

Bills to widen public access to jail documents advance in Utah Legislature

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SALT LAKE CITY — Legislation pronouncing county jail standards and inspection reports as public records, an action building upon a Farmington judge's court decision last year, has been approved by a Utah Senate committee.

The American Civil Liberties Union of Utah and the Disability Law Center sued Davis County in 2017 after the county and later the State Records Committee refused to release the jail records. The dispute arose after a reported 25 people died in county jails statewide in 2016, including six in the Davis jail. The civil libertarians wanted to see the records to shed light on jail operations. Second District Judge David Connors ruled in September the Utah Jail Standards and counties' inspection and audit reports are "clearly" public records. A subsequent Standard-Examiner review of the Davis reports for 2016 showed several problematic areas regarding inmate medical care and safety.

Senate Bill 185, sponsored by Sen. Jacob Anderegg, R-Lehi, would anchor the judge's ruling in state law, specifying that all such jail information is subject to public release under the Utah Government Records Access and Management Act.

However, Anderegg added an amendment at the request of the Utah Sheriffs' Association. The change says counties must be given an opportunity to respond in writing to a jail audit before reports are released.

He said sheriffs want to be able to explain both "legitimate" and "ticky-tack" audit findings. The sheriffs "want to just explain it so you have context."

Connors has yet to rule on one aspect of releasing the jail standards, the part controlled by private consultant Gary DeLand, who wrote them for the sheriffs two decades ago and keeps them updated with case law guidance that he shares only with jail officials.

That matter goes to trial later this month in Farmington.

But Anderegg said the sheriffs' group is neutral on SB 185 because it has "moved away" from DeLand's standards. Sheriffs have been working with the Utah Department of Corrections on rewritten standards that will be available to the public in their entirety, even if SB 185 does not become law.

The Senate Judiciary Committee chairman, Sen. Todd Weiler, R-Woods Cross, said it's been contradictory that jails have withheld DeLand's "super super secret" standards, yet when a Utah jail contracts with the U.S. Immigration and Naturalization Service to hold federal inmates, it is required to post the standards "for everyone on the internet to read."

"I've never been able to figure why it was so important to keep them secret except that someone was trying to make money off them," Weiler said. "That part I understand."

Utah Media Coalition attorney Jeff Hunt told the committee Anderegg's bill "increases government transparency and accountability" and "increases the public's awareness and understanding of how the jails are being operated."

David Reymann, an attorney representing the civil liberties groups in the Davis County lawsuit, said SB 185 is good for the jails, not just the public.

"I think that like with a lot of transparency bills, if there are bad things going on in prisons the public has a right to know so that things can get better," he said. "If things are doing well, if jails are performing well, then it's a benefit to them to inform the public of that so there isn't a loss of confidence."

After Connors' ruling, Davis County Sheriff Kelly Sparks released his jail's 2019 audit report, which showed 100% compliance with operating standards.

The Senate committee voted 5-0 to send SB 185 to the full Senate.

In related action, the panel approved Senate Bill 193, which requires jails to begin reporting detailed inmates' demographic data to the Utah Commission on Criminal and Juvenile Justice.

"This information is important for agencies and county governments because among other things a county may be liable in lawsuits brought by non-county inmates," said Sara Wolovick of the Equal Justice Works advocacy group.

She was referring to contracts in which counties holding prisoners for federal agencies or the state prison system.

County elected officials would benefit from the demographic reports "by knowing the extent they're potentially risking additional liability by holding noncounty inmates," she said.