

2009 Legislative Session Sentencing Update Utah Sentencing Commission

Bill #	Title	Statute	Description	Penalty Changes	Anticipated Prison Admissions	Anticipated 2010 Fiscal Impact
House Bills						
HB 14	Materials Harmful to Minors Amendments	Amends 76-10-1204 76-10-1206	Changes the penalties for distribution of pornographic material and dealing in material harmful to minors to a Class A misdemeanor for a 16 or 17 year old and a Class B misdemeanor for persons younger than 16. Remains a 3 rd degree Felony for persons over the age of 18 and for a second offense committed by a person under 18.	Decreases based upon age from a 3rd degree felony to a class A or a class B misdemeanor		None
HB 22	Harboring a Runaway	Amends 62A-4a-501 78A-6-1001	Creates a Class B misdemeanor for the failure to notify either a minor's parents, the Division of Child and Family Services or a youth services center of the location of a minor the individual knows is a runaway and is providing shelter to.	New class B misdemeanor		None
HB 25	Gun Dealer Penalty Amendments	Amends 76-10-527	Creates a new class A misdemeanor for a licensed handgun dealer who violates the criminal background check provisions of Section 76-10-526.	New class A misdemeanor		None
HB 26	Child and Vulnerable Adult Endangerment Provisions	Amends 76-203.5 76-5-112.5	Provides a definition for "exposed to" as: "the child or vulnerable adult: is able to access or view an unlawfully possessed: controlled substance; or chemical substance; has the reasonable capacity to access drug paraphernalia; or is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.			None
HB 29	Sex Offenders' Contact With Children	Amends 77-27-21.5 Enacts 77-27-21.8	Makes it a class A misdemeanor for a registered sex offender, whose offense was against a child, to request or solicit a child younger than 14 to accompany them unless the parent of the child has given the offender either written or verbal permission to do so.	New class A misdemeanor		\$35,000

<p>HB 32</p>	<p>Amendments to Agency Rulemaking Regarding Criminal Penalties</p>	<p>Amends 23-13-11 23-20-3 26-21-16 26-23-6 31A-2-308 34-23-402 34A-2-407 34A-2-801 54-7-15 61-1-21 61-1-24 63G-3-201 63-11-17.3 Enacts 23-11-17.3 Repeals 73-18b-3</p>	<p>Repeals certain administrative rulemaking authority to various departments to determine what conduct constitutes a criminal penalty.</p>	<p>Decrease from a class C to an infraction</p>		<p>None</p>
<p>HB 34</p>	<p>Penalties for Destruction of Bald Eagle</p>	<p>Amends 23-20-4 23-20-4.5</p>	<p>Establishes the value of a bald eagle as \$1,000 making the penalty for the destruction of a bald eagle a 3rd degree felony.</p>	<p>New 3rd Degree felony</p>		<p>None</p>
<p>HB 37</p>	<p>Violent Offenses Amendments</p>	<p>Amends 76-3-203.1 76-9-802 76-10-508.1</p>	<p>Amends the enhanced penalty for committing a group enhanced first degree felony to five years on top of the statutory minimum term. Adds discharge of a firearm as a predicate offense for aggravated murder. Adds several offenses to those subject to enhancement when committed by a group.</p>	<p>Increases penalty by 5 years</p>		<p>None</p>
<p>HB 87</p>	<p>Identity Theft Amendments</p>	<p>Amends 76-6-1102</p>	<p>Clarifies that the crime of identity fraud includes the use of fraud to obtain employment.</p>			<p>None</p>
<p>HB 90</p>	<p>Abortion Law Amendments</p>	<p>Amends 76-7-302 76-7-314 Enacts 76-7-314.5 Repeals 76-7-317.2</p>	<p>Changes the definition of viability for Utah's abortion law. The bill increases the penalty for an individual performing an unlawful abortion from a third degree to a second degree felony and renames the crime "killing an unborn child." The bill specifies that, while the person performing the abortion is criminally responsible, the woman seeking to have the abortion is not.</p>	<p>Increase from 3rd to 2nd degree felony</p>		<p>None</p>

HB 97	Sexual Exploitation of a Minor	Amends 76-5a-3	Amends the offense of sexual exploitation of a minor to include the act of viewing child pornography.	New 2nd degree felony	1	\$30,200
HB 102	False Vehicle Title and Registration Penalties	Amends 41-1a-1315	Provides that it is a third degree felony, rather than a second degree felony, for providing false evidence for motor vehicle title or registration information.	Decreases 2nd degree to 3rd degree felony		
HB 123	Retail and Library Theft Amendments	Repeals 76-6-605	HB 123 repeals section 76-6-605 which requires photos of merchandise taken in retail or library theft cases to bear a written description of the items taken, the name of the owner, the name of the accused, the name of the arresting peace officer, the date of the photograph, and the name of the photographer. The section also required that the writing on the photograph be made under oath by the arresting peace officer.			None
HB 129	Alcoholic Beverage Amendments Related to Minors	Amends 32A-1-301 32A-1-305 32A-12-209 32A-209.5 53-3-220 78A-6-606 Enacts 32A-12-223 32A-14b-101 32A-14b-102 32A-14b-201 32A-14b-202 32A-14b-203	Alters the penalties for violations related to proof of age. Modifies penalties related to the suspension of driving privileges for minors. Makes a parent or guardian liable to a retail licensee for a portion of the penalties imposed on retailers related to a violation caused by the minor.	New class B misdemeanor New class A misdemeanor		\$3,000
HB 136	Sex Offender Definition Amendments	Amends 77-27-21.5	Adds lewdness and sexual battery to the offenses for which a convicted person must register as a sex offender. Amends the penalties for lewdness upon multiple convictions.	New 3rd degree felony		None
HB 138	Expungement of Records Amendments	Amends 77-18-10 77-18-14	Requires the division to issue an expedited certificate of eligibility to a petitioner who has been acquitted of a crime at trial. Allows the state to petition the court to open expunged records upon a showing of good cause.			None

<p>HB 142</p>	<p>Reporting Abuse or Neglect of the Elderly or Disabled</p>	<p>Amends 26-21-9.5 62A-3-305</p>	<p>Allows an individual or covered employer who has, within the last 10 days, hired a person to provide care to an elderly adult or disabled person in the home of the elderly adult or disabled person to submit the new employee's information to the Department of Health to determine if the person has a history of abuse, neglect, or exploitation of a minor or elderly adult, and to obtain a criminal background check.</p> <p>It is an infraction for an employer to intentionally misrepresent any fact about employment to obtain background information.</p>	<p>New Infraction</p>		<p>\$60,000</p>
<p>HB 148</p>	<p>Victim Rights Amendments</p>	<p>Amends 77-37-5 77-38-11 77-38-12</p>	<p>Gives a trial court judge the authority to fashion an appropriate remedy for a victim whose rights have been violated if the remedy does not create a violation of the defendant's rights.</p>			<p>\$7,500</p>
<p>HB 153</p>	<p>Trespass Law Amendments</p>	<p>Enacts 76-6-206.3</p>	<p>Creates the offense of criminal trespass on agricultural or range lands.</p>	<p>New class B misdemeanor</p>		<p>None</p>
<p>HB 228</p>	<p>Assault on Service Member in Uniform</p>	<p>Amends 76-5-102.4 76-5-203</p>	<p>Makes it a class A misdemeanor to assault a service member in uniform.</p>	<p>New class A misdemeanor</p>		<p>None</p>
<p>HB 233</p>	<p>Aggravated Sexual Assault Amendments</p>	<p>Amends 76-5-405</p>	<p>Shifts the penalties for various sexual assault crimes so the progression of the length of possible prison sentences is more consistent with the progression of the seriousness of the offense. Changes the minimum prison lengths only- it does not change any maximum prison lengths.</p>			<p>None</p>
<p>HB 237</p>	<p>Criminal Penalties Amendments- Leaving the Scene of an Accident</p>	<p>Amends 41-6a-401.3 41-6a-401.5</p>	<p>Increases penalties for individuals who fail to stop at the scene of an accident where death or injury occurs when the person has previously been convicted of driving under the influence.</p>	<p>Increases from class A to 3rd degree felony</p>		<p>None</p>
<p>HB 244</p>	<p>Disruption of School Activities</p>	<p>Enacts 76-8-1403</p>	<p>Creates a new class A misdemeanor to enter onto school property in order to evade law enforcement.</p>	<p>New class A misdemeanor</p>		<p>None</p>

HB 247	Amendments to Email Information Required of Registered Sex Offenders	Amends 63G-2-302 77-27-21.5	Makes three changes to the requirements of the sex and kidnap registry: 1.while offenders are still required to provide online internet identifiers, they are no longer required to provide internet passwords; 2. removes information from the public registry that identifies the offender’s primary and secondary targets; 3. removes 76-5- 304 Unlawful Detention as a registration requiring offense.			None
HB 265	Postmortem Procedures Amendments	Amends 26-2-2 26-2-13 26-2-23 58-9-610	Makes it a class B misdemeanor for a person to intentionally sign a portion of a certificate of death in the place of a funeral home director unless they are a funeral director or a dispositioner whose signature is witnessed by the state or a local registrar.	New class B misdemeanors		None
HB 275	Domestic Violence in the Presence of a Child Amendments	Amends 76-5-109.1	Clarifies that the offense of committing domestic violence in the presense of a child may be charged as one count for each child present.			None
HB 283	Illegal Use of Motor Vehicles	Amends 41-22-2 41-22-12 41-22-12.5 41-22-12.7 41-22-12.8	Provides that a person may not tear down, mutilate, deface, or destroy a sign, fence, gate or other notice that regulates off-highway vehicle use. Provides that a person may not operate or give another person permission to operate a motor vehicle cross-country on any public land not designated for that use by the controlling agency. Provides penalties and sentencing provisions for violating the prohibition on operating a motor vehicle cross-country on public land. Provides that a person is guilty of enhanced penalties for unlawful use of a motor vehicle cross-country on public land or a motor vehicle on private land if: the person violates certain restrictions on the use of a motor vehicle cross-country on public land or a motor vehicle on private land; and the person has previously been convicted of the restrictions on use of a motor vehicle cross-country on public land or a motor vehicle on private land or knowingly, intentionally, or recklessly causes certain damage or harasses wildlife or livestock. Provides penalties and sentencing provisions for an aggravated unlawful use of a motor vehicle on public or private land conviction.	2 New class C misdemeanors New class B misdemeanor		None

<p>HB 290</p>	<p>Prohibition of Wireless Communication Device Use in a Motor Vehicle</p>	<p>Amends 53-3-218 53-3-220 Enacts 41-6a-1716 76-5-207.5</p>	<p>This bill prohibits the use of a handheld wireless communication device for text or sending email while operating a moving motor vehicle. It is a class C misdemeanor for a first violation of this section. It is a class B misdemeanor for a second violation within 3 years, or if serious bodily injury is caused. Under this section the judge may suspend a driver's license for 90 days for a violation of this section.</p> <p>The bill also creates the crime of automobile homicide involving text messaging or electronic mail communication while driving statute. It makes it a third degree felony to operate a vehicle in a negligent or criminally negligent manner and causing the death of another while text messaging or emailing. License suspension is mandatory for a violation of this section.</p>	<p>New Class C misdemeanor</p> <p>New class B, misdemeanor</p> <p>New 3rd degree felony</p>		<p>\$7,400</p>
<p>HB 292</p>	<p>Traffic Violation and Citation Amendments</p>	<p>Amends 41-6a-528 41-6a-710 41-6a-1715 53-10-208 76-1-302 77-7-19 77-7-20 77-7-21</p>	<p>Changes the definition of reckless and careless driving so that a violation occurs only where there are two or three violations "occurring within a single continuous period of driving covering three miles or less in total distance." It clarifies that the issuance of a citation commences the prosecution for purposes of the statute of limitations. Finally, it eliminates the language that prohibits a judge from issuing a warrant on the statewide warrant system for failure to appear in court.</p>			<p>None</p>
<p>HB 317</p>	<p>Capital Felony Amendments</p>	<p>Amends 76-3-206 76-3-207.7</p>	<p>Increases the minimum indeterminate sentence for capital felonies and aggravated murder from 20 years to 25 years.</p>	<p>Increase of 5 years</p>		<p>None</p>
<p>HB 384</p>	<p>Public Lewdness Amendments</p>	<p>Amends 76-9-702 76-9-702.5</p>	<p>Increases the penalty for lewdness to a 3rd degree felony upon a third conviction. (This penalty supercedes the increased penalty in HB 136.)</p>	<p>New 3rd degree felony</p>		<p>\$18,200</p>
<p>HB 437</p>	<p>Obstruction of Natural Resource or Agricultural Production</p>	<p>Amends 76-6-523</p>	<p>Creates a new 3rd degree felony for obstruction of a competitive process to lease property for natural resource or agricultural production by placing a bid with no intent to pay for the lease.</p>	<p>New 3rd degree felony</p>		<p>None</p>

Senate Bills						
SB 11	Incest Amendments	Amends 76-1-302 76-7-102	Amends the definition of incest to include methods of artificial incemination. It also increases the statute of limitations for incest from 4 to 7 years.			None
SB 12	DUI Amendments	Amends 41-6a-501 41-6a-502.5 41-6a-509 53-3-223	Defines a DUI court. Provides that reports issued by the Driver License Division may not contain evidence of an impaired driving conviction if the the defendant is participating in or has completed a DUI court. Provides that if an impaired driving conviction is amended to a driving under the influence conviction, the DLD shall start the suspension or revocation on the date of the amended conviction and may not subtract any time for which the license was previously suspended or revoked.			\$1,000
SB 16	Prohibited Gang Activity	Enacts 76-9-901 76-9-902 76-9-903 76-9-904 76-9-9-5 76-9-906 76-9-907	Provides that a peace officer may order a group of reasonably suspected gang memebers to disperse from an area that has been designated as a no gang loitering area. A failure to disperse after an order from a peace officer is a class B misdemeanor.	New class B misdemeanor		None
SB 28	Prohibited Activities of Gang Offenders	Enacts 76-9-804	Creates new conditions of probation and parole for those convicted of a crime with a group enhanced penalty. A violation of this gang probation is a class A misdemeanor.	New class A misdemeanor		\$25,000
SB 85	Homicide Amendments	Amends 76-5-202 76-5-203 76-5-205.5 77-14-4 77-16a-102 77-16a-301	Removes the statutory defense of extreme emotional distress from the aggravated murder and murder statutes, and places it in the special mitigation statute.			None
SB 90	Metal Theft Amendments and Penalties	Amends 76-10-901 76-10-907 76-10-907.3	Provides definitions for suspect metals and provides that a defendant is liable for restitution for damages caused during the course of the theft of the metal.			None

SB 98	Motor Fuel Theft Penalties	Amends 53-3-220 Enacts 76-6-404.7	Provides that if an individual commits a theft of fuel from a business, the offender's license may be suspended in addition to the other penalties for theft.	New class B misdemeanor		\$3,000
SB 107	Communications and Mortgage Fraud Penalty Amendments	Amends 76-6-1204 76-10-1801	Modifies the penalties for communications fraud and mortgage fraud by removing the provision regarding obtaining or attempting to obtain something that does not have monetary value.			None
SB 112	Obstruction of Justice Amendments	Amends 76-8-306	Adds "warning another of an impending or existing wiretap" to the situations that can constitute obstruction of justice.			None
SB 116	Criminal Penalty Amendments	Amends 41-6a-501 41-6a-503 58-37-8 76-5-207	Clarifies that a person is guilty of a separate offense for each victim suffering bodily injury, serious bodily injury, or death as a result of the person's violation of the driving under the influence or automobile homicide provisions whether or not the injuries arise from the same episode of driving.			None
SB 118	Parental Responsibility for Juvenile Criminal Gang Offense Costs	Amends 78A-6-1113	Requires a parent or guardian who has legal custody of a minor to be liable for damages sustained to property caused by the minor up to \$5,000.			None
SB 133	Abuse or Neglect of a Disabled Child	Amends 76-5-110	Specifically lists the mental state required for abuse or neglect of a disabled child.			None
SB 142	Disposition of a Dead Body	Amends 26-4-2 58-9-610 Enacts 26-2-18.5 26-4-29	Creates a new class B misdemeanor for engaging in conduct that makes a dead body unavailable for postmortem investigation without obtaining a permit.	New class B misdemeanor		\$87,000
SB 180	Expungement of Division of Child and Family Services Records	Amends 78A-6-1105	Allows for the expunction of Division and Child and Family Services Records at the same time as the expunction of juvenile court records.			None
SB 183	Violation of Protection Order	Amends 78B-7-105 78B-7-115	Creates the ability for a respondent to ask for the dismissal of a protective order if the petitioner has repeatedly acted in contravention of the protective order provisions.			\$12,400

SB 193	Salvage Vehicle Amendments	Amends 41-3-201 41-3-201.7 41-3-701 41-3-702	Provides that a person who violates the requirement to title a vehicle with a salvage certificate within 15 days of purchasing the vehicle at an auction as required by statute is guilty of a class C misdemeanor.	New class C misdemeanor		None
SB 202	Drug Offender Reform Act Amendments	Amends 63M-7-303 63M-7-305 77-18-1.1 77-37-9	Requires the Utah Substance Abuse and Anti-Violence Coordinating Council to coordinate the implementation of provisions of the Drug Offender Reform Act in specified areas as funding allows.			
SB 220	Cohabitant Abuse Procedures Act Amendments	Amends 77-36-2.7	Permits a court to issue a pretrial protective order in a domestic violence case at any hearing, not just at the time that the defendant is released from custody.			None
SB 272	Driver License Sanctions and Sentencing Requirements for Driving Under the Influence and Alcohol Related Offenses	Amends 32A-12-209 32A-12.209.5 41-6a-509 41-6a-517 41-6a-521 41-6a-518.2 53-3-219 53-3-223 53-3-231	Increases the driver license suspension periods for driving under the influence and other alcohol related offenses.			\$12,000

- * New crime totals include penalties increased or decreased from a previously existing penalty.
- The anticipated fiscal impact consists of costs to state agencies and does not include the costs to county or local governments.

2009 TOTALS*								
New 1st degree felonies	New 2nd degree felonies	New 3rd degree felonies	New Class A misdemeanors	New Class B misdemeanors	New Class C misdemeanors	New Infractions	Anticipated Prison Admissions	Anticipated Fiscal Impact[▫]
	1	7	9	10	4	2	1	\$301,700
2008 TOTALS								
1	3	11	6	2			15	\$360,000
2007 TOTALS								
1(capital)	1	2	3	4	1		9	\$216,000