



UPAN Newsletter Volume 11 Number 2 | **FEBRUARY 2024**
"Empowerment and Growth Through Knowledge and Unity"

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Info on Your Story Course – Keeping Relationships Alive – Incarceration and Heart Health – More Info on Utah Residency for Tuition – Summary of Post Conviction Relief – Child Support Obligations When Incarcerated –

Dell-Emerald Topics (D-E Fun time)

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Next Meeting: Monday, February 12, 2024 6:30 pm - 8:30 pm. **Speaker: FAMILY MEETING.** Meetings are **FREE** and open to the public. Join at <https://bit.ly/3vqQjiA>

Following Monthly Meeting: Monday, March 11th, 6:30 pm–8:30 pm. **Speaker: Dr. Michelle Leslie, Director of the new Sex Offense Management Board.** Please submit questions to UPAN by March 5. Join at <https://bit.ly/3vqQjiA>

Unless otherwise stated, UPAN continues virtual meetings. Available on UPAN Facebook Live and on Facebook page afterwards. Use link above or visit UPAN website for link (p. 10), or Utah Prisoner Advocate Facebook Page for link to current monthly meeting. Free to the public.

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Disclaimer: Formulate your own opinions about the information presented. This information is presented for the reader's enlightenment and evaluation.

"Everything can be taken from a person but one thing: the last of the human freedoms—to choose one's attitude in any given set of circumstances, to choose one's own way." Psychiatrist and Holocaust survivor Viktor Frankl on freedom in *Man's Search For Meaning*.

Adopting this mindset in February, and especially on Valentine's Day, your attitude can be to bask in the love you receive and the opportunity to return that love. Ed.

For The Justice Involved Community: Information on *Captain Your Story* Course
 Information provided by Mark Hugentobler & the My Story Matters Team

Read and heed, short deadline. (NOTE: "Captain" as used here is a verb and not a noun.) In the face of the challenges that accompany incarceration, we find strength in solidarity and the unwavering belief in the power of rehabilitation and support. As you well know, the journey of a loved one behind bars extends beyond the prison walls, impacting families and communities alike.

Amidst this reality, a valuable program has emerged, offering a lifeline of hope and transformation for those within the criminal justice system including Utah's prisons. This program has demonstrated remarkable success in fostering rehabilitation, providing essential skills, and facilitating reintegration.

This program has been offered by volunteers in CUCF for about 2 years. It has been offered in USCF for 6 months to the men. It needs to be expanded to include as many as possible - including the women!

Funding needed. To expand, it needs funding. This program's continued existence hangs in the balance due to current funding constraints. With additional funding we can expand the reach of these services to more incarcerated individuals. Your voices, as advocates for your incarcerated family members and friends, can make a significant difference. Please learn more about this and consider urging your legislators to recognize the vital importance of sustaining this program by sharing your stories and insights. Together, we can pave the way for a brighter and more supportive future.

A little about the Captain Your Story course:

Captain Your Story is a course developed by My Story Matters, a 501(c)(3) charity organization, that promotes healing, inspires hope, and celebrates courage in everyday heroes by engaging them in a process that helps them reflect, recount, record, and reframe their stories.

My Story Matters is committed to being a catalyst for lasting transformation. *Captain Your Story* provides individuals a curriculum dedicated to showing people from all walks of life, circumstances, races, and identities that "YOU are the hero in YOUR journey of life". Through a step-by-step process, taken at their own pace, each person can gain the tools and resources

necessary to help captain their own story and rise to the challenge of creating a future they can be excited about.

The curriculum is meticulously tailored to each individual, placing a strong emphasis on active personal engagement. Through a systematic and personalized approach, participants navigate a step-by-step process that equips them with the essential tools and resources. **This journey empowers each person to take the helm of their own narrative, effectively navigating challenges, and ultimately crafting a future that ignites their enthusiasm and excitement.**

Incarcerated participants are given the opportunity to invite their family members to take the course on the outside so they can learn and grow together.

For those who wish, write your legislators to support funding for this program expansion to make it available to more of Utah's incarcerated population. You can reach out to UPAN for sample letters to assist you in expressing the key points.

utahprisoneradvocate@gmail.com

Captain My Story hopes you will add your voices of support, your personal experience, and your hope for your loved one to receive resources like this. Then send your letter to your Utah Senators and Representatives. **The legislative session is going on right now, so time is of the essence.** You can find their email addresses here: <https://le.utah.gov/GIS/findDistrict.jsp>
Thank you for your support.

***"A thousand words will not leave so deep an impression as one deed."* Henrik Ibsen, playwright**

Some Ideas on Keeping Relationships Alive when One Partner is In Prison

By Molly Prince, LCSW

For every person sentenced to prison, there are family members also serving time for a crime that they didn't commit. The observance of Valentine's Day this month can be especially difficult to deal with. The emotional stress of having an incarcerated spouse or partner is heightened during this time.

There is a lot of information out here about how to keep a long-distance relationship alive. Not a lot of research focuses on keeping a prison marriage or relationship alive. In the community, when someone moves to a different city for a job or other responsibilities, while leaving their spouse or partner behind, it creates a significant amount of stress and sadness.

The stress of having a loved one in the criminal justice system. Now, take that level of sadness and stress and add many other layers riddled with coming to terms with what a loved one did that resulted in a prison sentence; the crazymaking of the arrest, court process, and criminal justice system itself; the disillusionment that courts are all about finding the facts and dealing in truth; coming to terms with the prison sentence of a loved one;

learning all the rules of the various correctional facilities an incarcerated family member lives in during their prison journey; the extremely high cost of having a loved one in prison or jail; not to mention the loss of support or understanding from some segments of society for both the incarcerated and those who love them.

That (and more) is what families of incarcerated people experience. At least people who are only separated by choice and geography have access to phone calls, emails, video chats, and trips to see each other, only limited by their own choices and circumstance.

In addition to geographical distance which occurs in community long-distance relationships, incarceration slathers on additional layers of prison or jail rules.

In Utah, people sentenced to years in prison can find themselves shipped out to one of 20 county jails all over Utah, on the Inmate Placement Program, despite being state inmates. They find themselves subject to extremely restrictive rules that limit their ability to nurture relationships with their spouses, intimate partners,

parents, and children. Among other things, IPP jails in Utah do not allow in-person contact visits. Only video visits. This is so detrimental to those in committed relationships subjected to long term stays in jails.

In the two state prisons in Utah, there are a variety of privilege levels that impact the ability to communicate and maintain close positive emotional relationships with each other. Yet the prisons offer options for contact visits and real letter communication where those letters can be saved and read, and re-read.

Communication limitations create emotional challenges. Some of Utah's county jails severely limit the types of US mail that can be sent and received. Some jails have stopped all letter correspondence and restrict written communication to tiny 3 x 5 pre-stamped postcards for husbands and wives to attempt to nurture their relationship on. Some have gone to a system that requires letters and photos be sent to an out-of-state service (that the county taxpayers pay for) to be scanned and delivered on a tablet. This robs them of the opportunity of holding a letter or photo from loved ones in their hands. Utah's prisons and jails present obstacles presented by poorly run contracted inmate communication services that render poor quality and unpredictable phone calls, costly emails in some facilities, and the ongoing limitations of poor quality video visits that can be difficult to schedule in both jails and prisons.

This difficulty in communicating regularly can have a negative impact on relationships, contributing to misunderstandings and conflict due to inability to communicate easily and effectively. Both prisoners and their loved ones miss the mutual support, the emotional connection, and the physical presence. This can take a devastating toll on a loving relationship.

Maintaining prison relationships requires a tremendous amount of effort and understanding. Partners must work hard to maintain communication in whatever manner they can. Dealing with loneliness by filling time with productive and pro-social activities can help, but can also be challenging. It can be difficult for partners to maintain trust in each other. Expectations can become unreasonable when each partner becomes insecure. *My recommendation: no matter how difficult it seems the system makes it to stay in touch, find ways.*

Ideas to help couples in relationships nurture their connections when disrupted by incarceration:

Always maintain communication. Communication is key in any relationship. If there is constant, clear, and eager communication between the two of you, misunderstanding can be avoided. Do not use withholding of communication as a way to try to control or get even with your partner when there are disagreements. Agreed upon timeouts can be useful, and then talking about things when calm will go a long way to keep your bond.

Old fashioned letters or postcards. In USCF and CUCF, regular mail in the form of letters is still allowed. For those of you whose lives are guided by USCF and CUCF rules, take advantage of that and send written letters regularly. This means both of you, prisoner and partner on the outside. In this day of electronic communication, sometimes people think it is too difficult and too time consuming to sit down and write a letter, either by hand or by typing and printing it. Yet, some people have found that there is something almost magical about writing a letter to your loved one that can help you feel connected to them through that writing process. Plus, there is something thrilling or uplifting when receiving a physical card or a letter from your loved one. (Remember all cards sent into our prisons must be copied on white copy paper and sent in a white envelope, no card stock allowed.)

There are some services that offer to send in letters or postcards into incarcerated folks, sometimes for no charge, and sometimes for a fee, that you can look up on the internet. I personally will not recommend any, as I have not had any particular long term success with the services I have tried. You also need to check with the facility to determine if they will accept postcards from those services.

If you do not know the rules for letters or cards in your loved one's facility, look it up on the facility website, ask on the UPAN Facebook Family Group, or call the facility.

Sending letters and pictures to jails that have out of state services. Over the past couple of years, UPAN has noticed that we have a few jails in Utah that are purchasing services that require us to send letters to out of state letter services that will scan the letters and pictures and send them electronically to the recipient in the jail. While this is sad for those stuck in those facilities who cannot have physical letters and photographs to hold on to and look at in the middle of the night when they cannot sleep, I encourage you to still send everything you can to keep the messages going in.

If you are in a facility that does not allow written letters, but allows postcards that come from the post office, you can still send those tiny postcards to each other periodically. If nothing else, there is room to write a positive or loving quote on it, a reassuring sentence or two letting the other know you are thinking of them and sending your love. It is important for your loved ones in the community to receive regular letters and communication from you if you are incarcerated.

Emails. Emails can be convenient and quick, if you are in a facility that allows emails. However it can become expensive, depending on how they charge you for emails. A few plans are a certain price per email no matter how long, or a certain number of emails per a certain time period. More common is a price per email with a limit on the number of words. It may take some creativity to give as much information as you can in as

few words as possible to pack a lot of information, words of support, love and reassurance into one email.

Video visitation. Video visiting can be wonderful when working well. It can also become expensive in the county jails that require payment for those visits. It can be difficult when the video is malfunctioning and it can be tempting to just turn off the visit. But before you leave, make sure your loved one also wants to leave. Sometimes one person cannot hear the other but both can still see, so maybe use the time to let the one who can be heard talk while at least looking at each other's faces. For facilities that charge for video visits, they generally do not pro-rate, so if you are paying for it, make the most of it.

One challenge with video visitation is that when one person is looking at the other on the screen, both people are looking at each other with their eyes downcast. One thing our family discovered is to take turns looking directly into the camera when we are talking (or listening), so that we can take turns actually feeling like we are seeing each other's eyes. While video is an extremely poor substitute for in-person visits, it is better than not getting to see each other at all. And it is a blessing for families who cannot travel or out of state.

Phone calls are precious. Hearing each other's voice is priceless (despite the cost of the calls!). It is wise to do your best to avoid getting into arguments and conflicts over the phone. This is especially important when in a housing unit where the phones are in poor repair or the connections do not always work properly, the calls are costly, and there are always other people waiting to use the phones. Use this time to talk about important things that cannot wait for letters or emails.

When having a difference of opinion, remember to own your own feelings and do not blame the other person for your own unhappiness. Work on not ending a call in anger. Never hang up on each other. Do your best to remember that you love, value and cherish each other.

Sometimes conflicts can't be avoided. Misunderstanding or miscommunication is common in long-distance relationships, and even more common in prison relationships. It's harder to work through with the many barriers to communication access in prison. To prevent the issue from deepening, both of you must decide to talk objectively about the situation. Agree to disagree when you cannot resolve a difference and agree to revisit it on a future call. Cool down before the next call. Sometimes we just need some distance from the subject causing strong emotion to return with the ability to talk about it rationally. Instead of going back to the issue, again and again, when calm, agree on how it can be avoided in the future.

Remember to not ever use withholding of communication (phone calls, visits, letters, or emails) as a way to punish, manipulate or otherwise attempt to control the

relationship. This applies to both partners. That will not lead to success in the relationship over the long term.

Respect each other's time and experience. While it is important to check in with each other on a regular basis, also remember that each of you have your own responsibilities, whether it is on the inside or in the community.

Prisoners can sometimes think their loved ones at home have all the time in the world to do things for them that are difficult to do from inside prison. However, for those left in the community, there is a lot of responsibility - for jobs, families, upkeep of homes, handling all the responsibilities of vehicles, repairs, making meals, etc. So taking care of business for their incarcerated loved ones adds to that. As difficult as it is for people to live inside prisons, it's very difficult in a different way out in the community.

If both partners remember that this journey is not easy on either of you, it will be easier for you to respect each other's experience and that will lower your expectation of things that could result in disappointment.

Remember that sometimes it is hard to answer the phone, or to make that call. I have heard concerns from spouses and partners out here that it feels like their incarcerated loved one expects them to be able to answer every time they call, and to be available for them all the time. This is not a reasonable expectation, and in most cases, family members out here are very unhappy when they have to miss a phone call from their incarcerated loved one. Not answering the phone does not necessarily mean your loved one does not want to talk to you.

On the other hand, some people out here get upset if their loved one does not call exactly when they say they will, or as frequently as they would like. Learning patience is important on this prison journey, although difficult. Phones can be unpredictable in some housing units. Connections do not always operate properly, which can lead to a call being placed in the prison or jail but not ring through or show up as a missed call. Lockdowns, work, education, and programming schedules can also dictate the times your loved one will be able to call.

Dynamics of the relationship change when a loved one goes to prison. It is recommended in long-distance relationships that the couple set ground rules for the relationship. The same goes for prison relationships. To minimize disagreements, it is necessary to set and understand clear boundaries and come up with rules you both are willing to follow. Just like laws are made to try to ensure peace and order, the rules in your relationship—if carefully followed—will help avoid conflicts. You may have differences, but at least these can help you meet halfway.

Have more faith in your relationship. One definition of faith is being sure of what you hope for. In whatever kind of relationship, nothing is certain. However, if both

of you are sure that you want your relationship to last, then you must work it out together. As long as you both believe that it's all worth it, you can always surpass the obstacles and conflicts your relationship encounters.

Keep the Love Alive. Distance, concrete, steel, razor wire, and prison bars - and all the efforts of the prison system may keep you physically apart. Your love can

"Miles can't measure the depth of love; it transcends distance and dances in the realm of shared dreams." Unknown

"Take care of your body. It's the only place you have to live in." Jim Rohn, motivational speaker

The Impact of Incarceration on Heart Health & Ways to Care For Yourself

By Molly Prince, LCSW

February is American Heart Month and it seems fitting to share some information on the impact of long term incarceration on heart health, particularly in light of the number of lockdowns and for those in segregation who experience limited ability to get regular exercise in gyms or recreation yards.

Incarceration increases risk factors for Cardiovascular Disease. According to an article entitled "Cardiovascular Disease in Incarcerated Populations" in the *Journal of the American College of Cardiology* (JACC), Volume 69, Issue 24, 20 June 2017, Pages 2967-2976, incarceration is associated with increased risk factors for cardiovascular disease (CVD). CVD includes heart disease, heart attack, stroke, heart failure, arrhythmia, and heart valve problems, many of which are related to a process called atherosclerosis.

Atherosclerosis is a condition that develops when a substance called plaque builds up in the walls of the arteries. This buildup narrows the arteries, making it harder for blood to flow through. If a blood clot forms, it can block the blood flow. This can cause a heart attack or stroke.

The JACC article reports that, "Individuals with a history of incarceration have many known risk factors for CVD, such as poor diet, lack of exercise, comorbidities (diabetes, HIV/acquired immunodeficiency syndrome and drug addiction), and stress." These are in addition to factors that are specific to incarceration which includes exposure to the prison environment that have the potential to increase the risk of CVD.

The article encourages changes on the part of correctional environment to assist in reducing the risk factors. The article further states, "Prevention, diagnosis, and treatment of CVD in the incarcerated population are complex, and improvement of cardiovascular health requires individual behavioral modification, as well as correctional health care system changes."

Encouraging incarcerated folks to do what they can to reduce their risk factors. Incarcerated populations have little control over their prison environment and the

thrive emotionally, mentally, and spiritually. Both partners need to give the same amount of effort and determination to keep the love alive.

Here's hoping that everyone can have a positive experience through a visit, card, letter, or email on Valentine's Day this year.

general prison culture and atmosphere that increases stress, as well as the quality of care they receive from prison medical services.

This leaves it up to prisoners to take responsibility for themselves to do what they can to try to lessen the factors they do have control of which contribute to heart disease while in prison. This includes exercise and how they choose to eat both what is offered by the prison culinary service and what they order on commissary. Prison meals are often lacking in adequate nutrients and are often high in empty calories. There are few nutritious choices available to order on commissary, which are also mostly highly processed, full of refined sugar, high in sodium, and lacking nutrients.

Risk factors for developing CVD. The article cites the variability in the quality and funding of prison medical services, combined with prison lifestyle that limits opportunities for a healthy diet and regular exercise, which contributes to increased likelihood of developing risk factors for CVD. These risk factors include diabetes, obesity, high blood pressure, and high cholesterol.

Further, the lack of independence and autonomy by incarcerated persons to control and manage their own medications is a factor. Finally, this study indicated that the lack of necessary and timely, appropriate and adequate treatment for various illness and conditions combined with exposure to infectious diseases and the emotional stress inherent to living in a prison setting also increase the risk of people who have been incarcerated to develop risk factors and ultimately suffer from CVD while inside, as well as after release.

Managing blood pressure. The American Heart Association (AHA) suggests everyone do what they can to keep their blood pressure managed. The AHA states that high BP is considered 140/90 or above, which can put someone at risk for heart disease, stroke, or other serious medical problems. Here are the AHA recommendations to manage blood pressure and reduce risk of CVD.

1. Get moving. At least 30 minutes of moderate-intensity physical activity on most days of the week can help lower blood pressure. So walk, if that is all you can do.

2. Eat healthy - Reduce the amount of salt you eat. Eat more fruits, vegetables, and fat-free or low fat dairy products. (This writer is aware that inmates have little control over what is served to them in meals).
3. Maintain a healthy weight. Excess weight can raise blood pressure.

While the above recommendations are fairly easy for most people to accomplish in the community, a correctional institution can severely inhibit one from doing the above three things on a regular basis. Incarcerated folks are very creative, and many have figured out ways to exercise and work out regularly, even when locked down and when gyms or rec yards are closed. People who have other medical problems that limit physical activity can do some exercises sitting down.

Intermountain Healthcare suggests the following six exercises to strengthen the heart:

Walking - even pacing back and forth can get the heart pumping to strengthen it. Speed walking is a great way to strengthen the heart. Walking fast increases the heart rate and is easier on the joints than other types of exercise.

Weight training - this type of equipment may or may not be available in all jails or prisons. Some inmates use other methods to weight train in their cells or pods. Building the other muscles in your body will help your heart. Weight training helps to build muscle mass and burn fat. Some of the most effective weight training happens when you use your own body weight. Things like push-ups, squats, or even pull-ups all help build muscle and contribute to bone and heart health.

Heart Attack Warning Signs

From the American Heart Association <https://www.heart.org/en/health-topics/heart-attack/warning-signs-of-a-heart-attack>

For Men and Women:

- **Chest discomfort.** Most heart attacks involve discomfort in the center of the chest that lasts more than a few minutes, or that goes away and comes back. It can feel like uncomfortable pressure, squeezing, fullness or pain.
- **Discomfort in other areas of the upper body.** Symptoms can include pain or discomfort in one or both arms, neck, jaw, or stomach.
- **Shortness of breath.** This feeling can occur with or without chest discomfort.
- **Other signs.** May include breaking out in a cold sweat, nausea, or lightheadedness.

Yoga – Although it might not seem like it, yoga is great for your heart health. Doing yoga helps strengthen and tone muscles. Certain types of yoga can really get the heart rate up, while still providing the calm that will lower blood pressure. It is our understanding that Yoga is returning to the prisons in Utah.

Interval training – This alternates between short bursts of high-intensity exercise with longer periods of active recovery and is a great way to get a full-sized workout in a short amount of time. You can run for one minute and walk for three minutes, then repeat the cycle. Raising and lowering of your heart rate helps to burn calories and improves the function of your blood vessels.

Cycling – Jumping on a stationary bike in the gym can do more than you think. Cycling has been shown to help reduce the risk of heart disease. It uses your large muscles in your legs, which helps to elevate your heart rate. Bonus: Cycling has even been shown to improve your mental health.

Whether you choose to attend a yoga class (or create a routine in your housing unit), go walking around the yard, pod or dorm with a friend, go to the gym when available, or do aerobic exercise and strength train in your cell or dorm, exercise is essential to taking care of your heart.

It is recommended that no matter where you are, talk to your health care provider before you begin an exercise routine and start out slow and easy to accommodate your health conditions and current fitness level.
<https://intermountainhealthcare.org/blogs/topics/heart/2019/02/6-best-exercises-to-strengthen-your-heart/>

Additional Info For Women: Some of the signs are the same as for men, some are different.

- ▶ Uncomfortable pressure, squeezing, fullness or pain in the center of your chest. It lasts more than a few minutes, or goes away and comes back. Some have reported it feeling like heartburn.
- ▶ Pain or discomfort in one or both arms, the back, neck, jaw, or stomach.
- ▶ Shortness of breath with or without chest discomfort.
- ▶ Other signs such as breaking out in a cold sweat, nausea, vomiting, jaw pain, or lightheadedness.
- ▶ As with men, women's most common heart attack symptom is chest pain or discomfort.

Stroke Warning Signs

From the American Heart Association

- **Face Drooping.** Does one side of the face droop or is it numb? Ask the person to smile see if it looks even.
- **Arm Weakness.** Is one arm weak or numb? Ask the person to raise both arms. Does one arm drift downward?
- **Speech Difficulty.** Is speech slurred, are they unable to speak? Are they hard to understand? Ask the person to repeat a simple sentence like "the sky is blue." Is the sentence repeated correctly?

- **Time to get medical help, call 911 in the community, push the emergency button or get EMS / Correctional Health Services in the prison.** If the person shows any of these symptoms, even if the symptoms go away, they need immediate

medical attention, according to the American Heart Association.

<https://www.heart.org/en/about-us/heart-attack-and-stroke-symptoms>

“Self-care is not self-indulgence, it is self-preservation.” Audre Lorde, feminist and civil rights leader

More Information Regarding Utah Residency for Tuition Purposes

by Molly Prince, LCSW

This article is to follow up on an article in the January Newsletter *Improper Classification of Resident vs. Non-Resident Status for College Tuition* by Karen Thompson, UPAN Director of Special Projects. In that article, Karen outlined the steps an incarcerated college student and their family need to take to make sure that the student is classified as a resident of Utah for tuition purposes.

Updated information from UDC. UPAN has received more information regarding Utah residency rules for college tuition purposes. The following is what we were advised in January by UDC after Brian Fauver, Education Coordinator at UDC contacted Utah System of Higher Education (USHE) and Salt Lake Community College.

To clarify, the Utah System of Higher Education (USHE) is governed by the Utah Board of Higher Education and is comprised of Utah’s eight public colleges and universities and eight technical colleges.

We were again told that for tuition purposes, Utah residency requires documentation of having lived in the state of Utah for a specified period, generally 12 continuous months. (It seems to this writer that anyone who is in the care and custody of the State of Utah in a correctional institution should easily be able to receive documentation of that fact.)

UPAN was also told that, “*Students who are determined by a USHE degree-granting institution to be Utah residents or exempt from Utah residency pay the institution’s in-state tuition rate.*” In-state tuition is

normally about 1/3 of the full cost of tuition. All other students must pay full tuition.

For technical college programs, residency is not determined because those are short-term programs, so everyone pays the same tuition.

UDC also advised us that, “*The institution (college) is responsible to document and determine Utah residency and eligibility for in-state tuition in accordance with statute (UCA 53B-8-102) and with USHE Policy R512.*” There continues to be a bit of a question about if a person living in a prison facility is considered a resident since in Utah “domicile” is defined as a “*fixed permanent home and principal establishment to which if absent, the student intends to return*” and “*concurrent intent to voluntarily reside permanently in that location, not for a special or temporary purpose*” (R512-3.2).

According to Mr. Fauver, UDC has determined that “*residency status for documented U.S. citizens does not affect someone’s eligibility for enrollment in an in-state USHE institution. Regarding tuition, residency can be established following the guidelines in USHE policy RF512.*”

It seems that if someone is residing in a Utah correctional facility for a year, even if they never had a Utah ID or driver’s license, they should be considered a resident of Utah. We have had some other information come in from other sources that we have not yet been able to verify. We will keep you updated if we receive any additional verifiable information.

UPAN Volunteers & Families Learn More About Postconviction Relief

By Kennedie Starr

UPAN volunteers kicked off their first monthly meeting in the new year with a guest presentation by Ian Quiel, who is the head of the Postconviction Division of the Utah Indigent Appellate Defense Division (IADD).

Before heading the Postconviction Division, Mr. Quiel worked as a prosecutor, public defender, civil litigator, and private criminal defense attorney in courts throughout Utah. He has a great deal of expertise and passion for helping clients in postconviction proceedings, which are the legal processes that can take place after a trial results in the conviction of a defendant.

Postconviction is an essential part of the criminal justice system in the United States. It can act as an important remedy to address errors in the criminal justice system and provide a legal process to support innocent individuals who may have been wrongfully convicted. In an article in UPAN’s December 2023 newsletter, Mr. Quiel perfectly described postconviction relief as a process for correcting “injustices that may slip through the cracks in the trial court and on direct appeal.”

The criminal justice system is not free from error, and there are many different factors that could lead to

wrongful convictions, including false confessions, eyewitness misidentification, and misconduct by police officers or prosecutors. Additionally, postconviction DNA testing and analysis has become an important factor in discovering wrongful convictions.

There are many consequences to wrongful convictions. The life of the innocent person is not only impacted but their families and loved ones are also impacted. There can also be large societal consequences because of wrongful convictions—trust and confidence in our criminal justice system can be greatly weakened, which is harmful to the effectiveness of the entire system and its ability to advance justice. While it's critical to prevent system error from happening in the first place, it's also important to have processes like postconviction relief to correct any intended and unintended mistakes in the system.

Utah law outlines several provisions related to postconviction, including the grounds for relief, the burden of proof, and issues related to the statute of limitations. Many state laws and legal processes can be complex and difficult to navigate, to say the least, and I would argue that Utah's statute—the Utah Postconviction Remedies Act (PCRA)—is no different. This is why it's so critical to have comprehensive divisions and teams—like Mr. Quiel's—who are dedicated to supporting individuals in the postconviction process with their expertise.

The Postconviction Division of the Utah Indigent Appellate Defense Division (IADD) offers assistance and representation to qualifying petitioners who are seeking postconviction relief under PCRA.

To become a qualifying petitioner, however, an individual must do a great deal of heavy lifting on their own—without a court-appointed attorney—to file for postconviction relief in the first place, which can be a challenge. Once a petition has been filed, it then must be reviewed by the court. The court determines whether the petition is dismissed or moves forward in the process. If it's determined that the petition can move forward, then an individual can request a court-appointed attorney from IADD.

During Mr. Quiel's presentation to UPAN families last month, many questions centered around the PCRA process and the capacity of IADD. While the Division is small, they are also mighty and provide essential support to qualified petitioners. There are no county restrictions

to accessing the Postconviction Division's support. The petition to the court that the individual files—before being able to access a court-appointed attorney—must be conviction-specific. There is a statute of limitations under the PCRA, and it is typically one year from the last day for filing an appeal from the entry of the final judgment of conviction (if no appeal is taken). The statute that outlines the limitations for postconviction relief can be found in 78B-9-107. To read more about the statute that outlines the grounds for postconviction relief, you can read 78B-9-104.

Strengthening Utah's Postconviction Relief Resources - A Call to Action: Because of the importance and need for support in the postconviction relief process, UPAN leadership believes that additional funding should be appropriated to IADD in the 2024 Legislative Session. The Utah Legislature began its 45-day-long lawmaking period on January 16th, and by the end of the general session, the Legislature will have passed a state budget in addition to creating and amending laws.

The Executive Offices and Criminal Justice (EOCJ) Subcommittee reviews and makes state budget recommendations for state criminal justice and public safety agencies, which includes entities like the Indigent Appellate Defense Division. While IADD is a relatively newer division, and it is small, it provides critical support to individuals and can help strengthen confidence in the criminal justice system. The Division should receive additional state funds to support their work in providing representation and assistance to clients in post-conviction proceedings.

For a more thorough review of the PCRA process and the petition grounds, you can read Mr. Quiel's summary in UPAN's December 2023 newsletter.

While IADD cannot file an individual's petition to the court for postconviction relief, their team has blank petitions and informational materials to help those who request them. Attorneys with IADD cannot represent an individual until they are court-appointed.

To contact the Postconviction Division for more information, you can call 385-270-1650 or email iadd@utah.gov. Their website also has more information: <https://idc.utah.gov/iadd>. To reach the Division by mail, please write to 370 E. South Temple, Suite 500, Salt Lake City, UT 84111.

Child Support Obligations when Incarcerated

By Faye Jenkins

We are reprinting this article on Child Support while Incarcerated in response to a few letters asking about it. This was originally written and printed in the February 2021 UPAN newsletter.

Incarceration disrupts many aspects of a person's life. One area that may be severely impacted is the ability to

pay child support obligations. In the State's effort to remove a person from society, it does not equally

remove a parent's responsibility to provide for dependent children. (A problem not thoroughly considered when choosing incarceration as the preferred method of punishment.) Although one's income dramatically decreases while incarcerated, the obligation to pay child support is not automatically adjusted to match new income levels. Unpaid support obligations do not magically disappear during a person's incarceration, potentially resulting in significant debt a person faces when released.

This article includes the State's rules and regulations regarding child support to help incarcerated individuals and families know their options. This article is not intended to teach people how to legally avoid paying full child support obligations. The intent is to provide awareness of certain allowances the State provides for those who are temporarily incarcerated and transitioning back into society when released.

Be Proactive.

In regard to child support payments, the first thing to remember is to be proactive. Do not wait for the Office of Recovery Services/Child Support Services to contact you about missed child support payments or the need to adjust payment obligations due to the loss of income. Contact ORS/CSS to notify them of your incarceration. Incarceration of more than 6 months is NOT considered VOLUNTARY unemployment (UT Code 78B-12-203 (6)). This is a significant change in circumstances where child support obligations can be modified. ORS/CSS addresses are listed at the end of this article.

Here is an example letter to ORS/CSS from a former inmate.

This letter is an official and legal notice that I, (name) am currently incarcerated. I am exercising my right to have my child support obligation modified due to the fact that I am incarcerated. This is a substantial change in my ability to obtain income and meet the previous child support obligation in place. My estimated release date is (include your estimated release and the date you became incarcerated). I will be filing this notice with the court as well. Please send receipt of this notice to me in writing at this address (address of your facility).

To file this letter properly with the court, you will need to send copies to the Attorney General's Office as well as the other parent or their attorney.

The Low-Income Table.

The State allows those who are incarcerated for 6 months or more to recalculate their child support obligations according to the "low-income table" during their incarceration. The minimum obligation for child support is \$30 per month, even for those who are not employed in prison. Requesting the recalculation of child support by an inmate must be done while the person is incarcerated, it cannot be done retroactively once released.

While incarcerated, the prison's financial department helps inmates pay their child support obligations. Inmates may make out their own money transfers, or the prison may automatically deduct amounts owed from wages earned and other money put on inmates' accounts when notified of obligations by ORS. If the ORS notifies the prison of child support owed, the prison inmate accounting office will deduct the \$30 monthly obligation from prison wages and an additional 50% of earned wages or money placed on an inmate's account toward past child support obligations leaving a minimum of \$5 on the account.

Upon release, a person is financially responsible for any unpaid child support obligations while they were incarcerated.

Understanding the difficulties many people face finding employment after being released from prison, the State does provide a onetime option of forgiveness of the unpaid child support that accrued while incarcerated. This forgiveness rule is found in Utah Administrative Code R527-258-2 and 3. The rules also apply to when someone is in a treatment program.

Here is the ORS Policy:

R527-258-2. Collection from Ex-Prisoners.

1. If the obligor (parent owing child support) has been incarcerated for thirty days or more and notifies the Office of Recovery Services/Child Support Services (ORS/CSS) or the office is made aware of the release within 30 days of the release date, the office will only collect current support and one dollar toward the past-due support debt for six months after the incarceration release date.

2. The ORS/CSS will enforce a support order that requires the obligor to provide medical insurance coverage for the children, if appropriate.

R527-258-3. Enforcing Child Support When the Obligor is an Ex-Prisoner.

1. The federal title IV-A past-due support debt which accrued while the obligor was incarcerated may be forgiven one time if the obligor makes both the full monthly current support payment and the full monthly assessed payment toward the past-due support debt for twelve consecutive months. The twelve consecutive month period begins when the obligor is released and they have contacted the office to make payment arrangements within the allotted 30 days.

2. The office will use the federal income withholding notice and procedures to enforce and collect the current support and an arrears payment, when appropriate. (This means garnishing income tax refunds). The office will use the federal National Medical Support Notice and procedures to enforce insurance coverage for the children, if appropriate.

a. If the obligor does not make the full payment in each of the first six months, additional collection or enforcement action may be taken.

b. If the obligor makes the full required payment each month for twelve consecutive months, the remaining IV-A support debt that accrued during the most recent period of incarceration shall be forgiven. IV-A debt forgiveness due to incarceration will only occur one time per obligor.

3. If the obligor owes IV-A arrears only, s/he must make twelve consecutive payments to the office based on an assessed amount determined by ORS/CSS.

4. The obligor's arrearage payment shall be reassessed by the office if his/her financial situation changes during the twelve-month period.

In Summary

For those who are confused by the rule stated above, the short answer is to **contact ORS/CSS within 30 days of being released from prison and get on a payment plan.** Beginning as soon as possible after release, pay the required amount for 12 months and all remaining child support debt that accumulated while incarcerated will be forgiven. **This is a onetime deal. You must request forgiveness, it will not be automatic.** Keep this article to show your ORS/CSS caseworker so that you can share the rules about this opportunity, not all ORS workers are familiar with this rule. **Phone: (801) 536-8500**

The trick is to find full-time employment as soon as

ORS Child Support Services (**Payment Address**)
P.O. Box 45011 Salt Lake City, UT 84145-0011

possible after being released from prison. Those who do not find full-time employment may have their child support calculated based on imputed wages. The standard imputed wage for someone who is temporarily unemployed is the federal minimum wage (\$7.25) at 40 hours per week. One may be able to contest the imputed wage by requesting consideration of extenuating circumstances that decrease "employment potential and probable earnings" such as, employment opportunities, work history, occupation qualifications, education attainment, literacy, age, health, criminal record, other employment barriers and background factors, and prevailing earnings and job availability for persons of similar backgrounds in the community (UT Code 78B-12-203 (8)(b)).

The final message is even when you are incarcerated, there is still a minimum obligation of providing support for dependent children. **Contact ORS/CSS once you are incarcerated and again when released to inform them of your changing circumstances.** Upon notification, support obligations can be reduced during your incarceration and unpaid amounts can be forgiven with consistent payment of obligations after release from prison. Additionally, it is very important to maintain well documented records of all communications with State agencies, including the courts, and the custodial parent or their attorney. **The system is not perfect but following these procedures may help minimize the accumulation of exorbitant child support debt during one's incarceration.**

Office of Recovery Services (**Correspondence Addr.**)
P.O. Box 45033 Salt Lake City, UT 84145-0033

You may also Google Utah Office of Recovery Services for 4 office locations: Ogden, Taylorsville, Provo, & St. George.

Attorney General's Office, P.O. Box 142320, Salt Lake City, UT 84114-2320

"Kind words do not cost much, yet they accomplish much." Blaise Pascal, physicist, philosopher

Last but not least, some *Dell-Emerald Topics* D-E fun time.

I'm a multi-tasker, I can listen, ignore, and forget all at the same time. ~ Sarcasm: Just one of my services. I offer it free of charge, always in stock, and delivered on time. ~ If Mama ain't happy, ain't nobody happy. If Grandma ain't happy, RUN! – I'm not just an (aunt, mother, daughter, etc.), I'm a big cup of wonderful covered in awesome sauce with a splash of sassy and a dash of crazy. (Happy Valentine's Day from Ed.)

Couple of Smiles and Maybe a Laugh Did you hear about the cow who ate bluegrass and moored indigo? ~ If athletes get athlete's foot, what do astronauts get? Missile toe. ~ How many egomaniacs does it take to screw in a light bulb? One. The egomaniac holds the light bulb while the world revolves around him. ~ How many DIY buffs does it take to change a light bulb? One, but it takes two weeks and four trips to the hardware store.

Valentine's Day, a symbol of loving, lasting relationships. February is Heart-health month. Two goals that are cool. Ed.

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"Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has." Margaret Mead