

1 **SUBSTANCE ABUSE AND MENTAL HEALTH AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Edward H. Redd**

5 Senate Sponsor: _____



7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Substance Abuse and Mental Health Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ changes the date by which local substance abuse authorities and local mental health
- 13 authorities shall annually submit a service plan to the Division of Substance Abuse
- 14 and Mental Health within the Department of Human Services;
- 15 ▶ expands the division's responsibilities with respect to peer support services to
- 16 include peer support services for individuals with mental health disorders;
- 17 ▶ amends peer support services provisions;
- 18 ▶ recodifies peer support services provisions;
- 19 ▶ requires rulemaking; and
- 20 ▶ makes technical amendments.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **62A-15-103**, as last amended by Laws of Utah 2016, Chapters 113 and 211



28 REPEALS:

29 **62A-15-402**, as enacted by Laws of Utah 2012, Chapter 179



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **62A-15-103** is amended to read:

33 **62A-15-103. Division -- Creation -- Responsibilities.**

34 (1) There is created the Division of Substance Abuse and Mental Health within the
35 department, under the administration and general supervision of the executive director. The
36 division is the substance abuse authority and the mental health authority for this state.

37 (2) The division shall:

38 (a) (i) educate the general public regarding the nature and consequences of substance
39 abuse by promoting school and community-based prevention programs;

40 (ii) render support and assistance to public schools through approved school-based
41 substance abuse education programs aimed at prevention of substance abuse;

42 (iii) promote or establish programs for the prevention of substance abuse within the
43 community setting through community-based prevention programs;

44 (iv) cooperate with and assist treatment centers, recovery residences, and other
45 organizations that provide services to individuals recovering from a substance ~~abuse~~ use
46 disorder, by identifying and disseminating information about effective practices and programs;

47 (v) ~~promulgate~~ make rules in accordance with Title 63G, Chapter 3, Utah
48 Administrative Rulemaking Act, to develop, in collaboration with public and private programs,
49 minimum standards for public and private providers of substance abuse and mental health
50 programs licensed by the ~~[Department of Human Services]~~ department under Title 62A,
51 Chapter 2, Licensure of Programs and Facilities;

52 (vi) promote integrated programs that address an individual's substance abuse, mental
53 health, physical health, and criminal risk factors;

54 (vii) establish and promote an evidence-based continuum of screening, assessment,
55 prevention, treatment, and recovery support services in the community for individuals with
56 substance ~~abuse~~ use disorder and mental illness that addresses criminal risk factors;

57 (viii) evaluate the effectiveness of programs described in this Subsection (2);

58 (ix) consider the impact of the programs described in this Subsection (2) on:

- 59 (A) emergency department utilization;
- 60 (B) jail and prison populations;
- 61 (C) the homeless population; and
- 62 (D) the child welfare system; and
- 63 (x) promote or establish programs for education and certification of instructors to
- 64 educate persons convicted of driving under the influence of alcohol or drugs, or driving with
- 65 any measurable controlled substance in the body;
- 66 (b) (i) collect and disseminate information pertaining to mental health;
- 67 (ii) provide direction over the state hospital, including approval of its budget,
- 68 administrative policy, and coordination of services with local service plans;
- 69 (iii) [~~promulgate~~] make rules in accordance with Title 63G, Chapter 3, Utah
- 70 Administrative Rulemaking Act, to educate families concerning mental illness and to promote
- 71 family involvement, when appropriate[;] and with patient consent, in the treatment program of
- 72 a family member; and
- 73 (iv) [~~promulgate~~] make rules in accordance with Title 63G, Chapter 3, Utah
- 74 Administrative Rulemaking Act, to direct that [~~all individuals~~] an individual receiving services
- 75 through a local mental health [~~authorities~~] authority or the Utah State Hospital be informed
- 76 about and, if desired by the individual, provided assistance in the completion of a declaration
- 77 for mental health treatment in accordance with Section [62A-15-1002](#);
- 78 (c) (i) consult and coordinate with local substance abuse authorities and local mental
- 79 health authorities regarding programs and services;
- 80 (ii) provide consultation and other assistance to public and private agencies and groups
- 81 working on substance abuse and mental health issues;
- 82 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
- 83 medical and social agencies, public health authorities, law enforcement agencies, education and
- 84 research organizations, and other related groups;
- 85 (iv) promote or conduct research on substance abuse and mental health issues, and
- 86 submit to the governor and the Legislature recommendations for changes in policy and
- 87 legislation;
- 88 (v) receive, distribute, and provide direction over public funds for substance abuse and
- 89 mental health services;

90 (vi) monitor and evaluate programs provided by local substance abuse authorities and
 91 local mental health authorities;

92 (vii) examine expenditures of [~~any~~] local, state, and federal funds;

93 (viii) monitor the expenditure of public funds by:

94 (A) local substance abuse authorities;

95 (B) local mental health authorities; and

96 (C) in counties where they exist, [~~the~~] a private contract provider that has an annual or
 97 otherwise ongoing contract to provide comprehensive substance abuse or mental health
 98 programs or services for the local substance abuse authority or local mental health [~~authorities~~]
 99 authority;

100 (ix) contract with local substance abuse authorities and local mental health authorities
 101 to provide a comprehensive continuum of services that include community-based services for
 102 individuals involved in the criminal justice system, in accordance with division policy, contract
 103 provisions, and the local plan;

104 (x) contract with private and public entities for special statewide or nonclinical
 105 services, or services for individuals involved in the criminal justice system, according to
 106 division rules;

107 (xi) review and approve each local substance abuse authority's plan and each local
 108 mental health authority's plan in order to ensure:

109 (A) a statewide comprehensive continuum of substance abuse services;

110 (B) a statewide comprehensive continuum of mental health services;

111 (C) services result in improved overall health and functioning;

112 (D) a statewide comprehensive continuum of community-based services designed to
 113 reduce criminal risk factors for individuals who are determined to have substance abuse or
 114 mental illness conditions or both, and who are involved in the criminal justice system;

115 (E) compliance, where appropriate, with the certification requirements in Subsection
 116 (2)[~~(i)~~](j); and

117 (F) appropriate expenditure of public funds;

118 (xii) review and make recommendations regarding each local substance abuse
 119 authority's contract with [~~its~~] the local substance abuse authority's provider of substance abuse
 120 programs and services, and each local mental health authority's contract with [~~its~~] the local

121 mental health authority's provider of mental health programs and services, to ensure
122 compliance with state and federal law and policy;

123 (xiii) monitor and ensure compliance with division rules and contract requirements;
124 and

125 (xiv) withhold funds from local substance abuse authorities, local mental health
126 authorities, and public and private providers for contract noncompliance, failure to comply
127 with division directives regarding the use of public funds, or ~~[for]~~ misuse of public funds or
128 money;

129 (d) ~~[assure]~~ ensure that the requirements of this part are met and applied uniformly by
130 local substance abuse authorities and local mental health authorities across the state;

131 (e) require each local substance abuse authority and each local mental health authority,
132 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit ~~[its]~~ a plan
133 to the division ~~[by May 1]~~ on or before May 15 of each year;

134 (f) conduct an annual program audit and review of each local substance abuse authority
135 ~~[in the state and its]~~ and each local substance abuse authority's contract provider, and each local
136 mental health authority ~~[in the state and its]~~ and each local mental health authority's contract
137 provider, including:

138 (i) a review and determination regarding whether:

139 (A) public funds allocated to the local substance abuse ~~[authorities and]~~ authority or
140 the local mental health ~~[authorities]~~ authority are consistent with services rendered by the
141 authority or the authority's contract provider, and with outcomes reported by ~~[them or their~~
142 ~~contract providers]~~ the authority's contract provider; and

143 (B) each local substance abuse authority and each local mental health authority is
144 exercising sufficient oversight and control over public funds allocated for substance ~~[abuse]~~
145 use disorder and mental health programs and services; and

146 (ii) items determined by the division to be necessary and appropriate; and

147 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
148 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

149 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
150 supports services to an individual with:

151 (A) a substance use disorder;

152 (B) a mental health disorder; or
153 (C) a substance use disorder and a mental health disorder;
154 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
155 adult as a peer support specialist;
156 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
157 Rulemaking Act, that:
158 (A) establish training and certification requirements for a peer support specialist;
159 (B) specify the types of services a peer support specialist is qualified to provide;
160 (C) specify the type of supervision under which a peer support specialist is required to
161 operate; and
162 (D) specify continuing education and other requirements for maintaining or renewing
163 certification as a peer support specialist; and
164 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
165 Rulemaking Act, that:
166 (A) establish the requirements for a person to be certified to carry out, as needed, the
167 division's duty to train and certify an adult as a peer support specialist; and
168 (B) specify how the division shall provide oversight of a person certified to train and
169 certify a peer support specialist;
170 ~~(h)~~ (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah
171 Administrative Rulemaking Act, minimum standards and requirements for the provision of
172 substance ~~abuse~~ use disorder and mental health treatment to ~~individuals~~ an individual who
173 ~~are~~ is required to participate in treatment by the court or the Board of Pardons and Parole, or
174 who ~~are~~ is incarcerated, including:
175 (i) collaboration with the Department of Corrections~~;~~ and the Utah Substance Abuse
176 Advisory Council to develop and coordinate the standards, including standards for county and
177 state programs serving individuals convicted of class A and class B misdemeanors;
178 (ii) determining that the standards ensure available treatment ~~includes~~, including the
179 most current practices and procedures demonstrated by recognized scientific research to reduce
180 recidivism, including a focus on the individual's criminal risk factors; and
181 (iii) requiring that all public and private treatment programs meet the standards
182 established under this Subsection (2)~~(h)~~(i) in order to receive public funds allocated to the

183 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
 184 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

185 ~~(j)~~ (j) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
 186 Rulemaking Act, the requirements and procedures for the certification of licensed public and
 187 private providers who provide, as part of their practice, substance ~~abuse~~ use disorder and
 188 mental health treatment to ~~individuals~~ an individual involved in the criminal justice system,
 189 including:

190 (i) collaboration with the Department of Corrections, the Utah Substance Abuse
 191 Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement
 192 the certification process;

193 (ii) basing the certification process on the standards developed under Subsection
 194 (2)~~(h)~~(i) for the treatment of ~~individuals~~ an individual involved in the criminal justice
 195 system; and

196 (iii) the requirement that ~~at~~ a public ~~and~~ or private ~~providers~~ provider of
 197 treatment to ~~individuals~~ an individual involved in the criminal justice system shall obtain
 198 certification on or before July 1, 2016, and shall renew the certification every two years, in
 199 order to qualify for funds allocated to the division, the Department of Corrections, or the
 200 Commission on Criminal and Juvenile Justice on or after July 1, 2016;

201 ~~(j)~~ (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze
 202 and provide recommendations to the Legislature regarding:

203 (i) pretrial services and the resources needed ~~for the reduced~~ to reduce recidivism
 204 ~~efforts~~;

205 (ii) county jail and county behavioral health early-assessment resources needed for
 206 ~~offenders~~ an offender convicted of a class A or class B misdemeanor; and

207 (iii) the replacement of federal dollars associated with drug interdiction law
 208 enforcement task forces that are reduced;

209 ~~(k)~~ (l) (i) establish performance goals and outcome measurements for all treatment
 210 programs for which minimum standards are established under Subsection (2)~~(h)~~(i), including
 211 recidivism data and data regarding cost savings associated with recidivism reduction and the
 212 reduction in the number of inmates, that are obtained in collaboration with the Administrative
 213 Office of the Courts and the Department of Corrections; and

214 (ii) collect data to track and determine whether the goals and measurements are being
215 attained and make this information available to the public;

216 [~~(h)~~] (m) in [~~its~~] the division's discretion, use the data to make decisions regarding the
217 use of funds allocated to the division, the Administrative Office of the Courts, and the
218 Department of Corrections to provide treatment for which standards are established under
219 Subsection (2)[~~(h)~~](i); and

220 [~~(m)~~] (n) annually, on or before August 31, submit the data collected under Subsection
221 (2)[~~(j)~~](k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of
222 findings based on the data and provide the report to the [~~legislative~~] Judiciary Interim
223 Committee, the Health and Human Services Interim Committee, the Law Enforcement and
224 Criminal Justice Interim Committee, and the related appropriations subcommittees.

225 (3) (a) The division may refuse to contract with and may pursue [~~its~~] legal remedies
226 against any local substance abuse authority or local mental health authority that fails, or has
227 failed, to expend public funds in accordance with state law, division policy, contract
228 provisions, or directives issued in accordance with state law.

229 (b) The division may withhold funds from a local substance abuse authority or local
230 mental health authority if the authority's contract [~~with its~~] provider of substance abuse or
231 mental health programs or services fails to comply with state and federal law or policy.

232 (4) Before reissuing or renewing a contract with any local substance abuse authority or
233 local mental health authority, the division shall review and determine whether the local
234 substance abuse authority or local mental health authority is complying with [~~its~~] the oversight
235 and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
236 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
237 liability described in Section 17-43-303 and to the responsibility and liability described in
238 Section 17-43-203.

239 (5) In carrying out [~~its~~] the division's duties and responsibilities, the division may not
240 duplicate treatment or educational facilities that exist in other divisions or departments of the
241 state, but shall work in conjunction with those divisions and departments in rendering the
242 treatment or educational services that those divisions and departments are competent and able
243 to provide.

244 (6) The division may accept in the name of and on behalf of the state donations, gifts,

245 devises, or bequests of real or personal property or services to be used as specified by the
246 donor.

247 (7) The division shall annually review with each local substance abuse authority and
248 each local mental health authority the authority's statutory and contract responsibilities
249 regarding:

250 (a) ~~the~~ use of public funds;

251 (b) oversight ~~responsibilities regarding~~ of public funds; and

252 (c) governance of substance ~~abuse~~ use disorder and mental health programs and
253 services.

254 (8) The Legislature may refuse to appropriate funds to the division upon the division's
255 failure to comply with the provisions of this part.

256 (9) If a local substance abuse authority contacts the division under Subsection
257 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
258 minor, the division shall:

259 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
260 capacity to provide the treatment services; or

261 (b) otherwise ensure that treatment services are made available to the pregnant woman
262 or pregnant minor.

263 Section 2. **Repealer.**

264 This bill repeals:

265 Section [62A-15-402](#), **Rules for substance use disorder peer support specialist**
266 **training and certification.**