



Justice Reinvestment Initiative

HB 348 - Bill Summary

April 8, 2015

Policy Change	Utah Code Sections Affected	HB348 Line Numbers	Effective Date (2015)
Sentencing			
<p><u>Misdemeanor Traffic Offenses</u> Reclassifies certain misdemeanor traffic offenses from class B misdemeanor to class C misdemeanor or from class C misdemeanor to infraction. This focuses jail resources on higher-level offenders and relieves undue burdens on counties. Penalties for reckless driving offenses and DUI offenses are not changed.</p>	See appendix for full list of affected sections.	350-4384, 4458-4612, 5674-6463	May 12
<p><u>Controlled Substances</u> Changes the penalty for distribution of a controlled substance from 1 to 15 years in prison to 0 to 15 years in prison.</p> <p>Changes the penalty for a first or second conviction of possession of a controlled substance to a class A misdemeanor. The penalty for a third or subsequent conviction is a third degree felony. This encourages substance use disorder treatment in the community (where treatment is more effective) for non-violent offenders rather than incarceration.</p> <p>Removes the tiered penalty structure for possession of marijuana.</p> <p>Reclassifies the penalty for a first or second conviction of acquiring a controlled substance by deception from a third degree felony to a class A misdemeanor. A third or subsequent conviction remains a third degree felony.</p> <p>Restructures the “drug-free zone” sentencing enhancement to focus on drug dealers targeting children by restricting the enhancement to commercial drug offenses committed in the presence of a minor or in areas where children are likely to be present. Additionally, the bill narrows the radius of drug-free zones to 100 feet of the specified facilities. This addresses a significant expansion of drug-free zones over the years, which has resulted in a policy that no longer focuses on crimes taking place in areas where children are likely to be present.</p>	<p>58-37-8(1)(b)</p> <p>58-37-8(2)(b)</p> <p>58-37-8(2)(b)</p> <p>58-37-8(3)</p> <p>58-37-8(4)</p>	<p>4633</p> <p>4668-4671</p> <p>4668-4669, 4672-4674</p> <p>4739-4745</p> <p>4746-4769</p>	<p>October 1</p> <p>October 1</p> <p>October 1</p> <p>October 1</p> <p>October 1</p>

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States that prior convictions of controlled substance offenses used as enhancements must be from separate criminal episodes.	58-37-8(6)	4807-4811	October 1
<p data-bbox="130 342 394 370"><u>Sentencing Guidelines</u></p> <p data-bbox="130 378 1346 513">Directs the Sentencing Commission to revise the current Adult Sentencing and Release Guidelines to implement CCJJ recommendations regarding reduction of recidivism. These recommendations remove elements from the criminal history score that are double-counted or do not help predict the risk of reoffending and reduce the recommended length of stay for certain non-violent offenses.</p> <p data-bbox="130 557 1304 621">Directs the Sentencing Commission to develop guidelines for length of stay for offenders who have violated a condition of probation and whose probation has been revoked by the court.</p> <p data-bbox="130 662 1346 727">Directs the Sentencing Commission to develop guidelines for length of stay for offenders who have violated a condition of parole and whose parole has been revoked by the Board of Pardons and Parole.</p>	<p data-bbox="1409 378 1545 406">63M-7-404</p> <p data-bbox="1409 557 1545 584">63M-7-404</p> <p data-bbox="1409 662 1545 690">63M-7-404</p>	<p data-bbox="1646 378 1782 406">5196-5206</p> <p data-bbox="1646 557 1782 584">5207-5212</p> <p data-bbox="1646 662 1782 690">5213-5218</p>	<p data-bbox="1829 378 1919 406">May 12</p> <p data-bbox="1829 557 1919 584">May 12</p> <p data-bbox="1829 662 1919 690">May 12</p>
Community Supervision			
<p data-bbox="130 813 331 841"><u>Case Action Plan</u></p> <p data-bbox="130 849 1360 984">Directs the Department of Corrections (“Corrections”) to establish a case action plan for every offender supervised by Corrections. This case action plan will identify the risks factors and treatment needs of individual offenders and will be used to tailor supervision and treatment resources to the specific needs of each offender.</p> <p data-bbox="130 1027 1360 1162">Requires Corrections to update the case action plan for offenders who are in prison and will be released soon. The updates identify continuing risks and needs of the offender, provide information that assists the offenders’ transition to the community and help Corrections supervise the offenders in the community.</p>	<p data-bbox="1409 849 1507 876">64-13-6</p> <p data-bbox="1409 1027 1570 1092">64-13-10.5 (new section)</p>	<p data-bbox="1646 849 1782 876">5297-5302</p> <p data-bbox="1646 1027 1782 1055">5358-5372</p>	<p data-bbox="1829 849 1948 876">October 1</p> <p data-bbox="1829 1027 1948 1055">October 1</p>
<p data-bbox="130 1193 558 1221"><u>Graduated Sanctions and Incentives</u></p> <p data-bbox="130 1229 1304 1325">Directs the Sentencing Commission to establish a system of graduated sanctions and incentives for offenders on probation or parole. This tool will help Corrections respond with swift, certain and proportionate sanctions for violations and provide incentives for positive behavior.</p>	63M-7-404	5219-5234	May 12

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<p>Directs Corrections to use the system of graduated sanctions and incentives established by the Sentencing Commission including a sanction of up to three days in jail (no more than five days in jail within a 30-day period) upon the approval of the court or the Board of Pardons and Parole.</p> <p>Directs the court, when imposing a period of incarceration for a probation violation, to follow the graduated sanctions guidelines established by the Sentencing Commission.</p> <p>Directs the Board of Pardons and Parole to include the system of graduated sanctions and incentives as a condition of parole.</p> <p>Directs the Board of Pardons and Parole, when revoking parole, to impose a period of incarceration consistent with the guidelines established by the Sentencing Commission.</p>	<p>64-13-6 64-13-21 64-13-29 77-27-10</p> <p>77-18-1</p> <p>77-27-10</p> <p>77-27-11</p>	<p>5303-5310, 5414-5427, 5587-5589, 7063-7066</p> <p>6869-6875</p> <p>7019-7020</p> <p>7107-7109</p>	<p>October 1 October 1 October 1 October 1</p> <p>October 1</p> <p>October 1</p> <p>October 1</p>
<p><u>Earned Compliance Credits</u> Directs Corrections to establish a program allowing offenders on probation or parole to earn time credits for compliance with the terms of probation or parole. This allows offenders to earn reductions in the length of probation or parole by demonstrating that they are complying with the terms of their supervision agreement. It helps ensure that offenders are supervised for the correct period of time.</p>	<p>64-13-21</p>	<p>5457-5476</p>	<p>October 1</p>
<p><u>Supervision Standards</u> Requires Corrections to establish supervision standards based on the results of a risk and needs assessment in addition to other criteria. This ensures that the level of supervision and treatment resources are targeted at the specific needs of the offender.</p>	<p>77-18-1</p>	<p>6714</p>	<p>October 1</p>
<p><u>Offenders in Prison</u> Requires the Board of Pardons and Parole to grant credit for time served in jail awaiting a probation revocation hearing.</p> <p>Requires the Board of Pardons and Parole to grant credit for time served in jail as a sanction for a probation violation.</p>	<p>77-18-1</p> <p>77-18-1</p>	<p>6831-6833</p> <p>6876-6880</p>	<p>October 1</p> <p>October 1</p>

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Requires the Board of Pardons and Parole to establish an earned time program that reduces the period of incarceration for offenders who successfully complete specified programs. This will encourage offenders to engage in programming that addresses their risks and needs, as identified in the case action plan.	77-27-5.4 (new section)	6983-7014	May 12
Treatment			
Clarifies that the duties for the Division of Substance Abuse and Mental Health include individuals involved in the criminal justice system.	62A-15-103	4952-4954, 4998-4999	May 12
<p><u>Standards and Certification</u></p> <p>Directs the Division of Substance Abuse and Mental Health, in collaboration with Department of Correction and Utah Substance Abuse Advisory Council, to establish treatment standards for the provision of substance abuse and mental health treatment to individuals required to participate in treatment by the court or Board of Pardons and Parole. Directs the Division, in collaboration with the Department of Corrections, Utah Substance Abuse Advisory Council and Utah Association of Counties, to establish a certification program for providers of this treatment. Directs the Division to establish goals and outcome measurements for treatment programs subject to the standards. This will ensure that the treatment protocol is evidence-based.</p> <p>Directs Corrections to establish minimum standards and qualifications for treatment programs provided in county jails which house state inmates by jail contract.</p> <p>Directs Corrections to establish a certification program for providers of sex offender treatment which ensures that providers are meeting the standards established by Corrections. Directs Corrections to establish performance goals and outcome measurements for programs subject to the minimum standards.</p>	62A-15-103	5043-5070	May 12
<p><u>Drug Court</u></p> <p>Directs the Judicial Council to develop rules prescribing eligibility requirements for drug courts. Acceptance of an offender into drug court shall be based on a risk and needs assessment, without regard to the nature of the offense. This ensures that drug court is available to offenders who need it most based on their risk and needs and that acceptance into drug court is not based on the particular criminal offense charged.</p>	78A-5-201	7151-7154	May 12

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County Incentive Grant			
Directs CCJJ to establish a grant program that allocates funds to county programs that reduce recidivism.	63M-7-204	5182-5184	May 12
Oversight and Accountability			
Requires CCJJ to study and evaluate programs initiated by state and local agencies to reduce recidivism.	63M-7-204	5138-5142	May 12
Requires CCJJ to receive data from various departments and to analyze the data and compile a report based on the data. CCJJ will provide the report to legislative interim committees.	63M-7-204	5179-5181	May 12
Requires Corrections to track a subgroup of participants in treatment to determine if there is a net positive result from the use of treatment as an alternative to incarceration. (This was not part of the JRI report but is generally consistent with the report.)	64-13-25	5557-5559	May 12
Jail Reimbursement Hold Harmless (This was not part of the JRI report. It was added at the request of CCJJ and the counties.)			
Provides that funds appropriated for jail reimbursement remaining after all jail reimbursement payments are made shall be distributed to counties to compensate counties for housing probationers and parolees who are incarcerated for short jail stays due to a violation of probation or parole. This addresses a concern that counties may receive less money through jail reimbursement if possession of a controlled substance is reclassified from a third degree felony to a class A misdemeanor. This does not require additional appropriations.	64-13e-104	5613-5672	July 1
Driver License Suspension for Controlled Substance Convictions (This was not part of the JRI report. Its addition was supported by CCJJ.)			
Provides that the Driver License Division may not impose an otherwise mandatory license suspension for a controlled substance conviction if the defendant is participating in a substance abuse treatment program. This will encourage defendants to participate in treatment.	53-3-218	4401-4404	May 12
Other Legislative Committee and Floor Amendments (These were not part of the JRI report.)			
Amends the elements of criminal trespass.	76-6-206	6565-6569	May 12
Provides that a person on probation for a conviction of possession of a Schedule I or II controlled substance is a Category I restricted person and prohibited from purchasing or possession a firearm or	76-10-503	6581-6583	May 12

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dangerous weapon.			