

2022 Legislative Session Summary

JRI reform bills

The Justice Reform Initiative (JRI), [passed in 2015 as part of H.B. 348](#), was a subject of much debate over the 2022 legislative session. JRI sought to restructure the criminal justice system and decrease recidivism. Main reforms brought by JRI included preserving the prison bed for violent criminals and addressing drug offenses with an emphasis on rehabilitation rather than punishment. Initially, this resulted in fewer prison sentences and less jail time for non-violent offenses, with no significant increase in crime rates. However, the last two years have seen an increase in crime rates. Many legislators attribute this to JRI, even though the upward trend is most likely an isolated response to the COVID-19 pandemic and the surrounding economic uncertainty. Due to this misconception, several legislators introduced bills to increase penalties and prison sentences this year. Other legislators recognized JRI as a valuable reform mechanism in need of more data and funding to reach its potential. They introduced bills to mandate and fund this data collection effort.

Passed:

H.B. 28, [Offender Supervision Amendments](#), passed early in the session. **This bill requires a jail to detain an individual without bail and notify a probation or parole agency who is on supervised probation or parole who has been arrested for a violent felony or a qualifying domestic violence offense.** It also requires that private probation providers enter into a contract with counties. The initial bill would have required that if a person was on any kind of probation (even court probation), and they were arrested for a new violent felony or domestic violence offense, then the jail would have to hold them without bail, but we were able to amend it to supervised probation only.

H.B. 229, [Property and Financial Offense Amendments](#), was a top priority bill for us this session. The original version of the bill sought to create enhanced penalties for theft based on dollar amounts and establish a presumption of prison for financial crimes over \$50,000. The sponsor felt that the uptick in property crime was a result of JRI and could be solved with increased prison sentences. We worked with the sponsor, the AG's office, and the Utah Sentencing Commission extensively on this bill, and it passed without much opposition. The final version of the bill omits the presumptions of prison and replaces statutory sentencing minimums with the USC's sentencing matrix based on dollar amounts. However, **as a result of this bill, you should fully expect new sentencing guidelines which will include presumptive prison recommendations for cases with high dollar amounts or aggravating circumstances.**

H.B. 403, [Justice Reinvestment Initiative Modifications](#), passed. This bill requires the Division of Technology Services and CCJJ to collaborate on and create a Criminal Justice Database as a repository for statutorily required data. This was a key bill for JRI as it provides funding for the data collection effort.

S.B. 150, [Criminal Justice Data Management Task Force](#), passed. This bill creates the Criminal Justice Data Management Task Force, tasked with figuring out how local law enforcement agencies can deposit information into a single system. This was introduced by the sponsor as a precursor to a more robust group of stakeholders, whose duties would include deciding which data to collect. We expect to be included next year.

S.B. 179, [Criminal Justice Amendments](#), passed, which requires each county to participate in coordinating councils and provide certain data to the state in order to be eligible to receive CCJJ funding. The original draft of the bill included a penalty enhancement for second or subsequent drug possession charges as a pushback on JRI, but we worked to get this removed. Instead, the final bill provides that a drug offense does not need to be a felony to be handled in drug court, so that subsequent drug offenses can be scrutinized at a higher level without raising the penalty.

DNA bills

Several bills introduced this session dealt with DNA collection and processing. The discussion revolved around an individual's constitutional rights and how to balance these with advancements in technology. Many legislators agreed that new technologies can and should change the criminal investigative process. Much of our work in this area was done to safeguard due process.

Passed:

H.B. 19, [DNA Specimen Analysis Amendments](#), passed both the House and the Senate vote. Originally, the bill sought to allow the immediate processing of an individual's DNA at the time of arrest. We worked with legislators on the specifics of this bill, narrowing the applicability to suspects that have absconded. The final version of the bill allows for a DNA sample to be processed if sixty days have passed since the issuance of an arrest warrant for failure to appear.

H.B. 65, [Forensic Biological Evidence Preservation](#), passed on the last day of the session. This bill requires that biological evidence connected to felony charges must be preserved for either the length of the statute of limitations, the length of time the defendant is in custody, or the length of time a co-defendant is in custody. We maintained a neutral position on this bill, since it concerns the establishment of both innocence and guilt for defendants.

Failed:

H.B. 144, [Forensic DNA Retention Amendments](#), was another bill seeking to establish a timeline for the destruction of DNA specimens. It would have required the destruction of a DNA specimen if criminal charges were not filed against an individual within 90 days after booking. It did not leave the House Rules Committee.

H.B. 340, [Forensic DNA Privacy Amendments](#), failed to pass. This bill sought to establish a process for law enforcement agencies to conduct a database search for the purpose of identifying potential biological relatives to an unknown DNA profile. This would include the databases of private genealogy companies, who were adamantly against this bill. The bill was held in its first committee hearing for privacy concerns.

DUI bills

As always, legislators introduced bills that will affect DUI statute. We were involved with some of the DUI bills this session, and we are continuing to work on expanding Utah's interlock program.

Passed:

H.B. 29, [Driving Offenses Amendments](#), passed, which aligns penalties for a DUI or DUI metabolite that results in death or serious bodily injury into one part of the Utah code. **Now, if a person negligently operates a vehicle, is DUI, and causes injury to another, OR operates a vehicle with criminal negligence and with a measurable amount of a controlled substance, then they are guilty of "negligently operating a vehicle resulting in injury," a class A misdemeanor. If they cause serious bodily injury, it is a third degree felony. It does not apply for valid medical marijuana or a valid prescription. If they cause a death, it is "negligently operating a vehicle resulting in death" and is a second degree felony.**

H.B. 137, [DUI Amendments](#), passed, which explicitly states that both blood and breath alcohol levels are relevant for enhanced DUI offenses and penalties. It amends the provisions for refusal of a chemical test in the case of an extreme DUI. This was brought by the district attorney's office to align with their belief that refusal provisions should incur worse penalties than getting a negative result. The bill also clarifies that the suggested prison sentence can be suspended but not the mandatory fine or treatment.

H.B. 143, [DUI Penalty Amendments](#), passed, **raising the conviction for a second DUI within 10 years to a class A misdemeanor**. We testified in both committee hearings of this bill that this enhancement was unnecessary because a second DUI already has sentencing enhancements built into the statute. We also shared our concerns that this bill might increase DUI recidivism both because the sentencing process will take longer and because supervised probation at the district court level may not be taken as seriously with class A misdemeanors as it is at the justice court level. Despite our concerns, the bill passed both floor votes. It was tabled for several weeks due to its large fiscal note, which meant its passage depended on whether or not the Legislature would fund its provisions. We hoped this would be enough to kill the bill, but it was funded and passed in the last few days of the session.

Failed:

H.B. 421, [Driving Under the Influence Amendments](#), was a bill we worked very closely on with the sponsor throughout this legislative session. Originally, the bill sought to increase interlock in

lieu of suspension options for offenders by doing four things: removing the risk assessment requirement, allowing interlock in lieu of suspension for refusals, giving credit for installing an interlock device if license suspension begins later on in the court process, and clarifying that a judge cannot handpick an interlock company. The Department of Public Safety was strongly opposed to all of these provisions and was unwilling to work with us on this bill until the day it was put on a committee agenda. Right before the committee hearing, DPS met with the sponsor and took out all but one of the provisions. The bill, as it was heard in committee, would have given the judge the option of giving credit to an offender that installs an interlock before court-ordered license suspension. However, it would have prohibited the judge from awarding credit if the case involved an extreme DUI. We told the sponsor that this version of the bill was more harmful to us than helpful, and he agreed to not push it to a Senate vote this session. We will continue working on this issue throughout the interim and come back with the bill next session. **For the time being, an interlock option in lieu of an administrative suspension is available on a first-time non-refusal DUI if a person does a risk assessment approved by the DLD, is deemed low-risk, and installs an interlock device in their vehicle. However, if they are later convicted of DUI instead of getting their offense reduced to an impaired driving, they will then suffer the 120-day suspension upon conviction.**

Sex offense bills

Passed:

H.B. 81, [Sexual Solicitation Amendments](#), passed. We worked closely with the sponsor, Rep. Pulsipher, to completely reverse the provisions of the bill from enhancing the penalty of patronizing a prostitute to lowering the penalty of prostitution. **Prostitution is now a class B. The bill will also require anyone convicted of solicitation statewide to take a “Johns Class” upon conviction.** The aim of this bill was to make patronizing a prostitute a higher offense than prostitution itself, which the current language does by keeping the charge of patronizing a prostitute a class A misdemeanor and lowering the charge of prostitution to a class B misdemeanor.

S.B. 156, [Protection Against Extortion Amendments](#), passed, expanding the offense of sexual extortion to also prohibit someone from obtaining anything of value in exchange for not distributing intimate images of another person.

S.B. 167, [Sexual Exploitation Amendments](#), passed. It creates an offense called “aggravated sexual exploitation of a minor.” The original version of this bill was a nightmare. It would have created a first degree felony for anyone who distributed or possessed with the intent to distribute child pornography, knowingly produced child pornography, or intentionally possessed child pornography that depicted a minor who was prepubescent, under 14, or had more than 500 images or 25 videos. We worked extensively on the final language with the sponsor and other stakeholders. We were able to get the mandatory prison sentences removed and further narrow the applicability of the new offense. **The final language of the bill applies the new first degree felony only to an offender that “intentionally distributes images or videos of**

individuals under the age of 14.” We also worked with the Sentencing Commission to draft language in the bill that requires them to evaluate sentencing guidelines for this offense. **You should also expect the sentencing commission to raise sentencing guidelines for cases with aggravating circumstances.**

Failed:

H.B. 98, [Sexual Offense Amendments](#), was this year’s affirmative consent bill from Rep. Romero. It sought to create a third degree felony offense of any sexual activity without affirmative consent, which included a 10-year sex offender registry requirement on a second or subsequent offense. After failing to pass to the House floor by one vote last year, Rep. Romero said she would run it every year until it passed. There were a few changes made to the bill this year, including lowering the proposed violation to a class A misdemeanor for a juvenile. Since the proponents of this bill are adamant that there is a gap in the law between first degree felony rape and sexual battery, we suggested that sexual assault with a reckless mens rea could constitute a third degree felony. We were strongly opposed to this bill as it was written, and were able to prevent it from leaving the House Rules Committee.

S.B. 52, [Sex Offender Registry Amendments](#), sought to change the term “sex offender” to the term “registrant” in the code. It also would have allowed individuals on the registry to enter a restricted area if they were accompanied by a responsible adult. This provision was strongly opposed by prosecutors, law enforcement, and victims groups and the sponsor abandoned the bill early on in the session.

Misc. penalty enhancement bills

Passed:

H.B. 32, [Health Care Worker Protection Amendments](#), passed, **enhancing the charge of assault or threat against a healthcare worker to a class A misdemeanor.** We testified in opposition to this bill and its negative implications for individuals with mental illness or suffering from drug addiction. Although the sponsor justified the bill as a response to the COVID-19 pandemic, giving the enhanced charge a sunset date of 2027, this date is arbitrary. This bill does not stipulate for any data to be gathered over its active period, so there will be no way to evaluate its effectiveness or lack thereof.

H.B. 38, [Property Theft Amendments](#), passed. This bill is the sponsor’s attempt to address the increase in theft of catalytic converters. The bill increases the penalty specifically for catalytic converter theft, and it also increases the regulation of the recycling and purchasing process of catalytic converters by requiring purchasers to document and input required information into a central database.

H.B. 329, [Weapon Possession Penalty Amendments](#), passed, exempting individuals taking prescribed medication from the offense of carrying a weapon while under the influence of drugs or alcohol.

H.B. 353, [False Emergency Reporting Amendments](#), passed. This bill clarifies that if an actor makes a false report - with the intent to ambush the responding officer - through a third party, they can still be prosecuted under the false reporting statute.

H.B. 442, [Marijuana Definitions Amendments](#), passed on the last day. This was another bill we were able to flip during the last week of the session. This bill was introduced to clarify where THC concentrate (dab, resin, etc.) belongs in the criminal statute. Under existing statutes, possession and distribution of THC concentrate could be prosecuted under either the marijuana statute as a class B misdemeanor and third degree felony respectively, or the Schedule 1 controlled substances statute as a class A misdemeanor and second degree felony. Originally, the bill sought to remove THC concentrate from the marijuana statute so it could only be prosecuted as a class A misdemeanor or a second degree felony. When we approached the sponsor about removing it from the Schedule 1 statute instead, he said he would amend the bill so that possession stayed at a class B misdemeanor but distribution would be elevated to a second degree felony. He ultimately did not run this amendment, so we spoke to other legislators who agreed to substitute the bill on the House floor. The bill was substituted with our suggestion, so **now, simple possession of THC concentrate will always be a class B and distribution will be a third degree felony.** This bill was late in the session, but, working with other stakeholders, we were able to rush it to the Senate floor for a vote on the last day.

S.B. 53, [Driver Speeding Amendments](#), passed. This bill was introduced to address drag racing in Utah. The original draft of the bill amended the offense of reckless driving to include traveling on the highway at a speed of 100 mph or higher or traveling at 25 mph over the speed limit. It also created the offense of being a spectator at a drag race, which could be prosecuted as a class B misdemeanor. There were concerns about this last provision in particular due to the ambiguity of the term "spectator." We shared concerns with the sponsor that this bill would criminalize the non-criminal population. Five substitutes later, the final language of the bill removes the spectator provision. **The final version of the bill raises the offense of drag racing to a class A misdemeanor, allows for seizure of cars that are not street legal and take part in a drag race, provides a minimum fine for traveling over 100 mph, and amends the offense of reckless driving to include traveling on a highway at 105 mph or higher.**

S.B. 68, [Trespass Penalty Amendments](#), passed, which imposes liability for civil damages against a person who is convicted of criminal trespass while hunting or fishing.

S.B. 102, [Wireless Communication Device Use in a Motor Vehicle](#), passed. Previously, taking a picture with your phone while driving wasn't specifically included in the list of prohibited uses of a mobile device while driving. Now it is.

S.B. 132, [Child Welfare Amendments](#), passed. This bill, which looks at the adoption process extensively, provides that a person who intentionally or knowingly places children for adoption without a license commits a third degree felony.

Failed:

S.B 189, [Drug Induced Homicide Amendments](#), sought to create the second degree felony offense of drug-induced homicide, in which an actor unlawfully distributes a controlled substance and the controlled substance causes or contributes to the death of an individual. This bill was dropped by the sponsor due to opposition on the bill's premise and language.

Judicial bills

Passed:

H.B. 40, [Judicial Performance Evaluation Commission Amendments](#), passed, which provides that the Judicial Performance Evaluation Commission will determine whether a judge meets or exceeds minimum performance standards, rather than making a recommendation regarding retaining a judge.

H.B. 134, [Victims' Rights Revisions](#), passed with our requested amendment to remove its applicability to misdemeanor cases. **The final version of the bill requires a prosecuting entity to provide notice of an anticipated plea deal to a victim in a felony case "as soon as practicable."**

H.B. 139, [Traffic Violation Amendments](#), passed, creating a deferment program for a traffic infraction. **If an offender doesn't have an infraction in the last 24 months, they can pay the fee online and have the case dismissed in most low-level traffic offenses without appearing in court.** A conviction may be required if the individual is convicted of another traffic violation in the 12 months following the application for the deferred prosecution.

H.B. 196, [Transfer of Domestic Violence Cases](#) passed in the last few days of the session. **The bill makes it so that if a DV case is set for trial, prosecutors (or defense attorneys) can have the case transferred to District Court. The purpose of the bill is to prevent DV victims from having to testify twice by effectively eliminating our trial de novo in justice court DV cases.** This was a priority oppose bill for us, but it managed to get through due to a tentative compromise that fell through and an untimely hearing during a meeting for another high priority bill. We believed that the high costs associated with its provisions would prevent the bill from receiving funding, which was reinforced from its being tabled in the Senate for several weeks. However, we found out on the night before its final vote that it received funding, and even though we spent the next morning meeting with senators, the bill passed. **We believe that this bill would not survive a constitutional challenge because it is very procedural in nature (which means it must be set by the courts in rule, not by the Legislature in statute) and because it potentially creates forum shopping and judge shopping problems. It may**

also violate equal protection rights. We encourage any defense attorneys who have their cases removed by this statute, let UACDL know and we have volunteers to help with a challenge.

H.B. 257, [Public Prosecutor Modifications](#), passed. The former version of this bill sought to repeal [HB 300 from the 2020 General Session](#), which allows prosecutors to file charges in a justice court that ordinarily would have to be filed as class A misdemeanors in district court. We spoke with the sponsor about the utility of this program, and the final version of H.B. 257 was limited to **prohibit a prosecutor from filing a class B or C misdemeanors in a county justice court if the facts of the case support a felony charge.**

H.B. 392, [Expungement Fee Amendments](#), passed. **This bill temporarily suspends fees for the issuance of a certificate of eligibility for expungement and for a petition of expungement until June 30, 2023.** The sponsor included an expungement data collection requirement in this bill.

S.B. 35, [Expungement Modifications](#), passed. **This bill was a broad sweep of the expungement statute to remove unnecessary hurdles and increase clarity.** It represents the interim work of several interest groups, including courts, prosecutors, public defenders, and Clean Slate Utah. Specifically, the bill does the following: removes the requirement that applicants pick up the certified orders of expungement and individually deliver a copy of the order to each agency with the relevant records - instead BCI will notify the affected agencies once an order of expungement is received; allows court clerks to use existing BCI infrastructure to download electronic certificates and upload final orders; lists Public Intoxication and Minor in Possession of Tobacco as Minor Regulatory Offenses; expands eligibility determinations (so that Board of Pardons does not have to make decisions on non-enhanceable Class B and C misdemeanors, infractions, or drug possession offenses); allows prosecutors to communicate interdepartmentally regarding expunged records for Stalking, Domestic Violence, Sex Offenses, and Firearms; clarifies that those currently on probation cannot expunge their records; ensures that cases linked to permanent stalking injunctions and protective orders are not expunged; ensures the correct prosecuting agency is being provided notice; simplifies the process by which prosecutors provide notice to victims; and fixes the double negative of “not contrary to the interests of the public” without shifting the burden from the petitioner to the prosecutor.

S.B. 56, [Criminal Stalking Exemption Amendments](#), passed this session. **This bill exempts law enforcement officers and private investigators from the criminal stalking statute if they are acting in their official capacity.** They are already exempt from the civil stalking statute. Law enforcement groups were concerned about private investigators having the same privileges as them with less training and regulation, but the bill passed despite their opposition.

S.B. 85, [Protective Order and Stalking Injunction Amendments](#), passed, which **allows for the expungement of certain protective orders and stalking injunctions that are dismissed by the court.**

S.B. 108, [Indigent Defense Amendments](#), passed. This bill makes technical changes to the Indigent Defense Commission statute and allows the IDC to award grants for indigent defense services that are innovative and exceed the commission's core principles.

S.B. 210, [Post Conviction Representation Amendments](#), passed, which **allows a court to appoint the Indigent Appellate Defense Division in an action or appeal for postconviction relief.**

S.B. 217, [Protective Order Revisions](#), permits a protective order or civil stalking injunction to be filed in the county where a party is temporarily domiciled.

S.B. 246, [Statute of Limitations for Criminal Conduct Amendments](#), passed. **This bill allows an individual to bring a cause of action within one year from the issuance of a final disposition for a criminal proceeding even if a statute of limitations has expired.**

Failed:

H.B. 147, [Death Penalty Modifications](#), failed to pass out of committee. This bill would have repealed the death penalty and replaced it with a new sentencing provision of 45 years to life. The House Leadership and the AG's Office put on a full court press to defeat this bill at every stage of the process. The other groups and us met with several legislators in an effort to get the bill to the House floor for a vote, and although several of them voted in favor of repeal, the committee ultimately voted to oppose the bill by a 5-6 vote. The AG's office maintained that it was very useful as a bargaining tool to get more information out of offenders, even if it was not useful as a sentence. A large number of victim family members made extremely emotional statements during the committee hearing, which ultimately carried the vote.

H.B. 148, [Commitment in Criminal Proceedings](#), was tabled on the House floor and did not move forward this session. This bill sought to address the problems with how mental illness is handled in the criminal justice system. Although the sponsor worked extensively to address concerns - including narrowing this bill to only include the lowest level offenses, limiting the mental illness diagnoses included in this bill, and removing dismissal - the opposition from stakeholders was enough to move the bill to interim study.

S.B. 231, [Preliminary Hearing Amendments](#), was not voted on this session, but will be a top priority for 2023. The sponsor, Sen. Weiler, introduced this bill intending for it to be moved to interim study because of its complexity and numerous vested parties. The bill was heard with a short presentation from one of our attorneys, who testified to the eroded nature of preliminary hearings and their integral role in our justice system. We shared our belief that defendants need robust discovery at preliminary hearings in order to make informed decisions on how to proceed. The current language of the bill reflects these values, but we expect many concessions to be made over the interim due to strong opposition from prosecution and victims groups. We are dedicated to working on this issue with Sen. Weiler and other stakeholders through the rest of the year, as it is consistently the most important issue for our membership.

Restitution and reparations bills

Passed:

H.B. 228, [Crime Victim Reparations Amendments](#), passed, which provides that **a victim of sexual assault is not required to report the assault in order to be eligible for a reparations award.**

H.B. 321, [Restitution Amendments](#), passed. This bill seeks to streamline the restitution process for victims, by **clarifying the preclusive effect of a conviction in a subsequent civil action.**

Juvenile bills

Passed:

H.B. 18, [Intimate Image Distribution Amendments](#), passed, which **restricts the offense of aggravated unlawful distribution of a counterfeit intimate image to individuals 18 years or older.**

H.B. 55, [Juvenile Justice Services Amendments](#), passed, **allowing the Division of Juvenile Justice Services to continue to offer voluntary services to youth leaving the care of Juvenile Justice Services until they are 25 years of age.** This bill was introduced to extend the deadline for youth to take advantage of these services, thereby decreasing their future involvement in the criminal justice system.

H.B. 138, [Juvenile Justice Modifications](#), passed. **This bill permits youth that are tried as adults and sentenced to prison for offenses committed as a juvenile to be provisionally housed with the Division of Juvenile Justice Services until they are 25 years old.** This practice already exists for youth with other sentences. This is a practice used in other states that has shown to have better results for public safety and the youth involved with the criminal justice system.

H.B. 171, [Custodial Interrogation Amendments](#), passed the House and Senate vote. **This bill prohibits the use of deception and false statements of leniency in a juvenile interrogation.** This bill is an attempt to address juvenile susceptibility to law enforcement authority, which results in juvenile defendants accounting for one third of all false confessions.

H.B. 248, [Juvenile Amendments](#), passed. This is a juvenile recodification bill that seeks to clarify and renumber the juvenile code. Its connected bill, H.B. 249, [Juvenile Recodification Cross References](#), also passed, which provides the technical cross references to these changes.

H.B. 277, [Juvenile Competency Amendments](#), passed. This bill seeks to provide a protection for juveniles in competency evaluations. **It provides that statements made by the juvenile in a**

competency evaluation or in the course of attainment are not admissible as evidence against them.

H.B. 299, [Juvenile Justice Changes](#), passed, which is a broad reform of the juvenile justice system. Changes involved in this bill affect the juvenile bail system, juvenile restitution, and jurisdiction of the courts over various offenses. This bill clarifies the timeframe judges have to consider restitution. It allows jurisdiction of a juvenile case to be moved if there is pending restitution. This bill also addresses school-based offenses, providing that an 18 year old still in high school can be charged the same as their 17 year old peers, i.e. through an intervention program rather than through the adult criminal justice system.

Failed:

S.B. 120, [Juvenile Justice Amendments](#), failed to pass. This bill sought to remove the option of court-ordered fines and fees as part of a juvenile sentence. One of our attorneys presented this bill to both the House and Senate committees, citing the lack of rehabilitative impact that fines and fees had on juveniles. In some cases, the burden of fines and fees on juveniles increases recidivism as juveniles or their families struggle to pay the fine. Although the bill passed the Senate floor vote, some legislators in the House maintained that this bill shifts the financial burden of a juvenile's interaction with the justice system to the Utah taxpayer. As a result, this bill was never heard on the House floor.

Law enforcement bills

Passed:

H.B. 124, [Forcible Entry Warrant Modifications](#), passed, modifying parameters for knock and announce and no-knock warrants. This bill has been run unsuccessfully in the past, but was able to pass this year with the help of its new sponsor and chief of police, Rep. Gwynn. **This bill requires that officers knock and announce themselves more than once before forcibly entering a building and sets a preference for warrants to be served during daytime hours. It prohibits the use of no-knock warrants for misdemeanor charges.**

H.B. 260, [Law Enforcement Recording Release Amendments](#), passed this year. This bill creates a process for an individual to request the release of a recording of a law enforcement incident that resulted in death or bodily injury, or when an officer fired a weapon.

S.B. 126, [Officer Intervention and Reporting Amendments](#), passed, which sets standards and reporting requirements for police misconduct. **It requires an officer to, if possible, intervene in cases of police misconduct and report the misconduct to the officer's supervisor.**

Failed:

H.B. 73, [Post Certification Amendments](#), failed to pass. This bill sought to allow the Peace Officer Standards and Training Council (POST) to issue a Letter of Caution, or suspend or revoke the certification of a law enforcement officer, if the officer is found to have violated minimum use of force standards. The bill passed the House floor vote but was held in the Senate Business and Labor Committee.

H.B. 296, [Peace Officer Training Amendments](#), ran out of time on the Senate floor. This bill would have required law enforcement training to include identifying and reporting a criminal offense that is motivated by discrimination or otherwise a hate crime.

S.B. 256, [Law Enforcement Standards](#), was a bill that we originally worked on with the sponsor, Sen. Escamilla, as a response to the continued lack of Brady/Giglio information included in case discovery. We were seeking to create an accountability system for police misconduct, in which every complaint that dealt with dishonesty would be sent to POST. POST could then decide which complaints to investigate. In our meeting with law enforcement policy groups, there was vehement opposition to this idea. Based on law enforcement suggestions, Sen. Escamilla introduced a different bill instead, one that mandated early warning systems and required agencies to check the National Decertification Index before hiring officers. The law enforcement groups opposed this new bill and the sponsor did not bring it forward for a vote. This is another issue we plan to work on during the interim.

Bills concerning inmates

Passed:

H.B. 77, [Medication for Inmates](#), was funded and passed this session. This bill removes the repeal date from the statutory provisions requiring county jails to provide inmates with prescribed contraceptives and expands the types of contraceptives that may be provided.

H.B. 406, [Jail Photo Distribution Prohibition](#), passed, which amends the protected record statute of a booking photo to allow the dissemination of the photo to those involved in the criminal investigation.

Failed:

H.B. 207, [Inmate Treatment Amendments](#), failed to pass. This bill required a jail to allow the continuation of medication assistance programs for inmates who were active clients prior to incarceration. There were concerns that jails were not going to be able to coordinate this effort, due to the variability of medical contracts and limited resources.

Bills concerning records

Passed:

H.B. 117, [Victim Address Confidentiality Program](#), passed this session. **This bill creates an address confidentiality program for crime victims** through the Commission on Criminal and Juvenile Justice. This program has been implemented in many other states, and the sponsor has given CCJJ a year to implement this program in Utah. Crime victims who apply for this program are required to either move to a new address or plan to move to a new address within 90 days to be eligible.

H.B. 399, [Government Record Amendments](#), passed. This bill concerns the garrity rights of police officers. **The bill modifies the list of records that may be classified as protected to include an employee statement given as part of a governmental entity's investigation into possible wrongdoing.** We took a neutral position on this bill, since we represent the individuals on both sides of the issue.

Failed:

S.B. 228, [Health Information Sharing Act](#), sought to require the Department of Public Safety to create a database of voluntarily provided information on individuals with mental illnesses, behavioral disorders, and other neurological disorders for integration with the 911 emergency dispatch system. This bill failed to pass the Senate vote due to privacy concerns

Task force and other entity bills

Passed:

H.B. 208, [Domestic Violence Offender Treatment Board](#), passed. **This bill creates a board within CCJJ that will focus on creating procedures for proportional treatment of domestic violence offenders.** We worked with Rep. Snow on this bill to add an additional member to the board who represents indigent defense. We believe that this board will take an evidence-based approach in determining whether a domestic violence offense is part of a serious abusive cycle or whether it represents an isolated incident.

Misc. bills

Passed:

H.B. 314, [Inheritance Disqualification Amendments](#), passed. This bill seeks to strengthen the “slayer” statute, which disinherits someone who commits the homicide of the individual from which they stand to inherit property. This bill allows the decedent's estate to petition a court to preserve the assets and property of the disinherited individual into a protected trust.

H.B. 412, [Probation and Parole Employment Incentive Program](#), passed, among some controversy. **This bill creates an incentive program for AP&P that will administer grant amounts to departments based on the employment rate of their probationers or parolees.** There are concerns about this bill from a variety of stakeholders, who believe that it creates a

perverse incentive for probation and parole officers to put offenders into employment regardless of the offender's specific case and needs. Due to this intrinsic problem, several other states have repealed programs like this one. The Utah Sentencing Commission spoke with the sponsor about these concerns, and although the sponsor would not amend the content of the bill, she agreed to push the bill's effective date back. Instead of looking retrospectively at the last four years of data, the next four years of data will be considered for the grant administration. The Utah Sentencing Commission, among others, will keep working on a solution in the meantime.

Failed:

H.B. 192, [Former Offender Employment Amendments](#), ran out of time on the Senate floor. This bill would have allowed public employers to hire former substance abuse offenders as mental health professionals, with the goal of having mental health professionals that were able to speak from experience in treatment programs.

H.B. 352, [Online Dating Safety Requirements](#), ran out of time in the Senate. This bill would have required online dating sites to disclose whether or not they perform background checks on each user.

S.B. 196, [Traffic Enforcement Amendments](#), was abandoned by the sponsor. This bill would have allowed for the use of photo radar without the presence of a law enforcement officer.

Resolutions

We don't typically track legislative resolutions, but this session there were quite a few that dealt with criminal justice and the judicial system. None of the resolutions we were tracking passed this year.

Failed:

H.C.R. 22, [Concurrent Resolution Encouraging the Employment of Qualified Ex-offenders by Public Entities](#), was introduced too late in the session and never got out of the House Rules Committee. This resolution encouraged public entities to take seriously the need to employ ex-offenders.

H.J.R. 2, [Joint Resolution Amending Rules of Evidence on Admissibility of Evidence of Crimes or Other Acts](#), was one of our top priorities through the session. This resolution sought to amend evidentiary rules to allow for the admission of evidence of similar crimes of sexual assault. We testified that a fundamental tenet of the criminal justice system is that evidence of past bad acts is not admissible to show the propensity to commit crime. After many stakeholders testified against the resolution, it was held in committee for the duration of the session.

H.J.R. 4, [Proposal to Amend Utah Constitution -- Legislative Power Relating to Civil Action for Child Sexual Abuse](#), proposed to amend the Utah Constitution to state that the Legislature could revive a cause of action for child sexual abuse after the time allotted by the statute of limitations. It failed to pass the House vote.

H.J.R. 17, [Joint Resolution Amending Rules of Criminal Procedure on Hearings with Contemporaneous Transmission](#), sought to allow a forensic toxicologist to testify remotely in misdemeanor cases. Even though this was allowed under the emergency powers of the court in response to COVID-19, we had serious constitutional concerns about placing this in the Utah code. Rep. Waldrip, the sponsor of this legislation, had us testify about these concerns as part of his presentation, and we were able to meet with many legislators on this issue. H.J.R. 17 failed to pass the House floor vote due to constitutional concerns.

S.J.R. 4, [Joint Resolution Supporting Qualified Immunity](#), failed to pass to the Senate floor. This resolution sought to affirm the doctrine of qualified immunity. We testified that even though we work closely with law enforcement, we think this resolution is inappropriate due to the complexities surrounding qualified immunity.