



Utah Sentencing Commission

2013 ANNUAL REPORT

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Utah Sentencing Commission

The Utah Sentencing Commission is responsible for developing sentencing guidelines for adult and juvenile offenders and for proposing recommendations to all three branches of government regarding the sentencing and release of adult and juvenile offenders. The following policy statement guides the Sentencing Commission in these efforts:

The Commission promotes policies that punish the offender, protect and compensate the victims and society, and reduce the likelihood of future criminal conduct through the use of appropriate and evidence-based rehabilitation and incapacitation.

2013 Adult Sentencing and Release Guidelines

The 2013 Adult Sentencing and Release Guidelines include a number of changes to the Matrix and amendments to the Crime Category listings. Form 1a was added to the General Matrix to address Attempted Aggravated Murder with Serious Bodily Injury. Crime Categories A, B, and C with corresponding sentences of 15, 10, and 6 years to life were included, along with updated Instructions. The title of Form 3 was also amended to accurately reflect that it is the Sex & Kidnap Offender Matrix.

The Commission also reviewed and updated the Guideline's Crime Column Severity Listing (Addendum A) and Crime Categories (Addendum B), by adding all newly enacted offenses, adding those offenses referenced in Form 1a, and reclassifying several existing offenses.

The Guidelines were also amended consistent with the White Collar Fraud Subcommittee Report to include an explanation in the introduction section to better explain the purpose of the guidelines and how specific aggravating factors may affect potential issues. Forms 2 and 4 were also amended to include

further instruction regarding the weight of factors considered at sentencing.

The 2013 Adult Sentencing and Release Guidelines, with the above changes, can be found on the Commission's website: www.sentencing.utah.gov.

Significant Changes in Juvenile Court

In 2013, significant changes occurred impacting Utah's Juvenile Courts. Consistent with the United States' Supreme Court rulings culminating in *Miller v. Alabama*, 132 S.Ct. 2455 (2012), the Legislature recognized in all applicable statutes that the death penalty is unconstitutional as applied to juvenile offenders. In addition, the Legislature clarified in all applicable statutes that a sentence of life without parole may only be applied to juvenile offenders in homicide cases.

Additionally, the result of many years of work resulted in substantial amendments to the Serious Youth Offender statute. The consideration of the number and nature of the juvenile offender's prior adjudications, as well as other public safety issues, may now be used in deciding whether to retain or to transfer

jurisdiction from juvenile to district court. The amendments have been well-received statewide and can be found at § 78A-6-702 (3).

National Trends and Sentencing Issues

Utah continues to maintain a relatively low rate of incarceration at the Utah State Prison in comparison to the national average. In fact, Utah has the lowest rate of incarceration in the western states. Many other states are currently facing the difficult task of exploring options to close multiple prison(s) due to the increasing cost of housing prisoners. Recidivism is of greater concern in the State of Utah and finding ways to reduce recidivism will continue to be an area of focus in the coming years.

Subcommittees and Working Groups

The Sentencing Commission has many subcommittees that study and make recommendations related to issues that are brought to the attention of the Commission. Several of those groups are highlighted below.

Adult Probation & Parole Working Group

The 2013 Performance Audit of the Division of Adult Probation and Parole made several recommendations which are being addressed by the Adult Probation and Parole Working Group. Among the recommendations being addressed through the development of policy and guidelines are: incorporating uniform usage of evidence-based practices; increasing fundamental fairness in offender management; reducing violation behavior and incarceration; and better utilizing revocation data to develop performance benchmarks for staff statewide. The development of a Probation Violation and Rewards

Matrix is also currently underway as a specific tool to assist in reducing recidivism.

Justice Courts and Sentencing

This subcommittee is continuing its work to develop a best practices resource book for justice court judges. The guidebook will provide direction in the types of cases most frequently handled by justice courts. Additionally, this guidebook will promote uniformity and the use of research based principles in sentencing.

The subcommittee is also continuing its work to establish accreditation standards for all treatment professionals providing treatment to offenders in relation to a court imposed sentencing order.

2014 Recommendations

As a result of the work of the Commission's various subcommittees, the Commission is recommending several pieces of legislation for consideration during the 2014 legislative session.

Drug Enhancements

The Board of Pardons brought to light the apparent disparity in parole dates and sentences imposed between second and third degree violent crimes and first degree controlled substance possession offenses which have been enhanced statutorily. In 2012, 108 first degree felony possession offenses with statutory enhancements were filed statewide. The Commission is recommending that simple possession of controlled substance offenses with statutory enhancements be limited to a maximum of a second degree felony.

Jail Release and Credit for Time Served

The Sentencing Commission is endorsing proposed legislation by

Representative Susan Duckworth to require sheriffs to keep records of prisoners' custody status, including whether they have been released to an alternative sentencing program. The collection of such information is intended to provide accurate information as to the specific sentence served by a prisoner to the Department of Corrections, the judiciary, and the Commission on Criminal and Juvenile Justice.

Overdose Reporting Amendments

The Sentencing Commission is also supporting legislation by Representative Carol Spackman Moss which has been dubbed "The Good Samaritan Bill." The bill provides an affirmative defense to specified charges of violating the Utah Controlled Substances Act if the person remains with a person subject to the overdose and cooperates with responding medical providers and law enforcement.

2013 Penalty and Sentencing Policy Changes

Each year the Sentencing Commission tracks changes to sentencing policy, the creation of new crimes, and changes to existing penalties. During the 2013 legislative session, the Utah Legislature created 19 new felony offenses; 23 new misdemeanor offenses; 2 new infractions; and 6 new fines or fees. 1 felony offense and 5 misdemeanor offenses were repealed. Some of these new penalties were the result of amending existing statutes, by adding new elements, or enhancing existing penalties.

A brief summary of these changes is displayed in the table on the next page. A report summarizing all of the 2013 sentencing related legislation is available on the Commission's website: www.sentencing.utah.gov.

2013 Totals *									
New 1 st Degree Felonies	New 2 nd Degree Felonies	New 3 rd Degree Felonies	New Class A Misdemeanors	New Class B Misdemeanors	New Class C Misdemeanors	New Infractions	New Fines or Fees	Anticipated Prison Admissions per year	Anticipated Fiscal Impact [†]
3 2 new 15 to life 1 st increased to 15 to life 1 reduced to 2 nd	6	10 new 1 repealed	10	11 new 1 repealed	2 new 4 repealed	2	6	3	\$458,900
2012 Totals									
1	12	16	13	26	6	1	4		\$1,780,400
2011 Totals									
	10	4	2	11	1			7.3	\$6,663,850
2010 Totals									
1	3	4	6	14	4		4		\$918,000
2009 Totals									
	1	7	9	10	4	2	°	1	\$301,700

* New Crime totals include penalties increased or decreased from a previously existing penalty.

† The anticipated fiscal impact predicts costs to state agencies in only the fiscal year indicated and does not include ongoing costs or the costs to county or local governments.

° Information regarding new fines or fees to offenders was not tracked in these years.

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