



---

Utah Sentencing  
Commission

2018-9

# ANNUAL REPORT

MARSHALL THOMPSON, DIRECTOR (801) 425-2823 [HTTPS://JUSTICE.UTAH.GOV/SENTENCING/](https://justice.utah.gov/sentencing/)

---

**ADULT SENTENCING &  
RELEASE GUIDELINES**

**THE UTAH SENTENCING COMMISSION:**

- **Publishes Guidelines**
- **Advises all three branches of government on sentencing policy**
- **Conducts research**
- **Reviews and makes recommendations on legislation**
- **Tracks legislative changes to sentencing statutes**
- **Tracks judicial decisions related to sentencing issues**
- **Assists the legislature in the review and study of sentencing issues**
- **Conducts training and education statewide**
- **Responds to public comment and inquiries**

This year, the adult sentencing guidelines subcommittee decided to delay changes to the sentencing guidelines until after the legislative session. The purpose of this was to be more responsive to issues that came up during the legislative session and use the guidelines to address problems before making changes to the criminal code.

As a result, there were not updates to the sentencing guidelines in 2018. The subcommittee has made

several recommendations that will be presented to the full commission and then made available for public comment.

In addition to the subcommittee’s recommended revisions, the Utah Commission on Criminal and Juvenile Justice approved a grant to hire an experienced graphic designer to redesign the sentencing guidelines and the supervision length guidelines. The goal of this is to make the sentencing guidelines more readable and accessible. More importantly, the subcommittee noted that some unintentional design flaws in some of the forms and tools may have been encouraging unnecessary order-to-show-cause hearings and increasing the number of jail days used as sanctions on supervision, among other concerns. Finally, this redesign will assist in future updates of the sentencing guidelines. The current document is in an archaic Word format that is no longer amenable to easy edits.

The revisions and the redesign should be completed later this year.

**MASTER OFFENSE LIST**

The master offense list was updated and presented to the Utah Legislature on June 19<sup>th</sup>.

**The new offenses included:**

- One new first-degree felony for benefiting from human trafficking of a child
- One new second-degree felony for female genital mutilation
- Two new third-degree felonies for intentional

- releasing information from the medical marijuana electronic verification system and for attempting to unlawfully access information from the system
- Four new Class A misdemeanors for violation of a sexual violence protective order, down syndrome abortion (not yet effective), operating a sexually oriented business without a license, and failure to register on the white collar crime registry
- Five new Class B misdemeanors for failure to report a drug diversion, vandalism on public lands, cannabis establishment violations, cannabis cardholder overpossession, and cannabis cardholder unlawful sharing
- Six new Class C misdemeanors for kratom processor violations, sale of kratom to a minor, unlawful road closure, failure to carry a cannabis establishment card, negligent release of information from the medical marijuana electronic verification system, and failure to carry cannabis pharmacy card
- Four new infractions for distributing or using synthetic urine, failure to carry cannabis production card, failure to carry cannabis pharmacy card, and violation of cannabis establishment rules

**Enhanced offenses included:**

- An enhancement to a first-degree felony for certain types of sexual exploitation of a minor
- An enhancement from a Class B misdemeanor to a third-degree felony for rendering a body unavailable for an autopsy
- An enhancement from a Class C misdemeanor to a Class B misdemeanor for a hit and run that involves only property damage
- A general enhancement of one degree for hate crimes

**Reduced offenses included:**

- A reduction from a first-degree felony to a third-degree felony for aggravated kidnapping when it involves only unlawful detention, not actual kidnapping
- A reduction from a second-degree felony to a Class A misdemeanor for impeding an alcohol-related investigation
- A reduction from a second-degree felony to a Class A misdemeanor for presenting false information with the intent to deceive
- A reduction from a third-degree felony to a Class A misdemeanor for dealing in materials harmful to a minor when there is less than seven years' difference in age
- A reduction from third-degree felony to a Class A misdemeanor for sexual activity with a 14- or 15-year-old when the

offender is under 21 years old

- A reduction from a Class B misdemeanor to a Class C misdemeanor for repeated violations of minimum wage laws
- A reduction from a Class B misdemeanor to an infraction for a first-time violation of minimum wage laws
- A reduction from a Class B misdemeanor to an infraction for failing to return a marriage license

**Repealed offense included:**

- Third-degree felony for theft of livestock or animals used for commercial purposes (offense now based on value)
- Class A for possession of drug paraphernalia in an enhancement zone
- Three Class A misdemeanors for sodomy, fornication, and adultery

The Master Offense List can be accessed at <https://justice.utah.gov/Sentencing/Handouts/MASTER%20OFFENSE%20LIST%20FINAL.pdf>.

If you notice any errors or omissions in the Master Offense List, please e-mail [marshallthompson@utah.gov](mailto:marshallthompson@utah.gov).

**TRAINING & EDUCATION**

The Sentencing Commission conducted trainings and CLEs on the supervisions length guidelines, sentencing guidelines, and legislative

updates for AP&P agents, county probation agents, Board of Pardons, judges, prosecutors, and defense attorneys across the state.

If you would like to schedule training on any of these issues, please contact Marshall Thompson at [marshallthompson@utah.gov](mailto:marshallthompson@utah.gov).

**SUPERVISION LENGTH GUIDELINES**

Based on H.B. 291, which passed in the 2018 legislative session, the Sentencing Commission produced the first-ever supervision length guidelines. This is an important tool to address issues of increasing returns to prison from parole and the high rates of supervision failure in general.

The guidelines went into effect on January 1, 2019. Before the end of the calendar year, the Sentencing Commission, along with key stakeholders, will evaluate the effectiveness of the supervision length guidelines and propose revisions.

**EXECUTIVE COMMITTEE**

We would like to thank the members of the Executive Committee who dedicated so much time and energy during the legislative session: Pam Vickrey, interim Chair, Rich Mauro, Carrie Cochran, Ryan Robinson, Christina Zidow, Judge Thomas Low, Craig Barlow, Brett Peterson, and Chyleen Richey.

## 2019 LEGISLATIVE SUMMARY

844 bills filed in 2019, a 66 percent increase over 2018  
574 bills passed in 2019, a 9 percent increase over 2018  
68 percent all the bills that were introduced passed in 2019. In 2018, only 42 percent of the bills passed.  
333 bills tracked by CCJJ, a 200 percent increase from 2018.  
75 substantive positions taken by the executive committee of the Sentencing Commission. 57 substantive positions in 2018.

### Positions:

Oppose: 13	Passed: 5, 38 percent (-28 percentage points from average)
Support in Concept: 3	Passed: 2, 67 percent (~average)
Support: 59	Passed: 53, 90 percent (+22 percentage points from average)
Priority: 3	Passed: 3, 100 percent (+32 percentage points from average)

## 2018-9 SENTENCING COMMISSION MEMBERS

**Pamela Vickrey, Vice Chair/Interim Chair**  
Juvenile Defense Attorney, Utah State Bar

**Peter Stirba**  
Citizen Representative

**Carrie Cochran**  
Utah Board of Pardons and Parole

**Kim Cordova**  
Executive Director,  
Commission on Criminal & Juvenile Justice

**Mike Haddon**  
Executive Director,  
Utah Department of Corrections

**Judge Michele Christiansen**  
Utah Court of Appeals

**Judge Vernice Trease**  
District Court Judge, Third District

**Judge Thomas Low**  
District Court Judge, Fourth District

**Judge Julie Lund**

Juvenile Court Judge, Third District

**Judge Angela Fannesbeck**  
Juvenile Court Judge, First District

**Brett Peterson**  
Director, Utah Juvenile Justice Services

**Rick Westmoreland**  
Utah Youth Parole Authority

**Wendi Davis Cox**  
Adult Treatment Provider, Weber Human Svcs.

**Christina Zidow**  
Juvenile Treatment Provider, Odyssey House

**Chief Craig S. Black**  
Utah Chiefs of Police Association

**Craig Barlow**  
Utah Attorney General's Office

**Sheriff Brian Nielson**

Utah Sheriffs Association, Sanpete County

**Representative Kim Coleman**

Utah House of Representatives, Republican

**Representative Brian King**

Utah House of Representatives, Democrat

**Senator Daniel Thatcher**

Utah State Senate, Republican

**Senator Gene Davis**

Utah State Senate, Democrat

**Rachelle Hill**

Victims' Representative, West Valley City

**John Kwarm**

Diversity and Inclusion Representative, Utah  
County Public Defenders

**Rich Mauro**

Director, Salt Lake Legal Defenders

**Ed Brass**

Defense Attorney

**Ryan Robinson**

Prosecutor, Statewide Association of  
Prosecutors

**Patricia Cassell**

Juvenile Prosecutor, Statewide Association of  
Prosecutors