



**2008 Legislative Session
Criminal Penalties Changes**

Bill No.	Title	Statute	Description	Penalty	Prison Admits	Fiscal Impact
HB 0010	Disclosure of Identity to Police Officer	Obstructing Govt Operations Enacts 76-8-301.5 Amends 77-7-2	Class B misd. for a person to fail to disclose the person's name when disclosure is demanded by a peace officer based on a reasonable suspicion that the person has committed, is in the act of committing, or is attempting to commit, a criminal offense.	New Class B		None
HB 0014	Discharge of Firearm Amendments	Weapons Amends 53-3-220 76-5-203 76-10-508	Provides that having the permission of the person in charge of the property when discharging a firearm is only a defense to a misdemeanor offense of discharging a firearm, not a felony offense. Modifies provisions relating to felony discharge of a firearm by describing conduct that constitutes a first, second, or third degree felony and describing enhanced penalties for these offenses.	Enhanced 2nd from a 3rd if BI 1st from a 2nd if SBI		None
HB 0019	Assault on a Police Officer	Assault and Related Offenses Amends 76-5-102.4	Increases the penalty for committing a second or subsequent assault against a peace officer from a class A to a third degree felony.	Enhanced 3rd on second offense	1 per year	\$25,700/year

HB 0023	Child and Family Protection	Child Abuse Amends 62a-4a-1002 76-5-109	Includes child abandonment as a type of child abuse. Provides that a person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment is a third degree felony; or if the child abandonment results in serious physical injury, it is a second degree felony	New 2nd Degree and 3rd Degree		
HB 0030	Vehicle Concealing Illegal Items	Vehicle Compartment for Contraband Enacts 76-10-2701 Amends 76-10-1602	Provides that modifying any motor vehicle to facilitate the illegal transportation, concealment, or storage of contraband is a third degree felony. Provides that possession of a motor vehicle modified to facilitate concealing contraband, with the intent to conceal or transport contraband, is a class A misdemeanor.	New 3rd Degree and Class A		None
HB 0034	Email Information Required of Sex Offenders	Sex Offender Registration Amends 77-27-21.5	Requires sex offenders who are required to register to also provide internet identifiers.	New 3rd Degree and Class A		None
HB 0102	Child Abuse Homicide Amendments	Criminal Homicide Amends 76-5-208	Clarifies that the offense of child abuse homicide does not apply under circumstances that constitute aggravated murder. Clarifies that the mental states referred to in the offense of child abuse homicide are only applicable to the element of the commission of child abuse, not to the element of causing the death of a child. Increases the penalties for child abuse homicide from a second to a first degree felony if the child abuse is done recklessly; increases child abuse homicide from a third to a second	Increased 2nd Degree to a 1st Degree and 3rd Degree to a 2nd Degree	1 per year for 6 year s	to DOC of \$25,700 and \$500 to the Board of Pardons. In FY2010 the bill will require appropriations from the Gen. Fund of \$51,400 to DOC and \$1,000 to the Board of Pardons. It is estimated that costs will continue to

			degree felony if the child abuse is done with criminal negligence and under circumstances not amounting to the type of child abuse homicide that is done recklessly.			increase at between \$25,000 and \$50,000 per year between FY2011 and FY2015.
1sHB 0119	Controlled Substance Database Amendments	Controlled Substances Enacts 58-37-7.8 Amends 58-37-7.5	Makes it a third degree felony to obtain or attempt to obtain information from the controlled substances database for a purpose other than a purpose authorized by statute or rule. Prohibits access to, and use of, identifying information in the controlled substance database, by discovery, subpoena, or similar process, in certain civil, judicial, administrative or legislative proceedings. Establishes a pilot program, beginning July 1, 2008 and ending on December 1, 2010.	New 3rd Degree		Enactment of this bill appropriates \$650,000 one-time and \$175,000 ongoing from the Gen. Fund to develop a real time controlled substance database on a statewide basis. Some businesses may be affected due to increased requirements for software and computer hardware.
1sHB 0141	Identity Theft Reporting Information System Amendments	ID Theft Reporting Information System Amends 63-2-304 67-5-22	Amends provisions in the GRAMA to provide protected status to all information collected in relation to the Identity Theft Reporting Information System established in the Office of the Attorney General. Establishes the Identity Theft Reporting Information System (IRIS) program.	New 3rd Degree		None
HB 0256	Jessica's Law	Sexual Offenses Amends 76-4-102 76-4-204 76-5-402.1 76-5-402.3 76-5-403.1	Makes it a 1 st degree to engage in criminal solicitation to commit, or attempt to commit, a felony punishable by LWOP . Makes it a 1st degree punishable by imprisonment for 3 to life, to engage in criminal solicitation to commit, or attempt to commit, murder, child kidnapping, and certain sexual offenses.			Enactment of this bill will not require additional appropriations in the first two years of implementation. However, each year between 2018 and

			Makes it a 1 st degree felony, punishable by 15 years to life, to engage in criminal solicitation to commit, or attempt to commit, rape of a child, object rape of a child, or sodomy on a child. Provides that a court may impose a lesser term if the court finds it is in the interests of justice. Increases the minimum term of imprisonment for rape of a child, object rape of a child, or sodomy on a child, to 25 years to life. And removes the authority of a court to impose a lesser sentence.			2034, the DOC will require an increase of \$50,000 per year ongoing from the Gen. Fund to pay for incarceration costs, with an annual cost in 2034 and each fiscal year thereafter of \$850,000.
HB 0314	Sexual Offenses-Definitions	Sexual Offenses Amends 76-5-402.2	Amends 76-5-402.2 Object Rape to include penetration by a human body part other than the mouth or genitals.	Increased 2 nd Degree to 1 st Degree		None
HB 0327	Enticing a Minor by Electronic Means	Enticement of a Minor Amends 76-4-401	Modifies 76-4-401 Enticing a Minor over the Internet, to include text messaging.	New One Degree Lower than Offense		None
HB 0339	Human Trafficking Amendments	Kidnapping Enacts 76-5-307 76-5-308 76-5-309 76-5-310	Criminalizes human smuggling for profit or commercial purposes. Criminalizes human trafficking for forced labor and for sexual exploitation. Distinguishes between human trafficking and aggravated human trafficking. Distinguishes between human smuggling and aggravated human smuggling.	New 1 st Degree 2 nd Degree 3 rd Degree		None
HB 0346	Division of Real Estate Related Amendments	Real Estate Commission Amends 61-2-5.5 et al	Addresses rulemaking by the Real Estate Commission. Addresses fines that may be imposed. Addresses disciplinary actions that may be imposed under provisions related to real estate brokers and agents, the Real Estate Appraiser Licensing and Certification Act, and	New 3 rd Degree Increases Class B to Class A		None

			the Utah Residential Mortgage Practices Act. Modifies criminal penalties.			
HB 0493	Stalking Amendments	Assault and Related Offenses Amends 76-5-106.5	Modifies 76-5-106.5 to define "course of conduct" to mean: two or more acts directed at or towards a specific person, including: (i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property: (A) directly, indirectly, or through any third party; and (B) by any action, method, device, or means; or (ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts: (A) approaches or confronts a person; (B) appears at the person's workplace or contacts the person's employer or coworkers; (C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person; (D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person; (E) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of	New 3rd Degree		None

			<p>employment with the intent that the object be delivered to the person; or (F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.</p> <p>Makes the penalty for violating a stalking injunction a 3rd Degree.</p>			
SB 0015s4	Driving Under the Influence Amendments	<p>Driving Under the Influence</p> <p>Enacts 41-6a-502.5</p> <p>Amends 41-6a et al 53-3-220 53-3-223 76-5-207 76-10-528</p>	<p>Enacts an impaired driving plea; provides that a plea to a driving under the influence violation for an offense committed on or after July 1, 2008 may be entered as an impaired driving conviction in certain circumstances; provides that an impaired driving violation is a class B misdemeanor; provides requirements for a court entering a conviction of impaired driving in certain circumstances; requires the court to notify the Driver License Division of an impaired driving conviction; provides sentencing requirements for impaired driving convictions; provides that certain plea requirements when the prosecution agrees to a plea of guilty or no contest to an alcohol or drug-related reckless charge in satisfaction or substitute of an original charge of driving under the influence only apply to an offense committed before July 1, 2008; clarifies that certain license reinstatement provisions only apply to a certain 90 day suspension period imposed by the Driver License</p>		<p>8 inm</p> <p>25 prb</p>	<p>\$660,000 UHP \$660,000 LLE</p> <p>\$264,000 UDC</p>

			Division; increases the administrative impound fee for a driving under the influence violation impound; and makes technical changes.			
SB 0065	Soliciting Gang Members Prohibited	Offenses Against Public Order and Decency Enacts 76-9-801 76-9-802 76-9-803	Creates the criminal offenses of intimidating a minor to join a criminal street gang, or leave a criminal street gang. It is a Class B for a person affiliated with a criminal street gang to intimidate a minor to commit any misdemeanor offense. It's a Class A misdemeanor for repeatedly recruiting a minor into a gang.	New Class A and Class B	2 to probation Per year	\$5,336 \$10,700
SB 0081	Illegal Immigration (Effective July 1, 2009)	Illegal Immigration Enacts 17-22-9.5 63-99a-101 63-99a-104 67-5-22.5 67-5-26 76-10-2701 Amends 32A-4-103 32A-5-103	<p>Requires a county sheriff to make a reasonable effort to determine the citizenship status of a person confined to a county jail for Bond.</p> <p>The ABC Commission may not grant a restaurant liquor license or private club license to a person who is not lawfully in the US.</p> <p>Provides for the creation and issuance of identification documents and requires that those identification documents issued by public entities go only to US citizens, nationals, or legal permanent resident aliens with certain exceptions.</p> <p>Requires public employers to register with and use a Status Verification System to verify the federal authorization status of a new employee.</p> <p>Beginning July 1, 2009, provides that a public employer may not enter into a contract for the physical performance of services within the state with a contractor unless the contractor registers and participates in the Status Verification System to verify the work eligibility status of the contractor's new</p>	New Class A (7-1-09)		None

			<p>employees. Provides that it is unlawful to discharge a lawful employee while retaining an unauthorized alien in the same job category. Requires an agency or political subdivision of the state to verify the lawful presence in the US of an individual who has applied for a state or local public benefit, as defined by federal law, or a federal public benefit that is administered by the agency . Requires an applicant for a state or local public benefit to certify the applicant's lawful presence in the United States, and provides penalties for making a false, fictitious, or fraudulent statement or representation in the application. Provides, subject to the availability of funding, for the establishment of a Fraudulent Documents Identification Unit by the attorney general for the primary purpose of investigating, apprehending, and prosecuting individuals who participate in the sale or distribution of fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state. Requires the attorney general to negotiate a MOU with the US Depart. of Justice or the US Depart. of Homeland Security for the enforcement of federal immigration and customs laws within the state by state and local law enforcement personnel. Prohibits a unit of local government from enacting an ordinance or policy that limits or prohibits a law enforcement officer or government employee from communicating or cooperating with federal officials regarding the immigration status of a person within the state. Makes it a class A misdemeanor for a person to: transport in this state an alien for commercial advantage or private financial gain,</p>		
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			knowing that the alien is in the US in violation of federal law, in furtherance of the illegal presence in the United States; or conceal, harbor, or shelter from detection an alien, in a place within this state for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the US in violation of federal law		
SB 0094	Burglary of a Railroad Car	Burglary and Criminal Trespass Enacts 76-6-204.5 Amends 76-6-201	Amends the definitions to include Railroad car (in addition to its ordinary meaning, includes a sleeping car or any container or trailer that is on the railroad car). It's a third degree felony to unlawfully enter a railroad car, or break the lock or seal on any railroad car, with the intent to commit a felony or theft. Provides that a charge against any person for burglary of a railroad car does not preclude a charge for a commission of any other offense.	New 3rd Degree	It is estimated that enactment of this bill will increase state revenues by \$15,000 annually beginning FY09. The Courts will require an ongoing Gen. Fund appropriation of \$22,400 beginning FY09.
SB 0150	Criminal Penalty Revisions	Criminal Homicide Amends 76-4-102 76-5-202 76-5-203	Provides that attempt to commit a felony punishable by LWOP is a 1 st degree. Provides that a person who is convicted of aggravated murder, based on an aggravating circumstance that also constitutes a separate offense, may also be convicted of, and punished for, the separate offense. Provides that a person who is convicted of murder, based on a predicate offense that also constitutes a separate offense, may also be convicted of, and punished for, the separate offense.	Increased 2nd Degree to 1st Degree	None
SB 0159	Workers Compensation Fraud	Workers Copm Coverage Waivers	Modifies provisions related to workers' compensation coverage waiver and to workers' compensation insurance fraud. Class A misdemeanor if value is less than \$1,000 or	New Class A 3rd Degree 2nd Degree	

		Enacts 31A-22-1011 Amends 31A-21-104 31A-22-501.1 34A-1-103 34A-2-110	number of individuals involved is less than five. A 3 rd degree felony if value is greater than \$1,000, less than \$5,000, or number of individuals is greater than five and less than 50. A 2 nd degree felony if the value is equal to or greater than \$5,000 or the number of individuals is equal to or greater than 50.			None
SB 0164	Computer Assisted Hunting	Wildlife Res. Code Enacts 23-13-18	Prohibits the use of a computer or other device to remotely hunt an animal.	New Class A		None
SB 0192	Sex Offense Amendments	Sexual Offenses Amends 76-5-401.2	Modifies the Criminal Code regarding sexual activity and unlawful sexual conduct between 16 and 17 year olds to include the taking of indecent liberties.	New Class A		None
SB 0297	Animal Torture	Offenses Against Public Order and Decency Amends 76-5-107.5 76-9-301 76-9-301.5 76-9-301.6 76-9-301.7 76-10-1602	Makes torture of a domestic animal (dog or cat) a felony on the first offense.	New 3rd Degree		None

<p>TOTALS 2008</p>				<p><u>New</u></p> <p>Class B=2 Class A=6 3rd =11 2nd=3 1st =1</p> <p><u>Enhanced or Increased</u></p> <p>Class B= 0 Class A=1 3rd = 1 2nd = 2 1st = 4</p>	<p>Prison Admits=15/Year X \$25,700 = \$385,500</p> <p>Probation = 26/Year X \$2000 = \$52,000</p>
<p>TOTAL 2007</p>				<p><u>New</u></p> <p>Class C=1 Class B=4 Class A=3 3rd = 2 2nd = 1 1st = 0 Capital = 1</p> <p><u>Enhanced or Increased</u></p> <p>Class B=0 Class A=1 3rd = 1 2nd = 1 1st = 2 Capital=1</p> <p><u>Decreased</u> 2nd to 3rd =1</p>	<p>Prison Admits=9/Year X \$25,700 = \$231,300</p> <p>Probation = 2/Year X\$2,000 = \$4,000</p>

<p>Combined Total 2007 and 2008</p>				<p><u>New</u></p> <p>Class C=1 Class B=6 Class A=9 3rd = 13 2nd = 4 1st = 1 Capital =1</p> <p><u>Enhanced or Increased</u></p> <p>Class B=0 Class A=2 3rd = 2 2nd = 3 1st = 6 Capital=1</p> <p><u>Decreased</u></p> <p>2nd to 3rd =1</p>		<p>Prison Admits=24/Year X \$25,700 = \$616,800</p> <p>Probation = 28/Year X \$2,000 = \$56,000</p>
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