

Effective 7/1/2022

64-13-47 Prison Sexual Assault Prevention Program.

- (1) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing policies and procedures regarding sexual assaults that occur in correctional facilities.
- (2) The rules described in Subsection (1) shall:
 - (a) require education and training, including:
 - (i) providing to inmates, at intake and periodically, department-approved, easy-to-understand information developed by the department on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; and
 - (ii) providing sexual-assault-specific training to department mental health professionals and all employees who have direct contact with inmates regarding treatment and methods of prevention and investigation;
 - (b) require reporting of sexual assault, including:
 - (i) ensuring the confidentiality of inmate sexual assault complaints and the protection of inmates who make complaints of sexual assault; and
 - (ii) prohibiting retaliation and disincentives for reporting sexual assault;
 - (c) require safety and care for victims, including:
 - (i) providing, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure the victim's safety by separating the victim from the assailant, if known;
 - (ii) providing acute trauma care for sexual assault victims, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;
 - (iii) providing confidential mental health counseling for victims of sexual assault, including access to outside community groups or victim advocates that have expertise in sexual assault counseling, and enable confidential communication between inmates and those organizations and advocates; and
 - (iv) monitoring victims of sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault;
 - (d) require investigations and staff discipline, including:
 - (i) requiring all employees to report any knowledge, suspicion, or information regarding an incident of sexual assault to the executive director or designee, and require disciplinary action for employees who fail to report as required;
 - (ii) requiring investigations described in Subsection (3);
 - (iii) requiring corrections investigators to submit all completed sexual assault allegations to the executive director or the executive director's designee, who must then submit any substantiated findings that may constitute a crime under state law to the district attorney with jurisdiction over the facility in which the alleged sexual assault occurred; and
 - (iv) requiring employees to be subject to disciplinary sanctions up to and including termination for violating agency sexual assault policies, with termination the presumptive disciplinary sanction for employees who have engaged in sexual assault, consistent with constitutional due process protections and state personnel laws and rules; and
 - (e) require data collection and reporting, including as provided in Subsection (4).
- (3)
 - (a) An investigator trained in the investigation of sex crimes shall conduct the investigation of a sexual assault involving an inmate.
 - (b) The investigation shall include:

- (i) using a forensic rape kit, if appropriate;
 - (ii) questioning suspects and witnesses; and
 - (iii) gathering and preserving relevant evidence.
- (4) The department shall:
- (a) collect and report data regarding all allegations of sexual assault from each correctional facility in accordance with the federal Prison Rape Elimination Act of 2003, Pub. L 108-79, as amended; and
 - (b) annually report the data described in Subsection (4)(a) to the Law Enforcement and Criminal Justice Interim Committee.

Enacted by Chapter 44, 2021 General Session