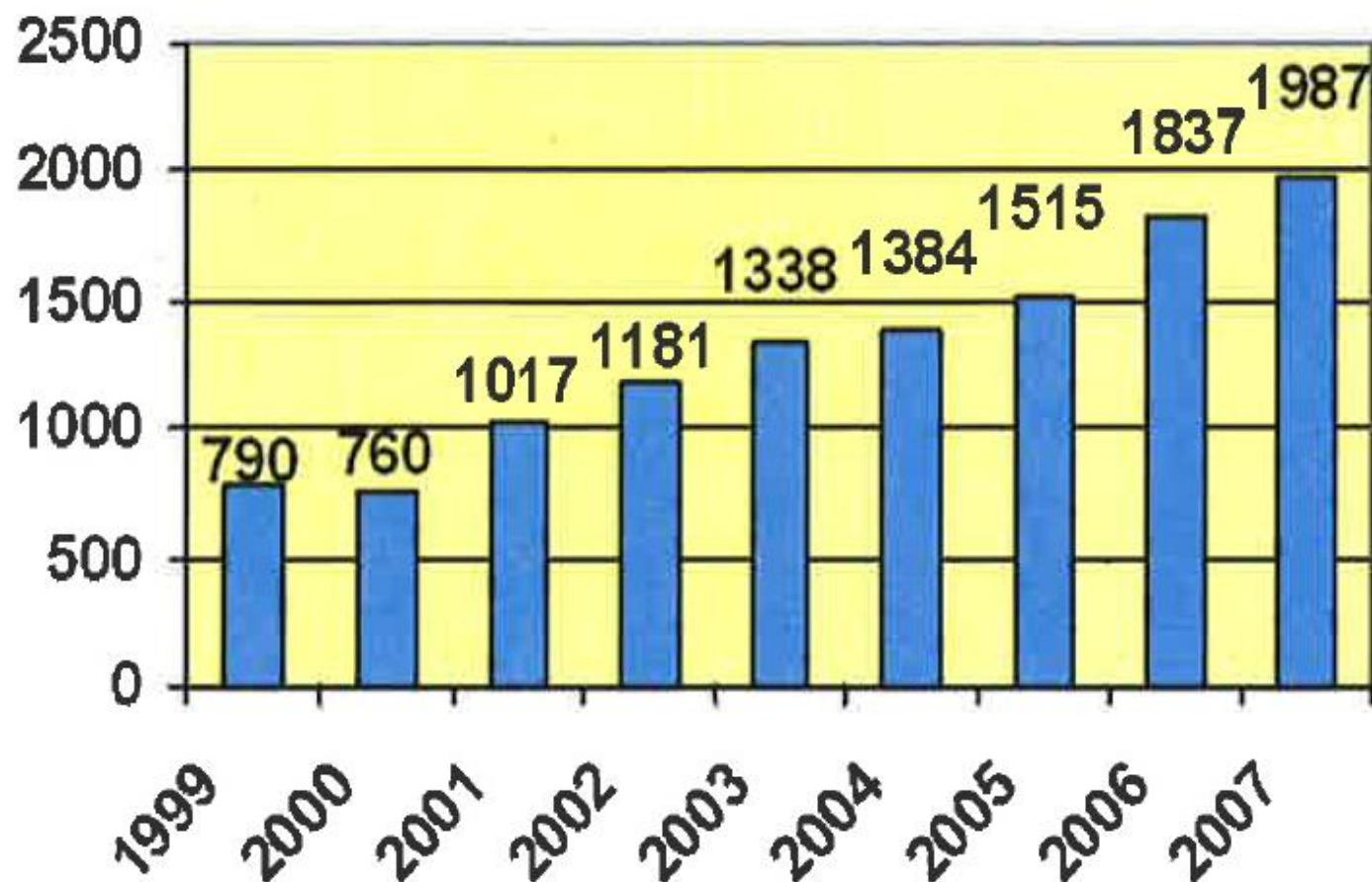
Texas Criminal Justice Coalition

A Timeline: Criminal and Juvenile Justice System Reforms

- **1993 – Birth of the State Jail:** State jail system is created to divert individuals with low-level drug offenses from long sentences in TDCJ prisons. State jails are conceptualized as a back-up sentence for individuals who do not comply with community supervision. [Over next several years, however, tens of thousands of Texans with low-level drug offenses are sentenced directly to state jail, serving over one year on average and undermining original intent of state jails.]
- **2003 – Preliminary Sentencing Reform:** Shift from tough-on-crime to smart-on-crime sentiment begins. Filed policies promote use of progressive sanctions for drug offenses involving possession of small amounts of certain controlled substances (signed into law), shortened and strengthened probation term lengths, and stronger treatment infrastructure. But state budget shortfall results in devastating cuts to probation, treatment, and parole – driving prisons to breaking point.
- **January 2007 – Alarming Prison Projections:** Texas faces projected prison population increase of up to 17,000 inmates by 2012 (in addition to nearly 6,000 beds added between 2004 and 2007) if Texas' pace of incarceration continues.
- **2007 Legislative Session – Justice Reinvestment:** Rather than agreeing to spend \$2.63 billion over five years on new prison construction and operations, policy-makers work collaboratively and diligently to reinvest fraction of this amount – \$241 million – in probation, parole, treatment beds, etc.
- **2003-2013 – Smart-on-Crime Policy Passage & Implementation:** 105 new crime-reduction strategies positively change course of criminal justice and reentry systems, resulting in taxpayer savings and falling crime rates in Texas. We are seeing a greater emphasis on indigent defense delivery, fewer probation/parole revocations, fewer persons sentenced to prison, higher parole approval rates, and historic advances in reentry.

Number of OD deaths before and after JRI in 2007

State Of Texas: Unintentional Overdose Deaths



HOUSTON

Houston no stranger to heroin addiction, deaths

By James Pinkerton | February 8, 2014 | Updated: February 9, 2014 2:48pm

Deaths in the Houston area have more than doubled over the past five years as the price of black tar has dropped dramatically, falling from \$1,350 an ounce to \$800, said Steven Whipple, associate agent in charge of the U.S. Drug Enforcement Administration.

REPORTINGTEXAS

News features from UT Austin's School of Journalism

In Plano as in New York City, Heroin Is a Killer

April 25, 2014

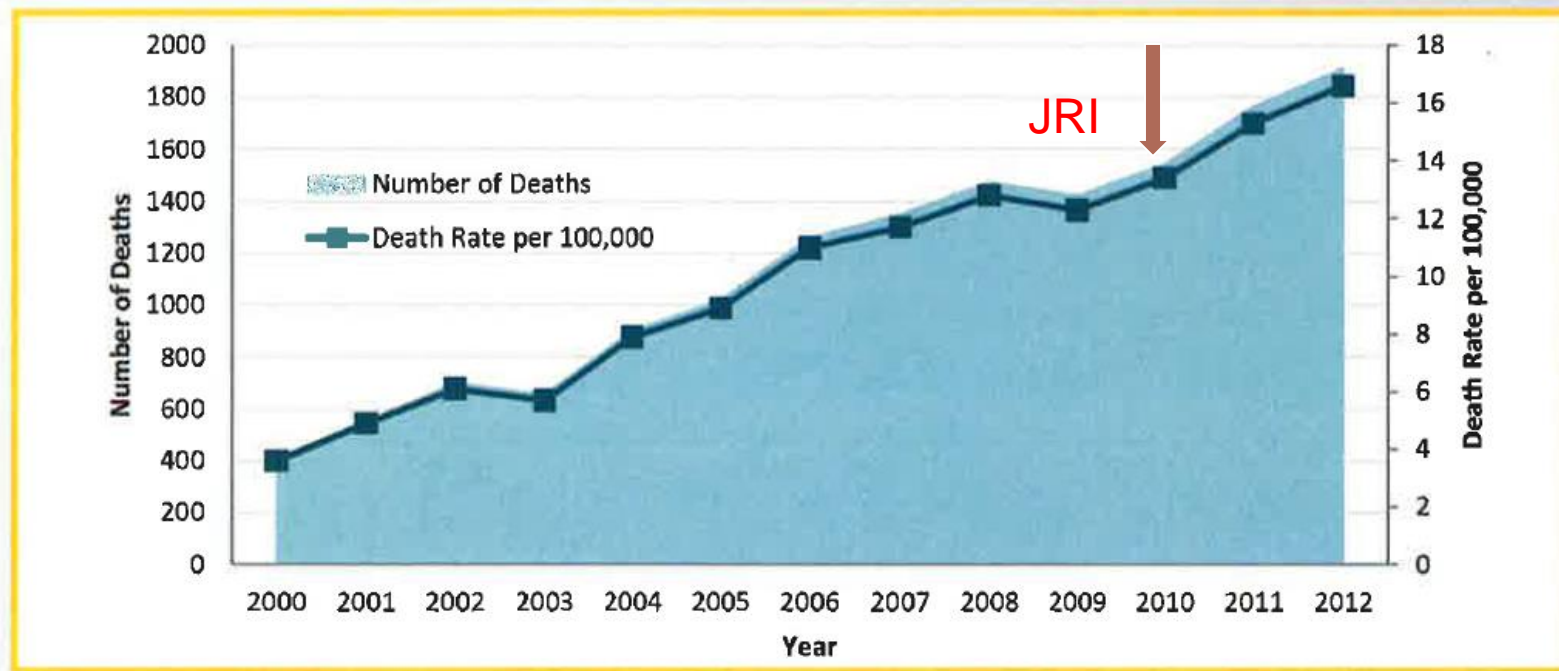
There were 371 heroin overdose deaths in Texas in 2012 compared to 111 deaths in 1999, according to the Texas Department of State Health Services. While Plano doesn't claim the bulk of these deaths – 41 Houston-area men and women died of a heroin overdose in 2013, according to the Houston Chronicle – Plano still has the reputation of being a “heroin town.”

Hoffman's death also highlighted the increased age of heroin users in America, as well as the difficulty in kicking the habit. Between 2007 and 2013, the number of heroin users grew 80 percent, from 373,000 to 669,000, according to a report from the Department of Health and Human Services. The Centers for Disease Control and Prevention reported that 3,094 people died of a heroin overdose in the United States in 2010, up 55 percent from 2000.

Post JRI (2010) – Dramatic Increase in Deaths / Addictions in Ohio

Unintentional drug overdose deaths have increased exponentially in the last decade, both nationally and statewide. In Ohio, there has been a 366% increase in drug overdose deaths from 2000 to 2012. Unintentional drug overdoses caused 1,914 deaths in 2012. Over this period of time, prescription drugs have been involved in most of the unintentional drug overdoses and have largely driven the rise in deaths. Data from 2012 reveal a significant shift in this trend, with an apparent leveling off of prescription opioid-related overdose deaths contrasted with a large increase in heroin-related deaths.

Figure 1. Number of Deaths and Death Rate Per 100,000 from Unintentional Drug Overdose by Year, Ohio Residents, 2000-2012 (Source: ODH Vital Statistics)



Post JRI (2010) – Dramatic Increase in Deaths / Addictions in Ohio

Ohio.com

Akron Beacon Journal • **Thursday, March 05, 2015**

COLUMBUS: A record number of Ohioans died from heroin-related overdoses in 2012, the State Department of Health said as it released the newest available figures for a problem that has been called an epidemic and a public health crisis.

The state says 680 people died of heroin overdoses in 2012, up from 426 deaths in 2011, a 60 percent increase, according to data being released Friday.



The heroin increase also drove the overall number of fatal drug overdoses to a record of 1,272 deaths in 2012, up from 1,154 the previous year.

Bill would make 'epic shift' in Utah's criminal justice system

By [Lisa Riley Roche](#), Deseret News

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Published: Wednesday, Feb. 18 2015 10:26 p.m. MST

Updated: Wednesday, Feb. 18 2015 10:26 p.m. MST

H.B. 348
1st Sub. (Buff)

JRI COMES TO UTAH

Summary

Rep. Eric Hutchings, R-Kearns, said his criminal justice reform bill introduced Wednesday that includes making drug possession a misdemeanor will result in an "epic shift" in how the state treats offenders.

SALT LAKE CITY — Rep. Eric Hutchings, R-Kearns, said his criminal justice reform bill introduced Wednesday that includes making drug possession a misdemeanor will result in an "epic shift" in how the state treats offenders.

Hutchings, the sponsor of **HB348**, said at a news conference that what's being called a justice reinvestment initiative has been seen as the state getting "soft on crime," but in reality, "this is Utah getting tough on criminals."

THE UTAH EXPERIMENT BEGINS

May 12, 2015 – The bulk of the bill (traffic violations etc.)

July 1, 2015 – Section 64-13e-104 takes effect (prison finance amendments)

OCTOBER 1, 2015

58-37-8 (Drug Changes)

64-13-6 (Case Action Plan – Graduated Sanctions)

64-13-14.5 (incorporate new guidelines)

64-13-21 (incorporate new guidelines)

64-13-29 (violations of probation or parole)

76-3-202 (paroled persons – new guidelines)

77-18-1 (suspension of sentence – guidelines)

77-27-10 (conditions of parole – guidelines)

77-27-11 (revocation of parole – guidelines)

CRIMINAL JUSTICE PROGRAMS AND AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: J. Stuart Adams

(226 total pages)

First 148 pages:

- REDUCE 145 driving offenses from Class C misdemeanor to Infractions.
- REDUCE 30 other driving offenses from Class B to Class C misdemeanors

(see text of bill for the 180 or so changes in these levels of offense)

4574 **58-37-8. Prohibited acts -- Penalties.**

4575 (1) Prohibited acts A -- Penalties:

4576 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and
4577 intentionally:

4590 (b) Any person convicted of violating Subsection (1)(a) with respect to:

4591 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
4592 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
4593 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
4594 subsequent conviction is guilty of a first degree felony;

First Major Change:

Distribution of or Arranging to Distribute Heroin, Cocaine,
Methamphetamine, etc., is now punishable by 0 – 15 years.

**This allows the USP to set an early parole hearing, even for distribution cases, to release drug dealers much earlier, in the rare event the defendant is actually sent to prison.

4613 (2) Prohibited acts B -- Penalties:

4614 (a) It is unlawful:

4625 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

4626 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

4627 or

4628 (ii) a substance classified in Schedule I or II, [~~marijuana, if the amount is more than 16~~

4629 ~~ounces, but less than 100 pounds,~~] or a controlled substance analog, is guilty of a class A

4630 misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty

4631 of a third degree felony[~~;~~~~or~~].

4632 [~~(iii) marijuana, if the marijuana is not in the form of an extracted resin from any part~~

4633 ~~of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class~~

4634 ~~A misdemeanor.~~]

Second Major Change:

Possession or Use of Heroin, Cocaine, Methamphetamine, etc., is now a Class A Misdemeanor Until the Third Conviction.

LETS PUT THIS IN PERSPECTIVE

H.B. 348
1st Sub. (Buff)

OTHER NOTEWORTHY STATES

7. **Alabama**— Possession of a controlled substance is a class C **felony**. (Alabama Code 13A-12-212)

- a. Schedule 2 drugs are felonies. They include:
 - i. Opium and its extracts (Alabama Statutes 20-2-25(1)(a-c))
 - ii. Cocaine (Alabama Statutes 20-2-25(1)(d))
 - iii. Methamphetamine (Alabama Statutes 20-2-23(b)(60, 70, 71, 73, 96, 146))

(JRI State)

8. **Texas**— Felony to possess more than one gram listed in Penalty Group 1. Misdemeanor if less than one gram (Texas Code 481.115)

- a. Group 1 includes:
 - i. Heroin (Texas Code 481.102(2))
 - ii. Cocaine (Texas Code 481.102(3)D)
 - iii. Methamphetamine (Texas Code 481.102(6))

(JRI State)

2-4 grams



Utah Will Have No Quantity
Trigger for a Felony

1. **Arizona**— Possessing a dangerous drug is a class 4 **felony**. Arizona Code 13-3407(B)(1)

- a. For first time offenders, using certain drugs (meth is one), the offender can be put on probation. If probation is successful, the conviction may be entered as a misdemeanor.

2. **Colorado**—Possessing a schedule 1 or 2 drug is a level 4 Drug felony.
 - a. Schedule 2 includes:
 - i. Opium and its extracts (Colorado Statutes 18-18-204(2)(a)(I)(A-F))
 - ii. Cocaine (Colorado Statutes 18-18-204(2)(a)(II))
 - iii. Methamphetamine (Colorado Statutes 18-18-204(2)(c)(II))

5. **Nevada**—Possession of a controlled substance in schedule 1 or 2 is a Class E felony (Nevada Revised Statutes 453.336)
 - a. Controlled substance by administrative code. Controlled substances include:
 - i. Heroin (Nevada Administrative Code 453.510 (3))
 - ii. Cocaine (Nevada Administrative Code 453.510 (8))
 - iii. Methamphetamine (Nevada Administrative Code 453.520 (4)(c))

Utah Now Has the Lowest Potential Penalty for Use and Possession of Hard Drugs (heroin, meth etc.) than any other State in the Nation.

4638 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
4639 substances not included in Subsection (2)(b)(i)[;] or (ii), [~~or (iii);~~] including a substance listed
4638 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
4639 substances not included in Subsection (2)(b)(i)[;] or (ii), [~~or (iii);~~] including a substance listed
4640 in Section [58-37-4.2](#), or [~~less than one ounce of~~] marijuana, is guilty of a class B misdemeanor.
4641 Upon a [~~second~~] third conviction the person is guilty of a class A misdemeanor, and upon a
4642 [~~third~~] fourth or subsequent conviction the person is guilty of a third degree felony.

Third Major Change:

The simple possession levels for Marijuana – until you get to 100 pounds of it – have been removed. All are Class B Misdemeanors, if not for distribution.

To get to a Class A, you need two prior convictions.

To get to a Third Degree, you need three prior convictions.

Other Changes

H.B. 348
1st Sub. (Buff)

4679 (3) Prohibited acts C -- Penalties:

4680 (a) It is unlawful for any person knowingly and intentionally:

4681 (i) to use in the course of the manufacture or distribution of a controlled substance a
4682 license number which is fictitious, revoked, suspended, or issued to another person or, for the
4683 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
4684 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
4685 person;

4686 (ii) to acquire or obtain possession of, to procure or attempt to procure the
4687 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
4688 be attempting to acquire or obtain possession of, or to procure the administration of any
4689 controlled substance by misrepresentation or failure by the person to disclose receiving any
4690 controlled substance from another source. fraud. forgerv. deception. subterfuge. alteration of a
4691 prescri Back to the report

→ **Utah has the Eighth Highest Drug Overdose Mortality Rate in the United States**

4693 or to u **Utah Scored Six out of 10 on New Policy Report Card of Promising Strategies to Help Curb**
4694 terms (**Prescription Drug Abuse**

4695 **Washington, D.C. October 7, 2013** - Utah has the eighth highest drug overdose mortality rate in the United
4696 States, with 16.9 per 100,000 people suffering drug overdose fatalities, according to a new report,
4697 *Prescription Drug Abuse: Strategies to Stop the Epidemic.*

4697 device The number of drug overdose deaths - a majority of which are from prescription drugs - in Utah increased by
4698 so as to 59 percent since 1999 when the rate was 10.6 per 100,000. Nationally, rates have doubled in 29 states since
4699 1999, quadrupled in four of these states and tripled in 10 more.

4700 felony.]

4701 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is

4701a ↪ [guilty of] ↩ a
4702 class A misdemeanor.

4703 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
4704 degree felony.

4705 (d) A violation of Subsection (3)(a)(iv) is a third degree felony.

**

**Forgery of Rx
to get Drugs
Now a Class A
Misdemeanor
for the first
two offenses.
Third offense
is a felony.**

4706

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act ~~[declared to be]~~ that is unlawful under ~~[this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act,]~~ Subsection (1)(a), Section 58-37a-5, or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

~~[(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);]~~

Drugs Zones ENHANCEMENTS
ONLY APPLY TO DISTRIBUTION

All Drugs Zones
Are Paired Back.

Other Changes


H.B. 348
1st Sub. (Buff)

4706 (4) Prohibited acts D -- Penalties:

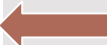
~~[(iv)]~~ (iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

~~[(v)]~~ (iv) in a public park, amusement park, arcade, or recreation center ~~↗~~ **when the public or amusement park, arcade, or recreation center is open to the public** ~~↖~~ ;

~~[(vi)]~~ (v) in or on the grounds of a house of worship as defined in Section [76-10-501](#);

~~[(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;]~~ 

~~[(viii)]~~ (vi) in or on the grounds of a library when the library is open to the public;

~~[(ix)]~~ (vii) within any area that is within ~~[1,000]~~ 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi)~~[, and (vii)]~~; 

~~[(x)]~~ (viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

All Drugs Zones
Are Paired Back.

PRACTICE TIP:

Defense counsel: Check police narratives if any enhancement for location is charged, as such enhancements should become quite rare, and must be supported by very specific documented information.

4765 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
4766 conviction that is:

4767 (i) from a separate criminal episode than the current charge; and

4768 (ii) from a conviction that is separate from any other conviction used to enhance the
4769 current charge.

Prior convictions must stem from separate criminal episodes. (State v. Hunt cannot be used to enhance).

Changes to Assessment and Sentencing of Defendants

H.B. 348
1st Sub. (Buff)

4860 **62A-15-102. Definitions.**

4861 As used in this chapter:

4862 (1) "Criminal risk factors" means a person's characteristics and behaviors that:

4863 (a) affect the person's risk of engaging in criminal behavior; and

4864 (b) are diminished when addressed by effective treatment, supervision, and other

4865 support resources, resulting in reduced risk of criminal behavior.

Section 167. Section **62A-15-103** is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(v) promote integrated programs that address an individual's substance abuse, mental health, ~~[and] physical [healthcare needs]~~ health, and criminal risk factors;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance abuse and mental illness that addresses criminal risk factors;

Changes to Assessment and Sentencing of Defendants

H.B. 348
1st Sub. (Buff)

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning; ~~and~~

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(i); and

~~(F)~~ (F) appropriate expenditure of public funds;

Changes to Assessment and Sentencing of Defendants

H.B. 348
1st Sub. (Buff)

(h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance abuse and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:

(i) collaboration with the Department of Corrections and the Utah Substance Abuse Advisory Council to develop and coordinate the standards;

(ii) determining that the standards ensure available treatment includes the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(h) in order to receive public funds allocated to the

. . . (see bill for further descriptions of
new division responsibilities, goal
setting, data collection, etc.)

Changes to Assessment and Sentencing of Defendants

(2) (a) The commission shall modify the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

Put differently, the sentencing matrix used by AP&P is lower recommended time for incarceration across the board.

Changes to Post-Sentence Violations by Defendants (when defendants 'relapse')

H.B. 348
1st Sub. (Buff)

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

- (i) who have violated one or more conditions of probation; and
- (ii) whose probation has been revoked by the court.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

- (i) who have violated a condition of parole; and
- (ii) whose parole has been revoked by the Board of Pardons and Parole.

(6) The commission shall establish graduated sanctions to facilitate the prompt and effective response to an individual's violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism, including:

- (a) sanctions to be used in response to a violation of the terms of probation or parole;
- (b) when violations should be reported to the court or the Board of Pardons and Parole;

and

- (c) a range of sanctions that may not exceed a period of incarceration of more than:
 - (i) three consecutive days; and
 - (ii) a total of five days in a period of 30 days.

See bill for more detail. The Bill limits sanctions to 3 consecutive or 5 total days jail in 1 month period – this language is used throughout.



Changes to Post-Sentence
Violations by Defendants
(when defendants 'relapse')

H.B. 348
1st Sub. (Buff)

64-13-29. Violation of parole or probation -- Detention -- Hearing.

(1) (a) The department shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the department's supervision, or the Board of Pardons and Parole in the case of parolees under the department's supervision[.] when:

(i) a sanction of incarceration is recommended; or

(ii) the department determines that a graduated sanction is not an appropriate response to the offender's violation and recommends revocation ~~of~~ probation ~~or parole.~~

Pages 183 to 207 continue other reductions in level of traffic offense.

73-18-13. Duties of operator involved in accident

(Providing false information goes from Class A to Class B)



Changes to Post-Sentence
Violations by Defendants
(when defendants 'relapse')

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or that the entire probation term commence anew.

~~[(iii) If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.]~~

(iii) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the ~~the~~ $\hat{H} \rightarrow$ [graduated sanctions] $\leftarrow \hat{H}$ guidelines established by the Utah Sentencing Commission pursuant to ~~the~~ $\hat{H} \rightarrow$ [Section 63M-7-404] Subsection 63M-7-404(4) $\leftarrow \hat{H}$, unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a risk and needs assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

****Think of this as a safety valve. OSC arguments by defense should always include reference to this section if treatment is available.**

(iv) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection 77-18-1(12)(e)(iii), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.



Credit for the time already served is not discretionary.

77-27-5.4. Earned time program.

(1) The board shall establish an earned time program that reduces the period of incarceration for offenders who successfully complete specified programs, the purpose of which is to reduce the risk of recidivism.

(2) The earned time program shall:

(a) provide not less than four months of earned time credit for the completion of the highest ranked priority in the offender's case action plan;

(b) provide not less than four months of earned time credit for completion of one of the recommended programs in the offender's case action plan; or

(c) allow the board to grant in its discretion earned time credit in addition to the earned time credit provided under Subsections (2)(a) and (b).

Your Client Will Get an Automatic 4 Months Off If
They Complete a Program

(Whatever was recommended in their Action Plan)

64-13-25. Standards for programs -- Audits.

(iii) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop and effectively distribute the standards to jails and to mental health professionals who desire to provide mental health treatment for sex offenders.

(3) The department shall establish a certification program for public and private providers of treatment for sex offenders on probation or parole that requires the providers' sex offender treatment practices meet the standards and practices established under Subsection (1)(d) to reduce sex offender recidivism.

(a) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop, coordinate, and implement the certification program.

(b) The certification program shall be based on the standards under Subsection (1)(d) and shall require renewal of certification every two years.

(Establish Certification for Sex Offender Programs)

Whew That's it for HB 348

An Experiment in Law Enforcement v. Safety Concerns

FORCIBLE ENTRY AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Bradley G. Last

77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a warrant.

(1) (a) Subject to Subsection (2), a peace officer when making an arrest may forcibly enter the building in which the person to be arrested is located, or in which there is probable cause for believing [~~him~~] the person to be.

(b) Before making the forcible entry, the officer shall:

(i) identify himself or herself as a law enforcement officer; [~~and~~]

(ii) demand admission;

Ŝ→ (iii) wait a reasonable period of time for an occupant Ŝ→ to ←Ŝ admit access; ←Ŝ and
Ŝ→ [~~(iii)~~] (iv) ←Ŝ explain the purpose for which admission is desired.

57a Ŝ→ (3) Notwithstanding any other provision of this chapter, forcible entry under this section
57b may not be made solely for the alleged:

57c (a) possession or use of a controlled substance under Section 58-37-8; or

57d (b) the possession of drug paraphernalia as defined in Section 58-37a-3. ←Ŝ

SB 82 – Forcible Entry Amendments

77-23-210. Force used in executing a search warrant -- When notice of authority is required as a prerequisite.

(1) (a) No later than July 1, 2015, any law enforcement agency that seeks a warrant under this section shall comply with guidelines and procedures which are, at a minimum, in accordance with state law and model guidelines and procedures recommended by the ~~Utah~~ **Utah Department of Public Safety] Utah Peace Officer Standards and Training Council created in Section 53-6-106** ←

(b) Written policies adopted pursuant to this section, shall be subject to public disclosure and inspection, in accordance with Title 63G, Chapter 2, Government Access and Management Act.

~~(b)~~ (3) (a) The officer may enter without notice only if:

(i) there is ~~reason~~ reasonable suspicion to believe that the notice will endanger the life or safety of the officer or another person;

(ii) there is probable cause to believe that evidence may be easily or quickly ~~secreted~~ or destroyed; or

(iii) the magistrate, having found probable cause based upon proof provided under oath, that the object of the search may be easily or quickly ~~secreted or~~ destroyed, or having found reason to believe that physical harm may result to any person if notice were given, has directed that the officer need not give notice of authority and purpose before entering the premises to be searched under ~~Rule 40,~~ the Rules of Criminal Procedure; or

The Statute
Granteth



SB 82 – Forcible Entry Amendments

88 (iv) the officer physically observes and documents a previously unknown event or
89 circumstance at the time the warrant is being executed which creates probable cause to believe
90 the object of the search is being destroyed, or creates ~~§~~→ **[reason]** **reasonable suspicion** ←~~§~~ to
90a believe that physical harm may
91 result to any person if notice were given.

92 (b) The officer shall identify himself or herself and state the purpose for entering the
93 premises as soon as practicable after entering.

94 (4) An officer executing a warrant under this section may use only that force which is
95 reasonable and necessary to execute the warrant.

96 (5) An officer executing a warrant under this section shall wear readily identifiable
97 markings, including a badge and vest or clothing with a distinguishing label or other writing
98 which indicates that he or she is a law enforcement officer. ←

99 (6) (a) An officer executing a warrant under this section shall comply with the officer's
100 employing agency's body worn camera policy when the officer is equipped with a body worn
101 camera. ←

102 (b) The employing agency's policy regarding the use of body worn cameras shall
103 include a provision that an officer ~~§~~→ **executing a warrant under this section** ←~~§~~ shall wear a
03a body worn camera when a camera is available,
104 except in exigent circumstances where it is not practicable to do so.

112 (8) Notwithstanding any provision in this chapter, a warrant ~~§~~→ **authorizing forceful**

112a **entry without prior announcement** ←~~§~~ may not be issued under

113 this section, solely for:

PRACTICE TIP: "SOLELY"

114 (a) the alleged possession or use of a controlled substance; or

115 (b) the alleged possession of drug paraphernalia as provided in Section

115a ~~§~~→ ~~[53-37a-3]~~ 58-37a-3 ←~~§~~ .

****THE BILL
LEFT OUT
ANY
REMEDY
FOR
VIOLATION**

**The Statute
Taketh Away**



SB 82 – Forcible Entry Amendments

Hypothetical:

- Law Abiding Homeowner Reports:
- Broken meth pipes next door, constant odor from meth smoke.
- Concerned for children's safety.
- Officers do investigation, see surveillance cameras on the home.
- Officer do trash pulls, and confirm meth residue.
- A source confirms that suspect uses meth, regularly smokes meth in the home, and has meth on him now.
- Officers do threat assessment, and find suspect has a violent history, including use of weapons.

Officers Executing a Warrant Must Knock and Announce and Provide Sufficient Time for Suspect to Arm Himself Before Entering.

**Ogden Incident a good example of danger this creates.*

SB 167 – Juvenile Offender Amendments (Experimenting with Juveniles)

Creates presumption of non-restraint in all juvenile matters



78A-6-122. Restraint of juveniles.

(1) As used in this section, "restrained" means the use of handcuffs, chains, shackles, zip ties, irons, straightjackets, and any other device or method which may be used to immobilize a juvenile.

**(2) ~~§~~→ The Judicial Council shall adopt rules that address the circumstances under which a juvenile may be restrained while appearing in court. The Judicial Council shall ensure that the rules consider both the welfare of the juvenile and the safety of the court. ←~~§~~ A juvenile may not be restrained during a court proceeding unless restraint is
~~§~~→ [ordered] authorized ←~~§~~ by ~~§~~→ [the court] rules of the Judicial Council ←~~§~~ .**

SB 167 – Juvenile Offender Amendments

78A-6-1111. Right to counsel -- Appointment of counsel for indigent -- Costs.

~~waive the right to counsel.]~~ (i) In cases where a minor is facing a felony level offense, the court shall appoint counsel, who shall appear until counsel is retained on the minor's behalf. The minor may not waive counsel unless the minor has had a meaningful opportunity to consult with a defense attorney. The court shall make findings on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary and the minor understands the consequences of waiving the right to counsel.

(ii) In all other situations the right to counsel may not be waived by a minor unless there has been a finding on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the minor understands the consequences of waiving the right to counsel. ←H

Enhances the Appointment of
Counsel in Juvenile Proceedings

SB 167 – Juvenile Offender Amendments

78A-6-701. Jurisdiction of district court.

(1) The district court has exclusive original jurisdiction over all persons 16 years of age or older charged with:

(a) an offense which would be murder or aggravated murder if committed by an adult;
[or]

(b) ~~[an offense which would be a felony if committed by an adult]~~ if the minor has been previously committed to a secure facility as defined in Section [62A-7-101](#) ~~[-This Subsection (1)(b) shall not apply if the offense is committed in a secure facility.],~~ a felony violation of:

(i) Section [76-6-103](#), aggravated arson;

(ii) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;

(iii) Section [76-5-302](#), aggravated kidnapping;

(iv) Section [76-6-203](#), aggravated burglary;

(v) Section [76-6-302](#), aggravated robbery;

(vi) Section [76-5-405](#), aggravated sexual assault;

(vii) Section [76-10-508.1](#), felony discharge of a firearm;

(viii) Section [76-5-202](#), attempted aggravated murder; or

(ix) Section [76-5-203](#), attempted murder; or

(c) an offense other than those listed in Subsection (1)(b) involving the use of a dangerous weapon, which would be a felony if committed by an adult, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, which also would have been a felony if committed by an adult.

Substantially narrows the use of direct filing against juvenile defendants.

SB 167 – Juvenile Offender Amendments

78A-6-702. Serious youth offender -- Procedure.

(1) Any action filed by a county attorney, district attorney, or attorney general charging a minor 16 years of age or older with a felony ~~[shall]~~ may be by criminal information and filed in the juvenile court if the minor was a principal actor in the offense and the information charges any of the following offenses:

- (a) any felony violation of:
- (i) Section 76-6-103, aggravated arson;

Encourages greater use of discretion by prosecutors -- not to file as an adult.

Adds that juvenile must have been a principal actor in the offense.

SB 167 – Juvenile Offender Amendments

Substantially
Alters the
Bindover
Decision

(c) In making the bind over determination in Subsection (3)(b), the judge shall consider only the following:

(v) whether public safety ~~[is]~~ and the interests of the minor are better served by adjudicating the minor in the juvenile court or in the district court, including whether the resources of the adult system or juvenile system are more likely to assist in rehabilitating the minor and reducing the threat which the minor presents to the public.



(e) If the juvenile court judge finds by ~~[clear and convincing]~~ a preponderance of evidence that it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court, the court shall so state in its findings and order the minor held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.

SB 167 – Juvenile Offender Amendments

Finally, it Completely Changes Framework for Imprisoning Juveniles

78A-6-705. Youth prison commitment.

(1) Before sentencing a minor who is under the jurisdiction of the district court under Section [78A-6-701](#), [78A-6-702](#), or [78A-6-703](#), to prison the court shall request a report from the Division of Juvenile Justice Services regarding the potential risk to other juveniles if the minor were to be committed to the custody of the division. The division shall submit the requested report to the court as part of the pre-sentence report or as a separate report.

(2) If, after receiving the report described in Subsection (1), the court determines that probation is not appropriate and commitment to prison is an appropriate sentence, the court shall order the minor committed to prison and the minor shall be provisionally housed in a secure facility operated by the Division of Juvenile Justice Services until the minor reaches 18 years of age, unless released earlier from incarceration by the Board of Pardons and Parole.

(3) The court may order the minor committed directly to the custody of the Department of Corrections if the court finds that:

(a) the minor would present an unreasonable risk to other ~~persons~~ **[juveniles]** while ~~in~~ in the division's custody;

(b) the minor has previously been committed to a prison for adult offenders; or

(c) housing the minor in a secure facility operated by the Division of Juvenile Justice Services would be contrary to the interests of justice.

SB 167 – Juvenile Offender Amendments

(5) When a minor is committed to prison but ordered by a court to be housed in a Division of Juvenile Justice Services facility under this section, the court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures. If a minor who is provisionally housed in a division facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 18 years of age, the division shall as soon as reasonably possible, but not later than when the minor reaches 18 years and 6 months of age, transfer the minor to the physical custody of the Department of Corrections.

(6) Upon the commitment of a minor to the custody of the Division of Juvenile Justice Services or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

(7) The Youth Parole Authority may hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the Division of Juvenile Justice Services under this section and may forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

(8) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

SB 119 – Prescription Database Revisions

Sen. Todd Weiler

[Back to the report](#)

Utah has the Eighth Highest Drug Overdose Mortality Rate in the United States

Utah Scored Six out of 10 on New Policy Report Card of Promising Strategies to Help Curb Prescription Drug Abuse

Washington, D.C. October 7, 2013 - Utah has the eighth highest drug overdose mortality rate in the United States, with 16.9 per 100,000 people suffering drug overdose fatalities, according to a new report, *Prescription Drug Abuse: Strategies to Stop the Epidemic*.

The number of drug overdose deaths - a majority of which are from prescription drugs - in Utah increased by 59 percent since 1999 when the rate was 10.6 per 100,000. Nationally, rates have doubled in 29 states since 1999, quadrupled in four of these states and tripled in 10 more.

Allows a person to request their own DOPL record to confirm information it contains.

39 **58-37f-203. Submission, collection, and maintenance of data.**

88 **58-37f-301. Access to database.**

218 (k) pursuant to a valid search warrant, federal, state, and local law enforcement
219 ~~[authorities,]~~ agencies and state and local prosecutors~~;~~ that are engaged ~~[as a specified duty of~~
220 ~~their employment in enforcing laws:]~~ in an investigation related to:
221 (i) one or more controlled substances; and
222 (ii) a specific person who is a subject of the investigation;
223 ~~[(i) regulating controlled substances;]~~
224 ~~[(ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud; or]~~
225 ~~[(iii) providing information about a criminal defendant to defense counsel, upon~~
226 ~~request during the discovery process, for the purpose of establishing a defense in a criminal~~
227 ~~case;]~~



Officers may no longer access DOPL to confirm or deny a reasonable suspicion of RX fraud to further an investigation, they must already have a completed investigation, sufficient to obtain a search warrant.

41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section [41-6a-502](#) committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:

- (a) the defendant completes court ordered probation requirements; or
- (b) (i) the prosecutor agrees as part of a negotiated plea; and
- (ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(8) The provisions of this section are not available to a person who has a prior conviction as that term is defined in Subsection [41-6a-501](#)(2).



41-6a-518. Ignition interlock devices

(c) (i) If a person is convicted of a violation of Section [41-6a-502](#) within 10 years of a prior conviction as defined in Subsection [41-6a-501](#)(2), the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section [41-6a-518.2](#).



SB 134 – Game Fowl Fighting Amendments

Sen. Gene Davis

(3 Years in the Making)



76-9-301.3. Game fowl fighting.

(1) As used in this section:

(a) "Game fowl" means a fowl reared or used for fighting other fowl.

(b) "Promote" means to engage in promoting, producing, or staging events or activities that involve game fowl fighting.

(2) It is unlawful for a person to:

(a) intentionally cause a game fowl to fight with or attack another game fowl for the purpose of entertainment, sport, or contest; or

(b) promote any activity that involves game fowl fighting, including promoting an activity that is a violation of Subsection (2)(a).

(3) A person who violates Subsection (2) is, upon conviction, guilty of:

(a) a class B misdemeanor for the first violation;

(b) a class A misdemeanor for the second violation; or

(c) a third degree felony for a third or subsequent violation.

(4) This section does not prohibit the lawful use of livestock by the livestock owner, an employee or agent of the livestock owner, or a person in the lawful custody of livestock.

HB 11 – Death Penalty Procedure Amendments

Rep. Paul Ray

48 **77-18-5.5. Judgment of death -- Method is lethal injection -- Exceptions for use of**
49 **firing squad.**

50 (1) (a) When a defendant is convicted of a capital felony and the judgment of death has
51 been imposed, lethal intravenous injection is the method of execution.

52 ~~[(2)]~~ (b) Subsection (1)(a) applies to any defendant sentenced to death on or after May
53 3, 2004, except under Subsections (2), (3), and (4).

54 ~~[(3)]~~ (2) If a court holds that a defendant has a right to be executed by a firing squad,
55 the method of execution for that defendant shall be a firing squad. This Subsection ~~[(3)]~~ (2)
56 applies to any defendant whose right to be executed by a firing squad is preserved by that
57 judgment.

58 ~~[(4)]~~ (3) (a) If a court holds that execution by lethal injection is unconstitutional on its
59 face, the method of execution shall be a firing squad.

60 (b) If a court holds that execution by lethal injection is unconstitutional as applied, the
61 method of execution for that defendant shall be a firing squad.

62 (4) The method of execution for the defendant is the firing squad if the sentencing
63 court determines the state is unable to lawfully obtain the substance or substances necessary to
64 conduct an execution by lethal intravenous injection 30 or more days prior to the date specified
65 in the warrant issued upon a judgment of death under Section [77-19-6](#).

66 Section 3. Section **77-19-10** is amended to read:



HB 48 – Powdered Alcohol Amendments

Rep. Steve Eliason



25 **32B-4-424. Powdered alcohol.**

26 (1) As used in this section, "powdered alcohol" means a product that is in a powdered
27 or crystalline form and contains any amount of alcohol.

28 (2) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell,
29 offer to sell, furnish, or possess powdered alcohol for human consumption.

30 (3) It is unlawful for a holder of a retail license to use powdered alcohol as an alcoholic
31 product.

32 (4) This section does not apply to the use of powdered alcohol for a commercial use
33 specifically approved by state law or bona fide research purposes by a:

34 (a) health care practitioner that operates primarily for the purpose of conducting
35 scientific research;

36 (b) department, commission, board, council, agency, institution, division, office,
37 committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the
38 state, including a state institution of higher education listed in Section [53B-2-101](#);

39 (c) private college or university research facility; or

40 (d) pharmaceutical or biotechnology company.

HB 74 - Consent Definitions for Sexual Offenses

Rep. Angela Romero



THIS IS NOT CONSENT


HB 74 - Consent Definitions for Sexual Offenses

Rep. Angela Romero

30 **76-5-406. Sexual offenses against the victim without consent of victim --**

31 **Circumstances.**

32 An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a
33 child, object rape, attempted object rape, object rape of a child, attempted object rape of a
34 child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a
35 child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse,
36 sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child,
37 attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the
38 victim under any of the following circumstances:

39 --  (5) ~~[the victim has not consented and]~~ the actor knows the victim is unconscious,
53 unaware that the act is occurring, or physically unable to resist;

54 (6) the actor knows that ~~H~~→ [H] **as a result of mental disease or defect, [H] or for any**
54a **other reason** ←H the victim is at the
55 time of the act incapable either of appraising the nature of the act or of resisting it;

HB 79 – Safety Belt Law Amendments

Rep. Lee Perry

41-6a-1803. Driver and passengers -- Seat belt or child restraint device required.

(1) (a) The operator of a motor vehicle operated on a highway shall:

(i) wear a properly adjusted and fastened safety belt;

(2) A ~~[passenger who is]~~ person 16 years of age or older ~~[of]~~ who is a passenger in a motor vehicle operated on a highway shall wear a properly adjusted and fastened safety belt.

(3) If more than one person is not using a child restraint device or wearing a safety belt in violation of Subsection (1), it is considered only one offense, and the driver may receive only one citation for that offense.

↗ [H] (4) ~~[For]~~ Beginning on July 1, 2018, and for a person 19 years of age or older who violates Subsection (1)(a)(i) or (2), enforcement by a state or local law enforcement officer shall be only as a secondary action when the person has been detained for a suspected violation of Title 41, Motor Vehicles, other than Subsection (1)(a)(i) or (2), or for another offense. [H] ← ↗

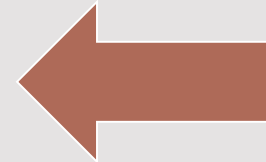
41-6a-1805. Penalty for violation.

↗ (b) Until July 1, 2018, a peace officer may not issue a citation to an individual for a violation of this section if the person has not previously been warned for a violation of this section but shall issue the individual a warning informing the individual that operating or being a passenger in a vehicle without wearing a properly adjusted and fastened safety belt is prohibited.

~~[(b)]~~ (c) ← ↗ The court shall waive all ~~[but \$15]~~ of the fine for a violation of Section 41-6a-1803 if a person:

(i) shows evidence of completion of a ~~[two-hour]~~ 30 minute course approved by the commissioner of the Department of Public Safety that includes education on the benefits of using a safety belt ~~[and]~~ or child restraint device; and

Don't write that
ticket just yet,
officer . . .



HB 83 – Crimes Against Health Care Providers in Correction System

100 **76-5-102.6. Propelling substance or object at a correctional or peace officer --**

101 **Penalties.**

102 ~~§→ [(1) As used in this section, "health care provider" means the same as that term is~~
103 ~~defined in Section 78B-3-403, but does not include an athletic trainer.~~

104 ~~——[f] (1) [f-(2)] ←§~~ Any prisoner or person detained pursuant to Section 77-7-15 who throws
104a or
105 otherwise propels any substance or object at a peace ~~[or] officer, a correctional officer, or~~ §→ ~~[a~~
106 ~~health care provider]~~ an employee or volunteer, including a health care provider ←§₂ is guilty
106a of a class A misdemeanor, except as provided under Subsection
107 (2).

108 ~~§→ [f] (2) [f-(3)] ←§~~ A violation of Subsection ~~§→ [f] (1) [f-(2)] ←§~~ is a third degree
108a felony if:

109 (a) the object or substance is:

110 (i) blood, urine, or fecal material;

111 (ii) an infectious agent as defined in Section 26-6-2 or a material that carries an
112 infectious agent;

113 (iii) vomit or a material that carries vomit; or

73 **76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and**
74 **electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

81 (b) (i) "Face-to-face exchange" means a transaction made in person between an
82 individual and a retailer or retailer's employee.

83 (ii) "Face-to-face exchange" does not include a sale through a:

84 (A) vending machine; or

85 (B) self-service display.

146 (4) An individual who is less than 19 years old may not enter or be present at a tobacco
147 specialty shop unless the individual is:

148 (a) accompanied by a parent or legal guardian;

149 (b) present at the tobacco shop for a bona fide commercial purpose other than to
150 purchase a cigarette, tobacco, or an electronic cigarette; or

151 (c) 18 years old or older and an active duty member of the United States Armed Forces,
152 as demonstrated by a valid, government-issued military identification card.

153 (5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual
154 into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the
155 individual to purchase a cigarette, tobacco, or an electronic cigarette product.

156 (6) ~~[Violation]~~ A violation of Subsection (2) or ~~[(3)]~~ (4) is a:

157 (a) class C misdemeanor on the first offense;

158 (b) class B misdemeanor on the second offense; and

159 (c) class A misdemeanor on the third and all subsequent offenses.

HB 146 – Driving Under the Influence Revisions

28 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
29 **drugs, or a combination of both violations.**

This additional language is meant to discourage defendants from delaying a current DUI case beyond 10 years from a previous conviction.

50 (2) If a person [~~is convicted under Section 41-6a-502 within 10 years of a prior~~
51 ~~conviction as defined in Subsection 41-6a-501(2)]~~ has a prior conviction as defined in
52 Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section
53 41-6a-502 or the commission of the offense upon which the current conviction is based:
54 (a) the court shall:
55 (i) (A) impose a jail sentence of not less than 240 consecutive hours;

HB 184 – Victim Restitution Amendments

63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment of claim for restitution judgment to Reparations Office.

(3) If, due to reparation payments to a victim, the Utah Office for Victims of Crime is assigned under Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the restitution, the office may file with the sentencing court a notice of ~~[the assignment -- notice of assignment shall be signed by the victim and a reparations officer and affidavit detailing the specific amounts of pecuniary damages paid on be. copy of the notice of assignment and affidavit shall be mailed by certified at his last known address 20 days prior to sentencing, entry of any judgment or order of restitution, or modification of any existing judgment or order of restitution.]~~ restitution listing the amounts or estimated future amounts of payments made or anticipated to be made to or on behalf of the victim. The Utah Office for Victims of Crime may provide a restitution notice to the victim or victim's representative prior to or at sentencing. The amount of restitution sought by the office may be updated at any time, subject to the right of the defendant to object. Failure to provide the notice may not invalidate the imposition of the judgment or order of restitution provided the defendant is given the opportunity to object and be heard as provided in this chapter. Any objection by the defendant to the imposition or amount of restitution shall be made at the time of sentencing or in writing within 20 days of ~~the receipt of notice~~ [sentencing] ~~the Utah Office for Victims of Crime.~~ Upon the filing of the objection, the court shall allow the defendant a full hearing on the issue as provided by Subsection 77-38a-302(4).

(4) If no objection is made or filed by the defendant, then upon conviction and sentencing, the court shall enter a judgment for ~~the complete~~ [complete] ~~the court-ordered~~ [court-ordered] restitution pursuant to the provisions of Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned portion of the judgment and order of restitution.

(14) (a) "Victim" means any person ~~[whom]~~ or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.

HB 214 – Misrepresentation of Telephone & Text

76-10-1802. Misrepresentation of call or text communication identification.

(1) As used in this section:

(a) "Caller or text message identification information" means information provided by a caller identification service or text message service regarding the telephone number or other information regarding the origination of a call or text message made using a telecommunications service or VoIP voice service.

(2) It is unlawful for any person or individual, in connection with any telecommunications service or VoIP voice service, to knowingly cause any caller identification service or text message service to transmit false, misleading, or inaccurate caller or text message identification information $\hat{H} \rightarrow$:

(a) $\leftarrow \hat{H}$ with the intent to $\hat{H} \rightarrow$ [deceive] harm $\leftarrow \hat{H}$ the recipient of the call or text message $\hat{H} \rightarrow$; or

(b) to a public safety answering point when reporting an emergency $\leftarrow \hat{H}$.

(3) This section does not prevent or restrict any person or individual from blocking the capability of any caller or text message identification service to transmit caller or text message identification information.

(5) Each separate call $\hat{H} \rightarrow$ [message,] $\leftarrow \hat{H}$ or text message transmitted in violation of this section is $\hat{H} \rightarrow$:

(a) for a first violation, a class C misdemeanor; and

(b) for a second or subsequent violation, $\leftarrow \hat{H}$ a class B misdemeanor.

(6) Violations may be enforced in a civil action initiated by the recipient of a call, message, or text message made in violation of this section, a criminal action initiated by a prosecuting attorney, or both.



HB 215 – Sex Offender Registry Amendments

302

77-41-102. Definitions.

~~[(16)]~~ (17) "Sex offender" means any person:

(b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection ~~[(16)]~~ (17)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) who is required to register as ~~[an]~~ a sex offender in any other jurisdiction~~[, or]~~ of original conviction, who is required to register as ~~[an]~~ a sex offender by any state, federal, or military court, or who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

Same Language Applies to Kidnap Offender

HB 238 – License Plate Obstruction Amendments

41-1a-404. Location and position of plates -- Visibility of plates -- Exceptions.

(1) License plates issued for a vehicle other than a motorcycle, trailer, or semitrailer

shall be attached to the vehicle, one in the front and the other in the rear.

(2) The license plate issued for a motorcycle, trailer, or semitrailer shall be attached to the rear of the motorcycle, trailer, or semitrailer.

(3) ~~Every~~ Except as provided in Subsection (5), a license plate shall at all times be:

(a) securely fastened:

(5) The provisions of Subsections (3)(a)(iii) and (3)(b) do not apply to a license plate that is obscured exclusively by one or more of the following devices or by the cargo the device is carrying, if the device is installed according to manufacturer specifications or generally accepted installation practices:

(a) a trailer hitch;

(b) a wheelchair lift or wheelchair carrier;

(c) a trailer being towed by the vehicle;

(d) a bicycle rack, ski rack, or luggage rack; or

(e) a similar cargo carrying device.

HB 252 – Human Trafficking Amendments

29 **76-5-308.5. Human trafficking of a child -- Penalties.**

30 (1) "Commercial sexual activity with a child" means any sexual act

30a ~~that~~ **with a child** ~~that~~, on account of

31 which anything of value is given to or received by any person.

32 (2) An actor commits human trafficking of a child if the actor recruits, harbors,

33 transports, or obtains a child for ~~that~~ **sexual exploitation or forced** ~~that~~ labor ~~that~~ **[or sexual**
33a **exploitation]** ~~that~~.

34 (3) (a) Human trafficking of a child for ~~that~~ **forced** ~~that~~ labor includes labor in
34a industrial facilities,

35 sweatshops, households, agricultural enterprises, ~~that~~ **[and] or** ~~that~~ any other workplace.

36 (b) Human trafficking of a child for sexual exploitation includes all forms of
37 commercial sexual activity with a child, including sexually explicit performance, prostitution,
38 participation in the production of pornography, performance in a strip club, and exotic dancing
39 or display.

40 (4) Human trafficking of a child in violation of this section is a first degree felony.

41 Section 2. Section **76-5-309** is amended to read:

61 **76-5-310. Aggravated human trafficking and aggravated human smuggling --**
62 **Penalties.**

82 ~~[(2) An actor commits aggravated human trafficking for forced labor or forced sexual~~
83 ~~exploitation if the actor recruits, harbors, transports, or obtains a child for forced labor or~~
84 ~~forced sexual exploitation.]~~

HB 254 – Livestock Branding Amendments

4-24-16.3. Livestock emergency -- Rules.

(1) As used in this section, "livestock emergency" means:

(a) the presence of a contagious, infectious, or transmissible disease risk to livestock;

or

(b) a natural disaster which may effect livestock.

(2) During a livestock emergency, the department may require a person transporting

livestock to present the livestock for brand inspection.

4-24-31. Websites promoting the sale of livestock.

(1) A website, created and maintained within the state, that markets the sale of livestock shall have the following statement clearly visible on each web page that displays advertised livestock: "Legality of Sales and Purchase, Health Laws. If you sell or purchase livestock on this site, you shall comply with all applicable legal requirements governing the transfer and shipment of livestock, including Utah Code Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, and Title 4, Chapter 31, Control of Animal Disease. Please contact the Utah Department of Agriculture and Food at 801-538-7137 with any questions."

(2) A person who violates this section shall be subject to the penalties described in Section 4-24-32.

4-24-32. Penalties.

A person who violates a provision of this chapter:

(1) is guilty of a class B misdemeanor; and

(2) may be subject to administrative fines, payable to the department, of up to \$1,000



Uh Oh

Rep. Michael Noel

HB 254 – Livestock Branding Amendments

Previous Chapter (4-23)

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Next Chapter (4-25) >>

[Index](#) [Utah Code](#)

[Title 4](#) [Utah Agricultural Code](#)

[Chapter 24](#) [Utah Livestock Brand and Anti-Theft Act](#)

Any Violation of this Chapter is
Now a Class B Misdemeanor

[Section 1](#) [Short title.](#)

[Section 2](#) [Definitions.](#)

[Section 3](#) [Department authorized to make and enforce rules.](#)

[Section 4](#) [Livestock Brand Board created – Composition – Terms – Removal – Quorum for transaction of business – Compensation – Duties.](#)

[Section 5](#) [Central Brand and Mark Registry – Division of state into mark districts – Identical or confusingly similar brands – Publication of registered brands and marks.](#)

[Section 6](#) [State may be divided into brand inspection districts – Description filed with county clerk and sheriff.](#)

[Section 7](#) [Recordation of brand or mark.](#)

[Section 8](#) [Fees for recordation, transfer, renewal, and certified copies of brands and marks.](#)

[Section 9](#) [Effect of recorded brand or mark – Transfer – Reservation of certain brands.](#)

[Section 10](#) [Livestock on open range or outside enclosure to be marked or branded – Cattle upon transfer of ownership to be marked or branded – Exceptions.](#)

[Section 11](#) [Certificate of brand inspection necessary to effectuate change of ownership – Exception.](#)

[Section 12](#) [Livestock – Verification of ownership through brand inspection – Issuance of certificate of brand inspection – Brand inspector may demand evidence of ownership – Brand inspection of livestock seized by the federal government prohibited – Exception.](#)

[Section 13](#) [Brand inspection required prior to slaughter – Exceptions.](#)

[Section 14](#) [Transportation by air or rail – Brand inspection required – Application for brand inspection – Time and place of inspection.](#)

[Section 15](#) [Movement across state line – Brand inspection required – Exception – Application for brand inspection – Time and place of inspection.](#)

[Section 16](#) [Transportation of cattle and calves between brand inspection districts – Brand inspection required – Exception – No fee for reinspection – Application for brand inspection – Time and place of inspection – Applicability to horses and mules.](#)

[Section 17](#) [Transportation of sheep, cattle, domesticated elk, horses, or mules – Brand certificate or other evidence of ownership required – Transit permit – Contents.](#)

[Section 18](#) [Hides and pelts – Bill of sale to accompany purchase – Purchaser to maintain records – Hides and records examination and inspection.](#)

[Section 19](#) [Livestock markets – Records to be maintained – Retention of records – Schedule of fees and charges to be posted.](#)

[Section 20](#) [Livestock sold at market to be brand inspected – Proceeds of sale may be withheld – Distribution of withheld proceeds – Effect of receipt of proceeds by department – Deposit of proceeds – Use of proceeds if ownership not established.](#)

[Section 21](#) [Brand inspection fees.](#)

[Section 22](#) [Travel permit in lieu of brand inspection certificate – Fees – Permit to accompany animal.](#)

[Section 23](#) [Lifetime permit in lieu of brand inspection certificate – Fees – Permit to accompany animal – Transfer.](#)

[Section 24](#) [Utah Livestock Brand and Anti-Theft Account created – Deposit of fees – Purpose of expenditures.](#)

[Section 25](#) [Unlawful acts specified – Allegation concerning evidence of ownership relative to hides.](#)

[Section 26](#) [Use of vehicle to transport stolen livestock prohibited – Vehicle subject to seizure and sale – Procedure for sale – Defense.](#)

[Section 28](#) [Enforcement – Brand inspector's powers delineated.](#)

[Section 29](#) [Commissioner authorized to cooperate with local governments, other states, or federal government in enforcement.](#)

[Section 30](#) [Commission to appoint supervisor for brand inspection – Appointment subject to approval – Salary.](#)

HB 284 – Minor Alcohol or Drug Offense & Driving Privileges

(3) (a) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the suspension period under Subsection [53-3-220\(1\)\(e\)](#) or [78A-6-606\(2\)\(d\)](#) if:

- (i) the violation is the minor's first violation of Section [32B-4-411](#); and
- (ii) (A) the minor completes an educational series as defined in Section [41-6a-501](#); or
(B) the minor demonstrates substantial progress in substance abuse treatment.

(b) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the suspension period under Subsection [53-3-220\(1\)\(e\)](#) or [78A-6-606\(2\)\(d\)](#) if:

- (i) the violation is the minor's second or subsequent violation of Section [32B-4-411](#);
- (ii) the person has completed an educational series as defined in Section [41-6a-501](#) or demonstrated substantial progress in substance abuse treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [53-3-220\(1\)\(e\)](#) or [78A-6-606\(2\)\(d\)](#); or

(B) the minor is under 18 years of age and has the minor's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [53-3-220\(1\)\(e\)](#) or [78A-6-606\(2\)\(d\)](#).

***This long bill also makes many new assessment / treatment requirements for various drug / alcohol crimes by minor, depending on their age. See bill.

Rep. Edward Redd

63G-18-103. Unmanned aircraft system use requirements -- Exceptions --

Testing.

(1) A law enforcement agency may not obtain, receive, or use data acquired through an unmanned ~~[aerial vehicle]~~ aircraft system unless the data is obtained:

- (a) pursuant to a search warrant;
- (b) in accordance with judicially recognized exceptions to warrant requirements; ~~[or]~~
- (c) subject to Subsection (2), from a person who is a nongovernment actor~~[-]~~;
- (d) at a testing site; or
- (e) to locate a lost or missing person in an area in which a person has no reasonable

expectation of privacy.

****Curious Result – While Law Enforcement Can Enter An Area Where There is a Reasonable Expectation of Privacy in an Emergency Situation, this Bill Prohibits use of a Drone in the Same Situation (even if it were to save a life).**

HB 300 – Firearm & Dangerous Weapons Amendments

76-10-501. Definitions.

~~[(b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which~~

~~is unloaded and is securely encased.]~~

↗ (b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part. ↖

76-10-504. Carrying concealed firearm -- Penalties.

(1) Except as provided in Section 76-10-503 and in Subsections (2), (3), and (4), a person who carries a concealed ~~[dangerous weapon]~~ firearm, as defined in Section 76-10-501, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.

↗ Section 4. Section 76-10-507 is amended to read:

76-10-507. Possession of deadly weapon with criminal intent.

Every person having upon his person ~~[any]~~ a dangerous weapon with intent to ~~[unlawfully assault another]~~ use it to commit a criminal offense is guilty of a class A misdemeanor. ↖



HB 353 – Probation Amendments

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation --

Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(b) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

HB 361 – Investigation Protocols for Peace Officer Use of Force

76-2-408. Peace officer use of force -- Investigations.

This bill:

- ▶ requires the chief executive of a law enforcement agency to work with the district or county attorney to designate an agency to investigate instances of a peace officer use of force;
- ▶ requires that the investigating agency not be the agency where the officer is employed; and
- ▶ requires each law enforcement agency to adopt and post by December 31, 2015:
 - the policies and procedures the agency has adopted to select the investigating agency if an officer involved critical incident occurs in its jurisdiction
 - the protocols the agency has adopted to ensure that any investigation of officer involved incidents occurring in its jurisdiction are conducted professionally, thoroughly, and impartially.

HB 361 – White Collar Crime Registry

77-42-101. Title.

This chapter is known as the "Utah White Collar Crime Offender Registry."

- ▶ authorizes the Office of the Attorney General to develop, operate, and maintain the Utah White Collar Crime Offender Registry website;
- ▶ provides the manner and process by which the Office of the Attorney General disseminates information from the Utah White Collar Crime Offender Registry website to the public, including the type of information that will be provided;
- ▶ provides the offenses for which a person must be registered with the Utah White Collar Crime Offender Registry website;
- ▶ provides that offenders who were convicted of the specified offenses between December 31, 2005 and the time this bill is enacted will not be placed on the Utah White Collar Crime Offender Registry if they:
 - have complied with all court orders;
 - have paid all restitution claims; and
 - have not been convicted of any other offenses for which registration would be required;
- ▶ provides the duration for which offenders will be placed on the Utah White Collar Crime Offender Registry;
- ▶ provides rulemaking authority for the Office of the Attorney General to implement the Utah White Collar Crime Offender Registry; and
- ▶ provides the process and conditions under which a person may petition to have his or her name and information removed from the Utah White Collar Crime Offender Registry.

SB 52 – Asset Forfeiture Amendments

This bill:

- ▶ deletes current provisions regarding forfeiture reports;
- ▶ establishes detailed requirements for law enforcement agencies to prepare reports providing information regarding any forfeiture actions the agencies have taken;
- ▶ requires agency reports regarding any awards received under the State Asset Forfeiture Grant Program; and
- ▶ establishes a procedure for the compilation of the annual agency reports, the preparation of the reports by the Commission on Criminal and Juvenile Justice, and distribution of the reports to the Legislature.

- Reporting begins January 1, 2016
- CCJJ will develop a standardized form to use between now and then (electronic)
- Data will be gleaned from the disposition document sent to the agency (whether that be a default, stipulation, judgment).
- Your asset forfeiture official will want to become familiar with this bill.

SB 59 – Domestic Violence Amendments

77-36-1.2. Acceptance of a plea of guilty or no contest to domestic violence --

Restrictions.

(1) For purposes of this section, "qualifying domestic violence offense" means:

(a) a domestic violence offense in Utah; or

(b) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) For purposes of this section ~~§~~→ and Section 77-36-1.1 ←~~§~~, a plea of guilty or no contest to any domestic violence offense in Utah, which plea is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) (a) Before agreeing to a plea of guilty or no contest or to filing an information, the prosecutor shall examine the criminal history of the defendant.

(b) The court may not accept a plea of guilty or no contest to a domestic violence offense, unless:

(i) the prosecutor agrees to the plea:

(A) in open court;

(B) in writing; or

(C) by another means of communication that the court finds adequate to record the prosecutor's agreement; or

(ii) (A) the domestic violence offense is filed by information;

(B) the court receives a copy of the defendant's criminal history; and

(C) the criminal history contains no record of a conviction ~~§~~→ [~~arrest~~] ←~~§~~ or ~~§~~→ a pending ←~~§~~ charge of a qualifying domestic violence offense within five years before the date on which the plea is entered.

(c) A plea of guilty or no contest is not made invalid by the failure of a court, a prosecutor, or a law enforcement agency to comply with this section.

26 **76-5-501. Definitions.**

27 For purposes of this part:

28 (1) "Alleged sexual offender" means a person or a minor regarding whom an
29 indictment, petition, or an information has been filed or an arrest has been made alleging the
30 commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part
31 4, Sexual Offenses, and regarding which:

32 (a) a judge has signed an accompanying arrest warrant, pickup order, or any other order
33 based upon probable cause regarding the alleged offense; and

34 (b) the judge has found probable cause to believe that the alleged victim has been
35 exposed to conduct or activities that may result in an HIV infection as a result of the alleged
36 offense.

SB 115 – Assault Offenses Amendments

Sen. Daniel Thatcher

76-5-102. Assault -- Penalties.

(1) Assault is:

(a) an attempt, with unlawful force or violence, to do bodily injury to another; or

~~[(b) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or]~~

~~[(c)]~~ (b) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.

76-5-103. Aggravated assault -- Penalties.

~~[(1) A person commits aggravated assault if the person commits assault as defined in Section 76-5-102 and uses:]~~

(1) Aggravated assault is an actor's conduct:

(a) that is:

(i) an attempt, with unlawful force or violence, to do bodily injury to another;

(ii) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(iii) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another; and

(b) that includes the use of:

~~[(a)]~~ (i) a dangerous weapon as defined in Section 76-1-601; or

~~[(b)]~~ (ii) other means or force likely to produce death or serious bodily injury.

76-5-107. Threat of violence -- Penalty.

(1) A person commits a threat of violence if:

(a) the person threatens to commit any offense involving bodily injury, death, or substantial property damage, and acts with intent to place a person in fear of imminent serious bodily injury, substantial bodily injury, or death[-]; or

(b) the person makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another.

(2) A violation of this section is a class B misdemeanor.

Addresses B.C.I. concerns, and clarifies who is or is not a restricted person upon conviction for assault.

SB 146 – Driving Privilege Amendments

53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.

(1) A person may not drive a motor vehicle on a highway in this state unless the person is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) (i) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways; and

(ii) driving the vehicle described in Subsection (1)(c)(i) in conjunction with a construction or agricultural activity;



SB 146 – Sex Offender Testing Amendments

26 **76-5-501. Definitions.**

27 For purposes of this part:

28 (1) "Alleged sexual offender" means a person or a minor regarding whom an
29 indictment, petition, or an information has been filed or an arrest has been made alleging the
30 commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part
31 4, Sexual Offenses, and regarding which:

32 (a) a judge has signed an accompanying arrest warrant, pickup order, or any other order
33 based upon probable cause regarding the alleged offense; and

34 (b) the judge has found probable cause to believe that the alleged victim has been
35 exposed to conduct or activities that may result in an HIV infection as a result of the alleged
36 offense.

SB 163 – Wildlife Modifications

23-13-14. Release of wildlife unlawful -- Penalty.

~~[It is unlawful for any person to release any]~~

(1) A person may not release a live terrestrial or aquatic wildlife into the wild except as

provided in this title~~[. Any]~~ and rules and regulations established by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (3), a person who violates ~~[the provisions of this section]~~ Subsection (1) is guilty of a class A misdemeanor.

(3) A person who knowingly and without lawful authority imports, transports, or releases a live species of wildlife that ~~is~~ **→ the person knows ←** is listed as threatened or

endangered, or is a candidate to

be listed under the Endangered Species Act, 16 U.S.C. Sec. 1531 et seq., with the intent to establish the presence of that species in an area of the state not currently known to be occupied by a reproducing population of that species is guilty of a third degree felony.


SB 181 – Driver License Modifications

29 **53-3-218. Court to report convictions and may recommend suspension of license**
30 **-- Severity of speeding violation defined.**

33 (2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses
34 committed under this chapter or any other law of this state, or under any municipal ordinance
35 regulating driving motor vehicles on highways or driving motorboats on the water, shall
36 forward to the division within five days, an abstract of the court record of the conviction or
37 plea held in abeyance of any person in the court for a reportable traffic or motorboating
38 violation of any laws or ordinances, and may recommend the suspension of the license of the
39 person convicted.

44 (c) (i) A court is not required to forward to the division within five days an abstract of
45 the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) and
46 the Driver License Division is not required to suspend a person's license for a violation
47 described in Subsection 53-3-220(1)(c) if the person:

48 ~~[(A) the violation did not involve a motor vehicle; and]~~

49 ~~[(B) the~~  person] (A) convicted of a violation described in Subsection 53-3-220(1)(c) [;]
50 was not an operator of a motor vehicle at the time of the violation; and

51 (B) (I) is participating in or has successfully completed substance abuse treatment at a
52 licensed substance abuse treatment program that is approved by the Division of Substance
53 Abuse and Mental Health in accordance with Section 62A-15-105; or

SB 226 – Search & Seizure Amendments

CHAPTER 23d. IMAGING SURVEILLANCE PRIVACY

77-23d-101. Title.

This chapter is known as "Imaging Surveillance Privacy."

(2) "Imaging surveillance device" means a device that uses radar, sonar, infrared, or other remote sensing or detection technology $\hat{S} \rightarrow$ [~~that enables~~] used by $\leftarrow \hat{S}$ the individual operating the device to obtain information, not otherwise directly observable, about individuals, items, or activities within a closed structure.

(3) "Target" means a person or a structure upon which a government entity intentionally collects or attempts to collect information using an imaging surveillance device.

77-23d-103. Use of imaging surveillance device -- Warrant required -- Exceptions.

(1) Except as provided in Subsection (2), a government entity may not operate an imaging surveillance device without a search $\hat{S} \rightarrow$ [~~or arrest~~] $\leftarrow \hat{S}$ warrant issued upon probable cause.

SB 238 – Prostitution Amendments

76-10-1302. Prostitution.

(1) An individual is guilty of prostitution when the individual:

(a) engages in any sexual activity with another individual for a fee, or the functional equivalent of a fee ~~→ [including barter or trade of goods]~~ ← ;

76-10-1303. Patronizing a prostitute.

(1) A person is guilty of patronizing a prostitute when the person:

(a) pays or offers or agrees to pay another person a fee, or the functional equivalent of a fee, ~~→ [including barter or trade of goods]~~ ← for the purpose of engaging in an act of sexual activity;



(The bill does not define what the functional equivalent of a fee is.)

Sen. Ann Millner

SB 249 – Trax Crossing Bars Operations

41-6a-1203. Railroad grade crossing -- Duty to stop -- Malfunctions and school buses -- Driving through, around, or under gate or barrier prohibited.

(1) As used in this section, "active railroad grade crossing" [~~has the same meaning as~~] means the same as that term is defined in Section 41-6a-1005.

(b) It is an affirmative defense to a violation of Subsection (2)(a) if the operator of a vehicle, facing a clearly visible electric or mechanical signal device described in Subsection (2)(a)(i):

(i) comes to a complete stop, as described in Subsection (2)(a);

(ii) determines that:

(A) the crossing gate described in Subsection (2)(a)(ii) has not been lowered or has been raised;

(B) no other vehicle that is entitled to have the right-of-way under applicable law is sitting at, traveling through, or approaching the intersection;

(C) no train is approaching or passing; and


(D) no pedestrians are attempting to cross at or near the intersection in the direction of travel of the operator; and

(iii) cautiously enters the intersection and proceeds across the roadway.

⚡→ (c) A railroad operator or railroad company shall not be liable for damage, injury, or death arising from a vehicle operator's entry into the intersection as described in Subsection (2)(b). ←⚡

If you survive –
this affirmative
defense is
available to you





**THE END
(is near)**

Chad Platt

Salt Lake County D.A. Office

(385) 468-7667

cplatt@slco.org

