Number 2026-03

**Policy Critique of H.B. 116
2026 General Session of the
67th Legislature**

February 2026

Office of
UTAH FOR RATIONAL SEX OFFENSE LAWS

Digest of
Policy Critique of H.B. 116
2026 General Session of the
67th Legislature

OVERVIEW

H.B. 116 carries forward mandatory minimum fines ($5,000-$20,000) from last year's H.B. 38 as a "technical correction." While framed as procedural, this bill raises serious evidence-based policy concerns that warrant legislative attention.

KEY PROBLEMS

1. No Evidence These Fines Work
- Zero research supports these specific dollar amounts as effective deterrents
- Sentencing Commission characterized approach as "not very evidence-based"
- Amounts appear arbitrary—chosen because they sound tough, not because research shows they reduce crime

2. Wealth-Based Punishment Disparity
- $5,000 fine = 17% of annual income for someone earning $30,000
- Same fine = less than 2% for someone earning $300,000
- Identical offense, vastly different real-world punishment based solely on economic status
- Raises equal protection concerns

3. May Actually Reduce Sex Offense Convictions
- Deputy DA warned: Defense attorneys will document inability to pay, pushing prosecutors to plea bargain down to non-sex offenses to avoid mandatory fines
- Result: Fewer sex offense convictions, removing offenders from specialized treatment and registry systems
- Policy intended to increase accountability may paradoxically decrease it

4. Likely Uncollectable
- Target population often lacks ability to pay $5,000-$20,000
- Creates uncollectable debt that burdens state collection systems
- No analysis of collection feasibility despite 2024 debt collection system overhaul

5. Misses Intended Target
- Aimed at organized massage parlor operations, but structural limitations in corporate liability law prevent reaching these entities
- Frontline workers (often judgment-proof) get prosecuted while actual owners remain insulated
- Disproportionately impacts individual first-time offenders instead of organized crime

PROCESS CONCERNS

"Technical Correction" Short-Circuited Scrutiny
- House committee passed in minutes with zero substantive debate
- Advisory commissions engaged in extensive analysis that legislature never heard
- Original policy embedded in 2025 organized crime bill may not have received focused review as sex offense policy
- 2026 "correction" treated as routine despite substantive concerns

Commission Warnings Ignored
- Sentencing Commission voted 9-3 to support despite acknowledging policy lacks empirical basis
- Victim Services Commission supported but questioned if it even fell within their jurisdiction
- Both bodies identified serious flaws but felt compelled to support "previously agreed" policy

WHAT EVIDENCE-BASED POLICY LOOKS LIKE

Research shows effective sex offense management requires:
- Risk assessment and treatment matched to individual risk levels
- Specialized supervision and monitoring
- Graduated sanctions for repeat offenses (not harsh first-offense mandatories)
- Evaluation frameworks to measure what actually works

H.B. 116 contains none of these elements.

RECOMMENDED AMENDMENTS

Before Final Passage:
- Graduated structure: Apply mandatory fines only to second/subsequent offenses (preserves deterrence with proper notice)
- Ability-to-pay provisions: Allow judicial discretion to waive/reduce based on financial capacity
- Revenue allocation: Direct fines to victim services, not general fund
- Sunset clause: Require reauthorization after 3 years based on data showing effectiveness
- Data collection: Track imposition rates, collection rates, plea patterns, and recidivism

BOTTOM LINE
- The question isn't whether to be tough on sex offenses, it's whether to be smart about it
- Evidence-based policy isn't soft on crime; it's effective on crime
- This bill perpetuates arbitrary penalties that may undermine prosecutions while creating wealth-based disparities
- Utah deserves sex offense policies grounded in research, not political appeal

Office of Utah for Rational Sex Offense Laws

February 3, 2026

TO HOUSE REPRESENTATIVES,

Transmitted herewith is our **Policy Critique of H.B.116 Criminal Fines Amendments** (Publication #2026-03). A digest is found on the pages located in the front of this document. The objectives and scope of the critique are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in this document in order to facilitate the implementation of the recommendations.

Sincerely

Utah for Rational Sex Offense Laws

UTRSOL/lm

Table of Contents

Policy Critique of H.B.116 Criminal Fines Amendments

Introduction

H.B. 116 represents a technical correction to H.B. 38 from the 2025 legislative session, carrying forward mandatory minimum fines for sex-related offenses without substantive policy changes. While framed as a procedural fix, the bill perpetuates significant evidence-based policy concerns including arbitrary fine structures, wealth-based disparate impact, and potential undermining of prosecutorial effectiveness through plea bargaining dynamics. This critique examines the legislative process surrounding these bills and raises fundamental questions about rational sex offense policy development in Utah.

Background

H.B. 38 (2025): The Original Policy

H.B. 38, titled "Criminal Offenses Modifications" and sponsored by Representative Ryan Wilcox, addressed organized crime and included provisions related to prostitution among criminal enhancements. The bill defined "organized criminal group" as three or more people committing criminal offenses for material benefit and amended crimes eligible for enhancement to include prostitution. The legislation established mandatory minimum fines for various sex-related offenses as part of broader organized crime legislation.

H.B. 116 (2026): The Technical Fix

H.B. 116 emerged to address technical conflicts created when H.B. 38 passed alongside other legislation during the 2025 session. In testimony before the House Law Enforcement and Criminal Justice Committee on January 23, 2026, Representative Wilcox explained that H.B. 116 retains the same language and policy adopted in the prior year's organized crime–related prostitution bill. He noted that conflicts arose due to the passage of two other bills in 2025: H.B. 21, Criminal Code Recodification and Cross References, which recodified Chapters 9 and 10 of Utah's criminal code, and H.B. 22, Prostitution Offense Amendments, which restructured prostitution-related offenses based on the ages of those involved and established new penalties. These changes rendered certain statutory references in H.B. 38 inaccurate, necessitating a technical correction. Representative Wilcox emphasized that H.B. 116 makes no new policy changes and simply reflects what had already been agreed to in the previous session.

The Mandatory Fine Structure

Penalty Schedule

H.B. 116 creates a tiered structure of mandatory minimum fines. Class A misdemeanor offenses are subject to a mandatory minimum fine of $5,000, third-degree felonies carry a mandatory minimum fine of $10,000, and offenses involving solicitation with child compensation require a mandatory minimum fine of $20,000. These fines apply without regard to the defendant's ability to pay, remove meaningful judicial discretion, and function as mandatory penalties rather than tailored sanctions, raising concerns about proportionality, fairness, and practical enforceability.

Stated Rationale

According to discussions within the Utah Commission on Criminal and Juvenile Justice (CCJJ), the rationale for these fines is rooted in several policy objectives. The fines are intended to target individuals for whom incarceration may not function as an effective deterrent, particularly those involved in massage parlor operations and organized prostitution enterprises that have proliferated in communities where such activity was previously uncommon. This approach emphasizes financial accountability as a deterrent mechanism, operating on the theory that "hitting the pocketbook" may influence behavior when traditional incarceration has not proven effective. However, this rationale was articulated largely in conceptual terms rather than supported by empirical evidence demonstrating that mandatory fines effectively deter such conduct.

Legislative Process Analysis

The "Technical Fix" Dynamic

Framing H.B. 116 as a technical correction rather than a new policy change created a problematic dynamic that constrained substantive legislative scrutiny. Because the underlying policy was presented as already approved in a prior session, debate in the House committee was limited, and the bill advanced with minimal discussion. Notably, advisory commissions appear to have engaged in more substantive policy analysis in 2026 than is reflected in the legislative record from 2025. The mandatory minimum fines were originally embedded within broader organized crime legislation, where they may not have received focused evaluation as standalone sex offense policy.

Commission Review Process

Sentencing Commission (January 22, 2026)

The Utah Sentencing Commission engaged in extensive debate before ultimately voting nine to three to support H.B. 116. During deliberations, commissioners raised fundamental concerns about the arbitrariness of the mandatory fine amounts. Several members questioned whether the figures reflected thoughtful policy design or merely an effort to increase penalties by selecting dollar amounts that sounded politically acceptable, characterizing the approach as more akin to ratcheting up punishment than to reasoned sentencing policy. No research or empirical evidence was presented to justify the specific fine levels or to demonstrate their effectiveness as deterrents.

Commissioners also expressed serious concerns about wealth-based disparities in punishment. One member noted that the severity of the sanction would become entirely dependent on an individual's financial circumstances, rendering the punishment proportional to personal wealth rather than to the offense itself. This raised fundamental fairness concerns, as identical fines would have dramatically different impacts depending on a person's economic status.

Additionally, the commission identified the proposal as inconsistent with evidence-based sentencing principles. One commissioner observed that while evidence-based metrics are central to the commission's mission, this policy was "not very evidence-based." Multiple members referenced prior discussions emphasizing the need to move away from routinely escalating penalties without empirical justification.

Commissioners also suggested alternative approaches they believed could better align with deterrence theory. One proposal recommended imposing mandatory minimum fines only after a second or third offense, arguing that an initial conviction would provide notice of the consequences, while subsequent violations could then trigger enhanced penalties. This approach, the commissioner explained, would more closely reflect deterrence principles by ensuring individuals are aware of the sanction before it is imposed.

The Sentencing Commission's nine-to-three vote to support H.B. 116, despite widespread acknowledgment that the policy lacked empirical support, suggests that institutional deference and procedural framing

outweighed the commission's evidence-based mandate. Although commissioners raised substantive concerns about arbitrariness, wealth-based disparities, and the absence of research demonstrating deterrent effectiveness, the bill's characterization as a technical correction and as previously approved policy appears to have constrained meaningful opposition. The vote therefore reflects not a clear endorsement of the policy's merits, but a broader dynamic in which advisory bodies may feel compelled to align with legislative momentum even when proposed sentencing measures depart from evidence-based principles central to their mission.

Victim Services Commission (January 23, 2026)

The Victim Services Commission voted to support the bill but with notable ambivalence about whether it fell within their proper jurisdiction; despite supporting the measure, commissioners identified significant practical concerns, particularly questioning whether mandatory minimum fines meaningfully advance victim services or risk functioning primarily as punitive revenue mechanisms without clear benefit to victims.

The most substantial concern involved plea-bargaining dynamics. Sandi Johnson, Deputy District Attorney with the Salt Lake County District Attorney's Office, explained that once fines become mandatory at these levels, defense attorneys will argue during plea negotiations that their clients are unable to pay amounts such as $5,000. This pressure, she noted, incentivizes prosecutors to plea-bargain cases down to offenses that do not carry mandatory fines and may not be sex offenses at all, creating the perverse and unintended consequence of reducing sex-offense convictions. Multiple commissioners agreed this outcome was likely, with cases being resolved in alternative ways specifically to avoid mandatory fines.

Commissioners also raised concerns about collectability. Chyleen Richey, Director of the Utah Office for Victims of Crime, emphasized that the imposition of a fine does not guarantee collection and questioned whether individuals within the bill's target population would have the financial capacity to pay such amounts. She further raised concerns about whether these fines represent reliable, collectable revenue or merely the creation of unpayable debt.

Ultimately, the commission's motion to support the bill rested primarily on general deterrence theory. Commissioner Carter, Deputy moved to support the measure on the basis that any sanction that might deter conduct creating victims—whether a fine, penalty, or other consequence—was

inherently beneficial. This rationale reflected a theory-based justification for support rather than one grounded in empirical evidence or demonstrated outcomes.

The commission's motion to support rested primarily on general deterrence theory. Commissioner Carter moved to support on the grounds that anything to deter people from engaging in behavior that creates victims is a good thing, whether it's a fine, penalty, or other consequence. This represented a theory-based rather than evidence-based rationale for support.

Taken as a whole, the Victim Services Commission's discussion reveals that support for H.B. 116 was conditional and grounded more in deference and abstract deterrence theory than in confidence that the policy would function as intended or advance victim-centered outcomes. Commissioners openly questioned whether the bill fell within their jurisdiction, identified foreseeable implementation problems such as plea bargaining away sex offenses and the likely creation of uncollectable debt, and acknowledged uncertainty about whether mandatory fines would meaningfully benefit victims. The decision to support the bill despite these concerns underscores a broader pattern in which advisory bodies recognize significant practical and evidence-based flaws but nevertheless advance legislation out of institutional momentum and a generalized belief that increased penalties must be better than inaction.

House Committee Action (January 23, 2026)

The House Law Enforcement and Criminal Justice Committee passed H.B. 116 with minimal debate and no substantive discussion. No committee members asked clarifying questions that were raised during the previous CCJJ commission meetings. The committee moved quickly to a voice vote with no opposition. Representative Wilcox briefly acknowledged that he had been approached about possibly altering some of the fine amounts but stated that the bill reflected what had already been agreed to. The entire proceeding lasted only minutes, treating the measure as a routine procedural matter rather than a substantive sentencing policy requiring analysis.

H.B. 116 advanced through the House committee largely on procedural inertia rather than substantive evaluation. The absence of questions, or debate—combined with the rapid, uncontested voice vote—indicates that the bill's framing as a technical correction effectively short-circuited legislative scrutiny. By deferring to what was described as previously agreed

upon policy, committee members did not engage with the real-world implications of mandatory minimum fines, signaling an implicit assumption that prior passage relieved them of responsibility for fresh analysis. The process reflects how labeling a measure as non-substantive can insulate meaningful policy changes from deliberation, even when those changes carry significant sentencing and equity consequences.

Policy Analysis

Critical Flaws in Current Approach

1. Absence of Empirical Foundation

The bill lacks any research demonstrating that mandatory fines of $5,000, $10,000, or $20,000 achieve deterrent effects superior to existing penalty structures. As a result, several critical questions remain unanswered, including what fine levels, if any, produce optimal deterrence; how these amounts compare to the typical income and financial capacity of individuals charged under these offenses; what the actual collection rates are for comparable mandatory fines in Utah or similar jurisdictions; and whether high mandatory fines reduce recidivism more effectively than alternative interventions such as treatment programs or specialized supervision.

In the absence of such analysis, the policy appears to rest on intuition rather than evidence, directly conflicting with evidence-based sentencing principles that the Sentencing Commission is statutorily charged with advancing. The selection of these specific dollar amounts appears arbitrary, reflecting round-number escalation rather than empirically supported thresholds, and suggests the figures were chosen because they sound reasonable or politically palatable rather than because research demonstrates their effectiveness in achieving the stated policy goals.

2. Wealth-Based Punishment Disparity

Mandatory flat fines produce fundamentally unequal punishment by tying the severity of a sanction to economic status rather than culpability or offense severity. A $5,000 fine imposed on someone earning $30,000 annually represents nearly 17 percent of their yearly income and can trigger cascading harms such as housing instability, job loss, or family crisis. By contrast, the same fine imposed on someone earning $300,000 annually amounts to less than 2 percent of income and is experienced as a minor inconvenience. Although formally identical, the punishment is substantively

unequal, resulting in dramatically different real-world consequences for the same offense. This disparity undermines core principles of proportionality and equal justice by effectively criminalizing poverty rather than calibrating punishment to blameworthiness.

This disparity raises serious equal protection concerns because it conditions the severity of punishment not on the nature of the offense or the offender's culpability, but on the individual's economic status. When identical conduct results in vastly different real-world penalties depending on wealth, the criminal justice system departs from core principles of proportionality and equal justice under law. Such wealth-based punishment risks constitutional infirmity by imposing harsher de facto sanctions on indigent defendants without a compelling state justification.

In practice, flat mandatory fines function as a regressive punishment scheme, imposing crushing sanctions on low-income defendants while imposing negligible consequences on affluent ones. This undermines the legitimacy of sentencing outcomes, erodes public confidence in the fairness of the system, and risks transforming monetary penalties from neutral sanctions into mechanisms that entrench economic inequality through the criminal law.

3. Perverse Plea Bargaining Incentives

High mandatory minimum fines create predictable pressure to resolve cases through pleas to non-sex offenses, potentially reducing accountability rather than enhancing it. The mechanism operates in a straightforward way: a defendant is charged with an offense carrying a mandatory fine of $5,000 to $20,000; defense counsel documents the client's inability to pay; and the prosecutor is then forced to choose between pursuing a conviction with a low likelihood of collection or accepting a plea to a lesser offense that avoids the mandatory fine. In many cases, the rational outcome is a plea to a non-sex offense.

This dynamic carries significant downstream consequences. Pleading cases out of sex offenses erodes the accuracy of criminal history records and sex offense data, removes individuals from specialized sex offender management and treatment systems designed to address criminogenic risk factors, and undermines the integrity of registry and recidivism tracking. It also results in inconsistent application of sex offense laws based on economic status rather than culpability or risk. Ironically, a policy intended to increase accountability may instead diminish it by incentivizing resolutions that bypass sex offense classifications altogether.

4. Collection Feasibility

High mandatory fines for low-income defendants risk generating uncollectable debt that strains the state's collection systems without achieving deterrence or producing meaningful revenue. Although Utah's state debt collection system was recently overhauled in 2024, no analysis has examined the projected influx of fines that defendants cannot pay under this bill. Fines are directed to the general fund, with no specified allocation to victim services or related programs.

Commissioners highlighted several practical concerns. Uncollected fines could burden the Office of State Debt Collections, and defaults on payment plans may create a cycle in which defendants incur additional sanctions, deepening their involvement in the criminal justice system. As noted, simply imposing a fine does not guarantee collection, and uncollectable debt fails to serve any deterrent, punitive, or revenue-generating purpose.

5. Misalignment with Target Population

While H.B. 116 primarily targets organized massage parlor operations and human trafficking enterprises, structural limitations in corporate criminal liability may prevent the penalties from reaching these entities effectively. Many of these businesses lack formal boards of directors, which Utah law requires to establish corporate criminal liability, leaving prosecution to focus on individual operators who are often judgment-proof and unable to satisfy large fines. Sophisticated operators can employ frontpeople who are replaced when prosecuted, allowing the business to continue under new nominal ownership, while actual owners and landlords who profit remain insulated from liability.

As one commissioner noted, repeat offense opportunities with these businesses are limited, unlike with individual purchasers who may repeatedly engage in prostitution. Frontline workers face charges, potential deportation, and replacement, while the underlying business continues to operate. Consequently, the policy may disproportionately penalize individual first-time offenders rather than the organized criminal enterprises it is intended to target, inverting the law's intended effect.

6. First Offense vs. Repeat Offense Structure

Mandatory minimum fines applied to first-time offenders fail to provide meaningful notice of the financial consequences prior to the conduct, undermining core principles of effective deterrence. Deterrence theory

Policy Critique of H.B.116 Criminal Fines Amendments

requires that penalties be known in advance, enforced with certainty, and applied swiftly. Under the current approach, first-time offenders are unlikely to be aware of specific fine amounts, receive no opportunity for prior notice, and therefore face questionable deterrent impact.

A more effective design would tie enhanced penalties to subsequent offenses. Under this model, a first offense would result in a conviction that provides clear notice of potential future sanctions, while a second offense would trigger the mandatory minimum fine. This structure preserves deterrent effect by ensuring offenders understand the consequences before repetition, aligns with procedural fairness principles, and avoids imposing disproportionate and ineffective penalties on first-time offenders.

Process Concerns

1. Policy Laundering Through Technical Corrections

The characterization of H.B. 116 as a technical correction obscures substantive policy questions and shields controversial provisions from meaningful scrutiny. The mandatory fines were originally embedded in a broader 2025 organized crime bill, where they may not have received focused analysis as standalone sex offense policy. By carrying forward the same provisions without re-examining their merits or implementation challenges, the 2026 "correction" allows the legislature to treat the bill as a routine procedural matter requiring minimal review under the rationale that "we already agreed to this."

Meanwhile, advisory commissions engage in detailed substantive debate that is largely bypassed by the legislative process. This dynamic represents a form of policy laundering, in which controversial measures are embedded within larger bills and then perpetuated through technical corrections that receive minimal oversight. As a result, policy becomes insulated from revision despite unresolved implementation concerns and the absence of focused analysis during the original legislative consideration. The effect is to substitute procedural finality for substantive deliberation, short-circuiting the feedback loop that evidence-based policymaking depends upon.

2. Commission Authority and Legislative Response

The Sentencing Commission's statutory mission is to provide evidence-based sentencing recommendations to the legislature. In reviewing H.B. 116, commissioners raised fundamental concerns about the lack of empirical

support, wealth-based disparities, deviation from evidence-based principles, and potential alternative approaches. Despite these substantive reservations, the commission voted nine to three to support the bill, raising critical questions about the function and value of commission review.

Why support a policy explicitly characterized as not evidence-based? If substantive concerns do not meaningfully influence recommendations or inform legislative decisions, what is the purpose of the advisory process? Does a "support in concept" recommendation with suggested modifications contribute to sound policy development, or does it simply provide political cover while the legislature disregards the substance of commission input? Absent a clear link between commission analysis and legislative outcomes, the advisory process risks becoming performative rather than corrective.

The Victim Services Commission experienced similar dynamics. Members questioned whether the bill even fell within their jurisdiction. A prosecutor highlighted how the policy could undermine sex offense prosecutions through plea-bargaining pressures, and commissioners raised concerns about the feasibility of collecting fines. Yet the commission ultimately supported the measure primarily on the basis of general deterrence theory, despite acknowledging these practical problems. This pattern—identifying significant flaws while still recommending support—sends conflicting signals to the legislature and undermines the advisory function these bodies are intended to serve.

3. The Ratcheting Problem

Multiple commissioners expressed ongoing concerns about the continual escalation of criminal penalties without evaluation of their effectiveness. One commissioner explicitly noted previous discussions emphasizing the need to stop "ratcheting up" punishments, characterizing H.B. 116 as an example of simply selecting a dollar amount that sounds politically appealing rather than one grounded in evidence or policy rationale. This reflects a broader, predictable pattern in criminal justice policy.

Policymakers identify a problem, such as prostitution or organized crime, and propose enhanced penalties—higher fines, longer sentences—without rigorous analysis of their effectiveness. Legislation often passes based on political appeal or the desire to appear tough on crime. The cycle repeats in subsequent sessions with additional enhancements. Over time, this dynamic fosters overcriminalization, produces diminishing returns on punishment severity, diverts resources from effective interventions, and erodes proportionality within the criminal code.

4. Lack of Pilot Programs or Sunset Provisions

H.B. 116 contains no pilot program to test the effectiveness of the fines before statewide implementation, no data collection requirements to monitor outcomes, and no sunset provision requiring reauthorization based on demonstrated results. It establishes no metrics for success that would allow objective evaluation of whether the policy achieves its stated goals. As a result, the law implements a significant sentencing change without any evaluation framework, making it difficult to determine effectiveness or adjust the policy based on actual outcomes rather than assumptions.

Comparative Context

What Evidence-Based Sex Offense Policy Looks Like

Research-supported approaches to sex offense management emphasize assessment-driven interventions guided by the risk-need-responsivity model, actuarial risk assessment tools, and treatment matched to individual risk levels. Effective systems employ specialized supervision, including sex offense–specific probation and parole, polygraph monitoring, and GPS tracking for high-risk offenders. Therapeutic interventions focus on cognitive-behavioral treatment, relapse prevention, and addressing criminogenic needs that contribute to offending behavior, while proportionate sanctions rely on graduated responses, swift and certain consequences, and an emphasis on behavior change rather than solely punishment.

H.B. 116 notably lacks any connection to these evidence-based strategies. The bill contains no treatment requirements, no risk assessment provisions, and no mechanisms for measuring outcomes. It represents a purely punitive approach, disconnected from research demonstrating what actually reduces recidivism and enhances public safety.

Models from Other Jurisdictions

Many jurisdictions also employ graduated penalty structures that enhance sanctions for repeat offenses rather than imposing harsh mandatory minimums on first-time offenders. This preserves the notice function— where an initial conviction signals potential future consequences— maintains deterrence, and avoids the disproportionate severity of first-offense mandatory fines, aligning with principles of progressive sanctioning.

Current statutory requirements do no obligate CCJJ to isolate or define sexual reoffending separately. As a result, the refinement work occurring within CCJJ—while valuable for general criminal-justice evaluation—has not been applied to sex-offense policy in a meaningful way. Without a metric that distinguishes sexual reconviction from unrelated offenses, Utah lacks a clear statewide definition of sex-offense recidivism. Without such a definition, policymakers cannot accurately assess whether sex-offense laws reduce sexual harm specifically, making it impossible to evaluate effectiveness or tailor interventions based on actual patterns of sexual reoffending.

Recommendations

Substitutions to H.B. 116

Policymakers should consider several substitutions prior to final passage. The bill should adopt a graduated structure that imposes mandatory minimums only on second and subsequent offenses, preserving both notice and deterrence while avoiding the disproportionate impact on first-time offenders. Ability-to-pay provisions should grant judicial discretion to waive or reduce fines based on documented financial incapacity, with community service alternatives available for indigent defendants.

Revenue allocation should direct fines specifically to victim services, sex offense treatment programs, or prevention initiatives rather than the general fund, ensuring a clear connection between penalties and victim support. Finally, a sunset provision should require reauthorization after three years, contingent on an evaluation of whether the policy achieves its stated goals, providing a mechanism for data-driven adjustment or repeal. Together, these provisions would align the bill with principles of accountability, proportionality, and evidence-based policymaking rather than allowing punitive measures to persist without demonstrated benefit.

Data Collection Requirements

The legislation should require systematic collection and reporting of key metrics, including rates of fine imposition, actual collection amounts, plea-bargaining patterns before and after implementation, and demographic data on who is able—or unable—to pay. It should also track recidivism rates relative to baseline data. This information is essential to evaluate whether the policy achieves its intended goals or produces unintended consequences, providing a foundation for evidence-based repeal.

Policy Critique of H.B.116 Criminal Fines Amendments

Evaluation Framework

Clear success metrics must be established to assess whether the policy achieves its stated goals. These should include measurable reductions in prostitution-related offenses, documented disruption of organized prostitution operations, identification of victims and services provided, and comparisons to outcomes in jurisdictions without mandatory minimums. Without defined metrics and evaluation requirements, the legislature cannot determine whether the policy is effective or should be continued.

Medium-Term Reforms

Evidence-Based Sentencing Integration

Utah should require fiscal notes to include an "evidence note" documenting the research basis for proposed penalty structures in criminal justice legislation. The Sentencing Commission should conduct pre-review of all mandatory minimum proposals before committee consideration. The burden should rest on bill sponsors to demonstrate empirical support for specific penalty amounts, rather than relying on the assumption that higher penalties are inherently more effective.

Commission Process Reform

The role and authority of advisory commissions should be clarified to ensure they can fulfill their statutory missions. Commissions should have explicit authority to recommend "oppose" or "no position" without political pressure to support every criminal justice bill regardless of merit. Recommendations should clearly distinguish between "support in concept" and "support as written" to provide legislators with more precise guidance. Written reports should explain the commission's reasoning, particularly when concerns are raised but support is nonetheless recommended, making the basis for recommendations transparent and accountable.

Comprehensive Sex Offense Policy Review

Utah should conduct a comprehensive audit of all sex offense penalties to determine which are supported by evidence and which are not. This review should identify gaps in treatment, supervision, and prevention funding that may be more effective than additional punishment enhancements. Resource allocation to punitive measures should be evaluated relative to investment

in intervention and prevention programs. The state should use these findings to develop an integrated, evidence-based policy framework rather than continuing piecemeal enhancements that may work at cross-purposes. Such an audit would ensure resources are directed toward strategies that effectively reduce harm and recidivism.

Long-Term Structural Changes

Proportionality Review

The criminal code should undergo regular audits to ensure penalty proportionality, so that similar offenses receive comparable sanctions and the overall sentencing structure maintains rational gradations. Sunset provisions should be required for all mandatory minimums, compelling legislators to periodically reauthorize them based on demonstrated effectiveness. Evidence requirements should be established for all sentence enhancements, preventing the continued accumulation of penalties based solely on political appeal rather than research or demonstrated impact.

Integrated Approach to Sex Offense Management

Utah should shift from a punishment-centered to a public safety-centered approach to sex offense policy. This requires enhanced funding for victim services to support those harmed, expansion of treatment programs to address criminogenic factors driving offending behavior, and investment in prevention and education initiatives to reduce offenses before they occur. Specialized law enforcement resources should focus on organized operations rather than individual street-level offenses, while coordinated supervision and monitoring should ensure high-risk offenders receive appropriate oversight without subjecting lower-risk individuals to counterproductive over-supervision.

Legislative Process Reforms

The legislative process should require substantive committee review even for technical corrections that carry forward controversial policy, preventing the "policy laundering" dynamic exemplified by H.B. 116. New policy should not be embedded in unrelated bills where it could escape focused scrutiny. Transparency requirements should mandate clear disclosure of bill relationships and historical context, ensuring that legislators and the public understand when a measure is a continuation of existing policy.

Policy Critique of H.B.116 Criminal Fines Amendments

Conclusion

H.B. 116 represents a troubling case study in both legislative process and criminal justice policy development. While motivated by legitimate concerns about organized prostitution and sex trafficking, the bill perpetuates an approach characterized by arbitrary, rather than evidence-based, penalty structures; wealth-based disparities that contradict principles of equal justice; potential counterproductive effects through plea bargaining; minimal legislative scrutiny due to its framing as a technical correction; and advisory commission recommendations that endorse the bill despite fundamental concerns.

The context of H.B. 38 illustrates how policy embedded in broader legislation can escape focused analysis, while the "technical correction" mechanism of H.B. 116 demonstrates how such provisions can be insulated from meaningful revision. This process allowed controversial mandatory minimum fines to be implemented without the rigorous evaluation and scrutiny that such significant sentencing changes warrant.

Core Questions for Policymakers

Several fundamental questions remain unanswered. What evidence supports these specific fine amounts as effective deterrents, and why were they selected instead of alternative amounts? How can punishment severity be justified when it depends on wealth rather than the nature or seriousness of the offense, and is this consistent with constitutional equal protection principles? Will this policy meaningfully reduce sex trafficking and prostitution, or will it primarily alter plea-bargaining patterns while potentially reducing sex offense convictions? Have evidence-based interventions been fully utilized before resorting to harsher punishments, and what alternatives have been attempted? Finally, does our legislative process provide sufficient scrutiny for criminal justice policy, or do procedural mechanisms such as technical corrections allow controversial provisions to bypass meaningful review?

The Broader Picture

This analysis extends beyond the mandatory fines in H.B. 116 to highlight systemic challenges in criminal justice policymaking. The "ratchet effect" produces continual penalty increases without evaluation of whether previous enhancements were effective. Political appeal often outweighs evidence, resulting in policies that sound tough receiving support over

interventions that actually work. Confusion over commission roles leads advisory bodies to recommend support despite identifying serious flaws, undermining their statutory purpose. Procedural gaps, such as technical corrections, allow controversial provisions to bypass substantive review that would occur if the same policy were proposed as new legislation. Persistent questions remain about whether resources are appropriately allocated between prevention, treatment, and punitive measures.

A Call for Rational Policy Development

Effective sex offense policy requires an empirical foundation rooted in research rather than intuition or political appeal. It demands proportionality, ensuring that punishment fits the crime rather than the defendant's wealth. Policies must be evaluated to determine what works and adjusted accordingly, rather than assuming that higher penalties are inherently better. Integration across enforcement, treatment, supervision, and prevention is essential, rather than relying exclusively on criminal penalties. Honest policymaking also requires acknowledging the limits of the criminal law, recognizing that some problems cannot be solved simply by increasing fines or sentences.

Utah's citizens deserve sex offense policies developed through rigorous analysis, informed by evidence, subjected to meaningful scrutiny, and evaluated for effectiveness. H.B. 116, in its current form, meets none of these standards. It perpetuates arbitrary penalties disconnected from research, creates wealth-based disparities, may undermine prosecutions through perverse plea-bargaining incentives, and evades meaningful legislative review through procedural maneuvering.

The question is not whether Utah should be tough on sex offenses— protecting vulnerable populations from sexual exploitation is a shared priority. The question is whether the state should be smart about it: using approaches demonstrated to work rather than measures that merely sound appealing. Evidence-based policy is not soft on crime; it is effective on crime. Effectiveness should be our standard.