

1 **SUBSTANCE ABUSE TREATMENT FOR PREGNANT**

2 **WOMEN AND PREGNANT MINORS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Eric K. Hutchings**

6 Senate Sponsor: Michael G. Waddoups

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Local Human Services Act and the Utah Human Services Code to
11 provide priority substance abuse treatment services to pregnant women and pregnant
12 minors.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ requires a local substance abuse authority to ensure that all substance abuse
16 treatment programs that receive public funds provide priority for admission to a
17 pregnant woman or a pregnant minor;
- 18 ▶ requires a local substance abuse authority to provide a comprehensive referral for
19 interim services to a pregnant woman or pregnant minor that cannot be admitted for
20 substance abuse treatment within 24 hours of the request for admission;
- 21 ▶ provides that, if a substance abuse treatment program is not able to accept and admit
22 a pregnant woman or pregnant minor within 48 hours of the time that request for
23 admission is made, the local substance abuse authority shall contact the Division of
24 Substance Abuse and Mental Health, which shall assist in providing services to the
25 pregnant woman or pregnant minor; and
- 26 ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **17-43-201**, as last amended by Laws of Utah 2007, Chapter 329

34 **17-43-204**, as enacted by Laws of Utah 2003, Chapter 100

35 **62A-15-103**, as last amended by Laws of Utah 2003, Chapters 22, 100, and 303



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

38 Section 1. Section **17-43-201** is amended to read:

39 **17-43-201. Local substance abuse authorities -- Responsibilities.**

40 (1) (a) (i) In each county operating under a county executive-council form of
41 government under Section 17-52-504, the county legislative body is the local substance abuse
42 authority, provided however that any contract for plan services shall be administered by the
43 county executive.

44 (ii) In each county operating under a council-manager form of government under
45 Section 17-52-505, the county manager is the local substance abuse authority.

46 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the
47 county legislative body is the local substance abuse authority.

48 (b) Within legislative appropriations and county matching funds required by this section,
49 and under the policy direction of the board and the administrative direction of the division, each
50 local substance abuse authority shall:

51 (i) develop substance abuse prevention and treatment services plans; and

52 (ii) provide substance abuse services to residents of the county.

53 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
54 Cooperation Act, two or more counties may join to provide substance abuse prevention and
55 treatment services.

56 (b) The legislative bodies of counties joining to provide services may establish
57 acceptable ways of apportioning the cost of substance abuse services.

58 (c) Each agreement for joint substance abuse services shall:
59 (i) (A) designate the treasurer of one of the participating counties or another person as
60 the treasurer for the combined substance abuse authorities and as the custodian of moneys
61 available for the joint services; and
62 (B) provide that the designated treasurer, or other disbursing officer authorized by the
63 treasurer, may make payments from the moneys for the joint services upon audit of the
64 appropriate auditing officer or officers representing the participating counties;
65 (ii) provide for the appointment of an independent auditor or a county auditor of one of
66 the participating counties as the designated auditing officer for the combined substance abuse
67 authorities;
68 (iii) (A) provide for the appointment of the county or district attorney of one of the
69 participating counties as the designated legal officer for the combined substance abuse
70 authorities; and
71 (B) authorize the designated legal officer to request and receive the assistance of the
72 county or district attorneys of the other participating counties in defending or prosecuting
73 actions within their counties relating to the combined substance abuse authorities; and
74 (iv) provide for the adoption of management, clinical, financial, procurement, personnel,
75 and administrative policies as already established by one of the participating counties or as
76 approved by the legislative body of each participating county or interlocal board.
77 (d) An agreement for joint substance abuse services may provide for joint operation of
78 services and facilities or for operation of services and facilities under contract by one
79 participating local substance abuse authority for other participating local substance abuse
80 authorities.
81 (3) (a) Each local substance abuse authority is accountable to the department, the
82 Department of Health, and the state with regard to the use of state and federal funds received
83 from those departments for substance abuse services, regardless of whether the services are
84 provided by a private contract provider.
85 (b) Each local substance abuse authority shall comply, and require compliance by its

86 contract provider, with all directives issued by the department and the Department of Health
87 regarding the use and expenditure of state and federal funds received from those departments
88 for the purpose of providing substance abuse programs and services. The department and
89 Department of Health shall ensure that those directives are not duplicative or conflicting, and
90 shall consult and coordinate with local substance abuse authorities with regard to programs and
91 services.

92 (4) Each local substance abuse authority shall:

93 (a) review and evaluate substance abuse prevention and treatment needs and services,
94 including substance abuse needs and services for individuals incarcerated in a county jail or
95 other county correctional facility;

96 (b) annually prepare and submit to the division a plan approved by the county legislative
97 body for funding and service delivery that includes:

98 (i) provisions for services, either directly by the substance abuse authority or by
99 contract, for adults, youth, and children, including those incarcerated in a county jail or other
100 county correctional facility; and

101 (ii) primary prevention, targeted prevention, early intervention, and treatment services;

102 (c) establish and maintain, either directly or by contract, programs licensed under Title
103 62A, Chapter 2, Licensure of Programs and Facilities;

104 (d) appoint directly or by contract a full or part time director for substance abuse
105 programs, and prescribe the director's duties;

106 (e) provide input and comment on new and revised policies established by the board;

107 (f) establish and require contract providers to establish administrative, clinical,
108 procurement, personnel, financial, and management policies regarding substance abuse services
109 and facilities, in accordance with the policies of the board, and state and federal law;

110 (g) establish mechanisms allowing for direct citizen input;

111 (h) annually contract with the division to provide substance abuse programs and
112 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and
113 Mental Health Act;

114 (i) comply with all applicable state and federal statutes, policies, audit requirements,
115 contract requirements, and any directives resulting from those audits and contract requirements;

116 (j) promote or establish programs for the prevention of substance abuse within the
117 community setting through community-based prevention programs;

118 (k) provide funding equal to at least 20% of the state funds that it receives to fund
119 services described in the plan;

120 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
121 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
122 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
123 Other Local Entities Act;

124 (m) for persons convicted of driving under the influence in violation of Section
125 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

126 (i) a screening;

127 (ii) an assessment;

128 (iii) an educational series; and

129 (iv) substance abuse treatment; and

130 (n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to
131 supplement the cost of providing the services described in Subsection (4)(m).

132 (5) Before disbursing any public funds, each local substance abuse authority shall
133 require that each entity that receives any public funds from the local substance abuse authority
134 agrees in writing that:

135 (a) the entity's financial records and other records relevant to the entity's performance of
136 the services provided to the local substance abuse authority shall be subject to examination by:

137 (i) the division;

138 (ii) the local substance abuse authority director;

139 (iii) (A) the county treasurer and county or district attorney; or

140 (B) if two or more counties jointly provide substance abuse services under an
141 agreement under Subsection (2), the designated treasurer and the designated legal officer;

- 142 (iv) the county legislative body; and
- 143 (v) in a county with a county executive that is separate from the county legislative body,
- 144 the county executive;
- 145 (b) the county auditor may examine and audit the entity's financial and other records
- 146 relevant to the entity's performance of the services provided to the local substance abuse
- 147 authority; and
- 148 (c) the entity will comply with the provisions of Subsection (3)(b).
- 149 (6) A local substance abuse authority may receive property, grants, gifts, supplies,
- 150 materials, contributions, and any benefit derived therefrom, for substance abuse services. If
- 151 those gifts are conditioned upon their use for a specified service or program, they shall be so
- 152 used.
- 153 (7) (a) As used in this section, "public funds" means the same as that term is defined in
- 154 Section 17-43-203.
- 155 (b) Public funds received for the provision of services pursuant to the local substance
- 156 abuse plan may not be used for any other purpose except those authorized in the contract
- 157 between the local substance abuse authority and the provider for the provision of plan services.
- 158 (8) Subject to the requirements of the federal Substance Abuse Prevention and
- 159 Treatment Block Grant, Public Law 102-321, a local substance abuse authority shall ensure that
- 160 all substance abuse treatment programs that receive public funds:
- 161 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;
- 162 and
- 163 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24
- 164 hours of the time that a request for admission is made, provide a comprehensive referral for
- 165 interim services that:
- 166 (i) are accessible to the pregnant woman or pregnant minor;
- 167 (ii) are best suited to provide services to the pregnant woman or pregnant minor;
- 168 (iii) may include:
- 169 (A) counseling;

- 170 (B) case management; or
- 171 (C) a support group; and
- 172 (iv) shall include a referral for:
- 173 (A) prenatal care; and
- 174 (B) counseling on the effects of alcohol and drug use during pregnancy.
- 175 (9) If a substance abuse treatment program described in Subsection (8) is not able to
- 176 accept and admit a pregnant woman or pregnant minor under Subsection (8) within 48 hours of
- 177 the time that request for admission is made, the local substance abuse authority shall contact the
- 178 Division of Substance Abuse and Mental Health for assistance in providing services to the
- 179 pregnant woman or pregnant minor.

180 Section 2. Section **17-43-204** is amended to read:

181 **17-43-204. Fees for substance abuse services -- Responsibility for cost of service if**
182 **rendered by authority to nonresident -- Authority may receive funds from other sources.**

183 (1) Each local substance abuse authority shall charge a fee for substance abuse services,
184 except that substance abuse services may not be refused to any person because of inability to
185 pay.

186 (2) If a local substance abuse authority, through its designated provider, provides a
187 service described in Subsection 17-43-201[~~(3)~~](4) to a person who resides within the
188 jurisdiction of another local substance abuse authority, the local substance abuse authority in
189 whose jurisdiction the person resides is responsible for the cost of that service if its designated
190 provider has authorized the provision of that service.

191 (3) A local substance abuse authority and entities that contract with a local substance
192 abuse authority to provide substance abuse services may receive funds made available by
193 federal, state, or local health, substance abuse, mental health, education, welfare, or other
194 agencies, in accordance with the provisions of this part and Title 62A, Chapter 15, Substance
195 Abuse and Mental Health Act.

196 Section 3. Section **62A-15-103** is amended to read:

197 **62A-15-103. Division -- Creation -- Responsibilities.**

198 (1) There is created the Division of Substance Abuse and Mental Health within the
199 department, under the administration and general supervision of the executive director, and,
200 with regard to its programs, under the policy direction of the board. The division is the
201 substance abuse authority and the mental health authority for this state.

202 (2) The division shall:

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

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

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

209 (iv) cooperate and assist other organizations and private treatment centers for substance
210 abusers, by providing them with essential materials for furthering programs of prevention and
211 rehabilitation of actual and potential substance abusers; and

212 (v) promote or establish programs for education and certification of instructors to
213 educate persons convicted of driving under the influence of alcohol or drugs or driving with any
214 measurable controlled substance in the body;

215 (b) (i) collect and disseminate information pertaining to mental health; and

216 (ii) provide direction over the state hospital including approval of its budget,
217 administrative policy, and coordination of services with local service plans;

218 (iii) promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative
219 Rulemaking Act, to educate families concerning mental illness and promote family involvement,
220 when appropriate, and with patient consent, in the treatment program of a family member; and

221 (iv) promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative
222 Rulemaking Act, to direct that all individuals receiving services through local mental health
223 authorities or the Utah State Hospital be informed about and, if desired, provided assistance in
224 completion of a declaration for mental health treatment in accordance with Section
225 62A-15-1002;

- 226 (c) (i) consult and coordinate with local substance abuse authorities and local mental
227 health authorities regarding programs and services;
- 228 (ii) provide consultation and other assistance to public and private agencies and groups
229 working on substance abuse and mental health issues;
- 230 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
231 medical and social agencies, public health authorities, law enforcement agencies, education and
232 research organizations, and other related groups;
- 233 (iv) promote or conduct research on substance abuse and mental health issues, and
234 submit to the governor and the Legislature recommendations for changes in policy and
235 legislation;
- 236 (v) receive, distribute, and provide direction over public funds for substance abuse and
237 mental health services;
- 238 (vi) monitor and evaluate programs provided by local substance abuse authorities and
239 local mental health authorities;
- 240 (vii) examine expenditures of any local, state, and federal funds;
- 241 (viii) monitor the expenditure of public funds by:
 - 242 (A) local substance abuse authorities;
 - 243 (B) local mental health authorities; and
 - 244 (C) in counties where they exist, the private contract provider that has an annual or
245 otherwise ongoing contract to provide comprehensive substance abuse or mental health
246 programs or services for the local substance abuse authority or local mental health authorities;
- 247 (ix) contract with local substance abuse authorities and local mental health authorities
248 to provide a comprehensive continuum of services in accordance with board and division policy,
249 contract provisions, and the local plan;
- 250 (x) contract with private and public entities for special statewide or nonclinical services
251 according to board and division policy;
- 252 (xi) review and approve each local substance abuse authority's plan and each local
253 mental health authority's plan in order to ensure:

- 254 (A) a statewide comprehensive continuum of substance abuse services;
- 255 (B) a statewide comprehensive continuum of mental health services; and
- 256 (C) appropriate expenditure of public funds;
- 257 (xii) review and make recommendations regarding each local substance abuse
- 258 authority's contract with its provider of substance abuse programs and services and each local
- 259 mental health authority's contract with its provider of mental health programs and services to
- 260 ensure compliance with state and federal law and policy;
- 261 (xiii) monitor and ensure compliance with board and division policy and contract
- 262 requirements; and
- 263 (xiv) withhold funds from local substance abuse authorities, local mental health
- 264 authorities, and public and private providers for contract noncompliance, failure to comply with
- 265 division directives regarding the use of public funds, or for misuse of public funds or monies;
- 266 (d) assure that the requirements of this part are met and applied uniformly by local
- 267 substance abuse authorities and local mental health authorities across the state;
- 268 (e) require each local substance abuse authority and each local mental health authority
- 269 to submit its plan to the division by May 1 of each year;
- 270 (f) conduct an annual program audit and review of each local substance abuse authority
- 271 in the state and its contract provider and each local mental health authority in the state and its
- 272 contract provider, including:
 - 273 (i) a review and determination regarding whether:
 - 274 (A) public funds allocated to local substance abuse authorities and local mental health
 - 275 authorities are consistent with services rendered and outcomes reported by them or their
 - 276 contract providers; and
 - 277 (B) each local substance abuse authority and each local mental health authority is
 - 278 exercising sufficient oversight and control over public funds allocated for substance abuse and
 - 279 mental health programs and services; and
 - 280 (ii) items determined by the division to be necessary and appropriate;
 - 281 (g) by July 1 of each year, provide to the Health and Human Services Interim

282 Committee and the Health and Human Services Appropriations Subcommittee a written report
283 that includes:

284 (i) the annual audit and review;

285 (ii) the financial expenditures of each local substance abuse authority and its contract
286 provider and each local mental health authority and its contract provider;

287 (iii) the status of the compliance of each local authority and its contract provider with
288 its plan, state statutes, and the provisions of the contract awarded; and

289 (iv) whether audit guidelines established under Section 62A-15-110 and Subsection
290 67-3-1(10) provide the division with sufficient criteria and assurances of appropriate
291 expenditures of public funds; and

292 (h) if requested by the Health and Human Services Interim Committee or the Health and
293 Human Services Appropriations Subcommittee, provide an oral report as requested.

294 (3) (a) The division may refuse to contract with and may pursue its legal remedies
295 against any local substance abuse authority or local mental health authority that fails, or has
296 failed, to expend public funds in accordance with state law, division policy, contract provisions,
297 or directives issued in accordance with state law.

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

301 (4) Before reissuing or renewing a contract with any local substance abuse authority or
302 local mental health authority, the division shall review and determine whether the local
303 substance abuse authority or local mental health authority is complying with its oversight and
304 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
305 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
306 liability described in Section 17-43-303 and to the responsibility and liability described in
307 Section 17-43-203.

308 (5) In carrying out its duties and responsibilities, the division may not duplicate
309 treatment or educational facilities that exist in other divisions or departments of the state, but

310 shall work in conjunction with those divisions and departments in rendering the treatment or
311 educational services that those divisions and departments are competent and able to provide.

312 (6) (a) The division may accept in the name of and on behalf of the state donations,
313 gifts, devises, or bequests of real or personal property or services to be used as specified by the
314 donor.

315 (b) Those donations, gifts, devises, or bequests shall be used by the division in
316 performing its powers and duties. Any money so obtained shall be considered private
317 nonlapsing funds and shall be deposited into an interest-bearing restricted special revenue fund
318 to be used by the division for substance abuse or mental health services. The state treasurer
319 may invest the fund and all interest shall remain with the fund.

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

323 (a) the use of public funds;

324 (b) oversight responsibilities regarding public funds; and

325 (c) governance of substance abuse and mental health programs and services.

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

328 (9) If a local substance abuse authority contacts the division under Subsection
329 17-43-201(9) for assistance in providing treatment services to a pregnant woman or pregnant
330 minor, the division shall:

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

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