

1 **SYSTEM OF CARE FOR MINORS IN STATE CUSTODY**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dean Sanpei**

5 Senate Sponsor: Allen M. Christensen

6

LONG TITLE

7 **Committee Note:**

8 The Health Reform Task Force recommended this bill.

9 **General Description:**

10 This bill modifies Title 17, Chapter 43, Local Human Services Act, and Title 62A, Utah
11 Human Services Code, by promoting a system of care for a minor with or at risk for
12 complex emotional and behavioral needs.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines system of care;
- 16 ▶ requires the executive director of the Department of Human Services to establish a
17 system of care for minors with or at risk for complex emotional and behavioral
18 needs; and
- 19 ▶ requires local substance abuse and mental health authorities to cooperate with the
20 Department of Human Services in promoting the ~~the~~ system of care model.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:
27

H.B. 21



- 28 17-43-201, as last amended by Laws of Utah 2013, Chapter 17
- 29 17-43-301, as last amended by Laws of Utah 2013, Chapter 17
- 30 62A-1-104, as last amended by Laws of Utah 1990, Chapter 183
- 31 62A-1-111, as last amended by Laws of Utah 2012, Chapters 212 and 316

32

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

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

35 **17-43-201. Local substance abuse authorities -- Responsibilities.**

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

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

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

44 (b) Within legislative appropriations and county matching funds required by this
45 section, and under the direction of the division, each local substance abuse authority shall:

- 46 (i) develop substance abuse prevention and treatment services plans;
- 47 (ii) provide substance abuse services to residents of the county; and
- 48 (iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to
49 promote integrated programs that address an individual's substance abuse, mental health, and
50 physical healthcare needs, as described in Section 62A-15-103.

51 (c) Within legislative appropriations and county matching funds required by this
52 section, each local substance abuse authority shall cooperate with the efforts of the Department
53 of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors
54 with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

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

58 (b) The legislative bodies of counties joining to provide services may establish

59 acceptable ways of apportioning the cost of substance abuse services.

60 (c) Each agreement for joint substance abuse services shall:

61 (i) (A) designate the treasurer of one of the participating counties or another person as
62 the treasurer for the combined substance abuse authorities and as the custodian of money
63 available for the joint services; and

64 (B) provide that the designated treasurer, or other disbursing officer authorized by the
65 treasurer, may make payments from the money for the joint services upon audit of the
66 appropriate auditing officer or officers representing the participating counties;

67 (ii) provide for the appointment of an independent auditor or a county auditor of one of
68 the participating counties as the designated auditing officer for the combined substance abuse
69 authorities;

70 (iii) (A) provide for the appointment of the county or district attorney of one of the
71 participating counties as the designated legal officer for the combined substance abuse
72 authorities; and

73 (B) authorize the designated legal officer to request and receive the assistance of the
74 county or district attorneys of the other participating counties in defending or prosecuting
75 actions within their counties relating to the combined substance abuse authorities; and

76 (iv) provide for the adoption of management, clinical, financial, procurement,
77 personnel, and administrative policies as already established by one of the participating
78 counties or as approved by the legislative body of each participating county or interlocal board.

79 (d) An agreement for joint substance abuse services may provide for joint operation of
80 services and facilities or for operation of services and facilities under contract by one
81 participating local substance abuse authority for other participating local substance abuse
82 authorities.

83 (3) (a) Each local substance abuse authority is accountable to the department, the
84 Department of Health, and the state with regard to the use of state and federal funds received
85 from those departments for substance abuse services, regardless of whether the services are
86 provided by a private contract provider.

87 (b) Each local substance abuse authority shall comply, and require compliance by its
88 contract provider, with all directives issued by the department and the Department of Health
89 regarding the use and expenditure of state and federal funds received from those departments

90 for the purpose of providing substance abuse programs and services. The department and
91 Department of Health shall ensure that those directives are not duplicative or conflicting, and
92 shall consult and coordinate with local substance abuse authorities with regard to programs and
93 services.

94 (4) Each local substance abuse authority shall:

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

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

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

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

104 (c) establish and maintain, either directly or by contract, programs licensed under Title
105 62A, Chapter 2, Licensure of Programs and Facilities;

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

108 (e) provide input and comment on new and revised rules established by the division;

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

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

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

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

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

120 (k) provide funding equal to at least 20% of the state funds that it receives to fund

121 services described in the plan;

122 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
123 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
124 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
125 Other Local Entities Act;

126 (m) for persons convicted of driving under the influence in violation of Section
127 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

128 (i) a screening;

129 (ii) an assessment;

130 (iii) an educational series; and

131 (iv) substance abuse treatment; and

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

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

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

140 (i) the division;

141 (ii) the local substance abuse authority director;

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

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

145 (iv) the county legislative body; and

146 (v) in a county with a county executive that is separate from the county legislative
147 body, the county executive;

148 (b) the county auditor may examine and audit the entity's financial and other records
149 relevant to the entity's performance of the services provided to the local substance abuse
150 authority; and

151 (c) the entity will comply with the provisions of Subsection (3)(b).

152 (6) A local substance abuse authority may receive property, grants, gifts, supplies,
153 materials, contributions, and any benefit derived therefrom, for substance abuse services. If
154 those gifts are conditioned upon their use for a specified service or program, they shall be so
155 used.

156 (7) (a) As used in this section, "public funds" means the same as that term is defined in
157 Section [17-43-203](#).

158 (b) Public funds received for the provision of services pursuant to the local substance
159 abuse plan may not be used for any other purpose except those authorized in the contract
160 between the local substance abuse authority and the provider for the provision of plan services.

161 (8) Subject to the requirements of the federal Substance Abuse Prevention and
162 Treatment Block Grant, Public Law 102-321, a local substance abuse authority shall ensure
163 that all substance abuse treatment programs that receive public funds:

164 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;
165 and

166 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24
167 hours of the time that a request for admission is made, provide a comprehensive referral for
168 interim services that:

169 (i) are accessible to the pregnant woman or pregnant minor;

170 (ii) are best suited to provide services to the pregnant woman or pregnant minor;

171 (iii) may include:

172 (A) counseling;

173 (B) case management; or

174 (C) a support group; and

175 (iv) shall include a referral for:

176 (A) prenatal care; and

177 (B) counseling on the effects of alcohol and drug use during pregnancy.

178 (9) If a substance abuse treatment program described in Subsection (8) is not able to
179 accept and admit a pregnant woman or pregnant minor under Subsection (8) within 48 hours of
180 the time that request for admission is made, the local substance abuse authority shall contact
181 the Division of Substance Abuse and Mental Health for assistance in providing services to the
182 pregnant woman or pregnant minor.

183 Section 2. Section **17-43-301** is amended to read:

184 **17-43-301. Local mental health authorities -- Responsibilities.**

185 (1) (a) (i) In each county operating under a county executive-council form of
186 government under Section [17-52-504](#), the county legislative body is the local mental health
187 authority, provided however that any contract for plan services shall be administered by the
188 county executive.

189 (ii) In each county operating under a council-manager form of government under
190 Section [17-52-505](#), the county manager is the local mental health authority.

191 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the
192 county legislative body is the local mental health authority.

193 (b) Within legislative appropriations and county matching funds required by this
194 section, under the direction of the division, each local mental health authority shall:

195 (i) provide mental health services to persons within the county; and

196 (ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to
197 promote integrated programs that address an individual's substance abuse, mental health, and
198 physical healthcare needs, as described in Section [62A-15-103](#).

199 (c) Within legislative appropriations and county matching funds required by this
200 section, each local ~~Ĥ~~→ ~~[substance-abuse]~~ mental health ←Ĥ authority shall cooperate with the
200a efforts of the Department
201 of Human Services to promote a system of care, as defined in Section [62A-1-104](#), for minors
202 with or at risk for complex emotional and behavioral needs, as described in Section [62A-1-111](#).

203 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
204 Cooperation Act, two or more counties may join to provide mental health prevention and
205 treatment services.

206 (b) The legislative bodies of counties joining to provide services may establish
207 acceptable ways of apportioning the cost of mental health services.

208 (c) Each agreement for joint mental health services shall:

209 (i) (A) designate the treasurer of one of the participating counties or another person as
210 the treasurer for the combined mental health authorities and as the custodian of money
211 available for the joint services; and

212 (B) provide that the designated treasurer, or other disbursing officer authorized by the
213 treasurer, may make payments from the money available for the joint services upon audit of the

214 appropriate auditing officer or officers representing the participating counties;

215 (ii) provide for the appointment of an independent auditor or a county auditor of one of
216 the participating counties as the designated auditing officer for the combined mental health
217 authorities;

218 (iii) (A) provide for the appointment of the county or district attorney of one of the
219 participating counties as the designated legal officer for the combined mental health
220 authorities; and

221 (B) authorize the designated legal officer to request and receive the assistance of the
222 county or district attorneys of the other participating counties in defending or prosecuting
223 actions within their counties relating to the combined mental health authorities; and

224 (iv) provide for the adoption of management, clinical, financial, procurement,
225 personnel, and administrative policies as already established by one of the participating
226 counties or as approved by the legislative body of each participating county or interlocal board.

227 (d) An agreement for joint mental health services may provide for:

228 (i) joint operation of services and facilities or for operation of services and facilities
229 under contract by one participating local mental health authority for other participating local
230 mental health authorities; and

231 (ii) allocation of appointments of members of the mental health advisory council
232 between or among participating counties.

233 (3) (a) Each local mental health authority is accountable to the department, the
234 Department of Health, and the state with regard to the use of state and federal funds received
235 from those departments for mental health services, regardless of whether the services are
236 provided by a private contract provider.

237 (b) Each local mental health authority shall comply, and require compliance by its
238 contract provider, with all directives issued by the department and the Department of Health
239 regarding the use and expenditure of state and federal funds received from those departments
240 for the purpose of providing mental health programs and services. The department and
241 Department of Health shall ensure that those directives are not duplicative or conflicting, and
242 shall consult and coordinate with local mental health authorities with regard to programs and
243 services.

244 (4) (a) Each local mental health authority shall:

- 245 (i) review and evaluate mental health needs and services, including mental health needs
246 and services for persons incarcerated in a county jail or other county correctional facility;
- 247 (ii) as provided in Subsection (4)(b), annually prepare and submit to the division a plan
248 approved by the county legislative body for mental health funding and service delivery, either
249 directly by the local mental health authority or by contract;
- 250 (iii) establish and maintain, either directly or by contract, programs licensed under Title
251 62A, Chapter 2, Licensure of Programs and Facilities;
- 252 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
253 programs and prescribe the director's duties;
- 254 (v) provide input and comment on new and revised rules established by the division;
- 255 (vi) establish and require contract providers to establish administrative, clinical,
256 personnel, financial, procurement, and management policies regarding mental health services
257 and facilities, in accordance with the rules of the division, and state and federal law;
- 258 (vii) establish mechanisms allowing for direct citizen input;
- 259 (viii) annually contract with the division to provide mental health programs and
260 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and
261 Mental Health Act;
- 262 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
263 contract requirements, and any directives resulting from those audits and contract requirements;
- 264 (x) provide funding equal to at least 20% of the state funds that it receives to fund
265 services described in the plan;
- 266 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
267 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
268 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
269 Other Local Entities Act; and
- 270 (xii) take and retain physical custody of minors committed to the physical custody of
271 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,
272 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.
- 273 (b) Each plan under Subsection (4)(a)(ii) shall include services for adults, youth, and
274 children, which shall include:
- 275 (i) inpatient care and services;

276 (ii) residential care and services;
277 (iii) outpatient care and services;
278 (iv) 24-hour crisis care and services;
279 (v) psychotropic medication management;
280 (vi) psychosocial rehabilitation, including vocational training and skills development;
281 (vii) case management;
282 (viii) community supports, including in-home services, housing, family support
283 services, and respite services;
284 (ix) consultation and education services, including case consultation, collaboration
285 with other county service agencies, public education, and public information; and
286 (x) services to persons incarcerated in a county jail or other county correctional facility.
287 (5) Before disbursing any public funds, each local mental health authority shall require
288 that each entity that receives any public funds from a local mental health authority agrees in
289 writing that:
290 (a) the entity's financial records and other records relevant to the entity's performance
291 of the services provided to the mental health authority shall be subject to examination by:
292 (i) the division;
293 (ii) the local mental health authority director;
294 (iii) (A) the county treasurer and county or district attorney; or
295 (B) if two or more counties jointly provide mental health services under an agreement
296 under Subsection (2), the designated treasurer and the designated legal officer;
297 (iv) the county legislative body; and
298 (v) in a county with a county executive that is separate from the county legislative
299 body, the county executive;
300 (b) the county auditor may examine and audit the entity's financial and other records
301 relevant to the entity's performance of the services provided to the local mental health
302 authority; and
303 (c) the entity will comply with the provisions of Subsection (3)(b).
304 (6) A local mental health authority may receive property, grants, gifts, supplies,
305 materials, contributions, and any benefit derived therefrom, for mental health services. If those
306 gifts are conditioned upon their use for a specified service or program, they shall be so used.

307 (7) (a) As used in this section, "public funds" means the same as that term is defined in
308 Section 17-43-303.

309 (b) Public funds received for the provision of services pursuant to the local mental
310 health plan may not be used for any other purpose except those authorized in the contract
311 between the local mental health authority and the provider for the provision of plan services.

312 Section 3. Section 62A-1-104 is amended to read:

313 **62A-1-104. Definitions.**

314 (1) As used in this title:

315 (a) "Concurrence of the board" means agreement by a majority of the members of a
316 board.

317 (b) "Department" means the Department of Human Services established in Section
318 62A-1-102.

319 (c) "Executive director" means the executive director of the department, appointed
320 pursuant to Section 62A-1-108.

321 (d) "System of care" means a broad, flexible array of services and supports for minors
322 with or at risk for complex emotional and behavioral needs that:

323 (i) is community based;

324 (ii) integrates service planning, service coordination, and management across state and
325 local entities;

326 (iii) includes individualized, person-centered planning;

327 (iv) builds meaningful partnerships with families and children; and

328 (v) provides supportive management and policy infrastructure that is organized into a
329 coordinated network.

330 (2) The definitions provided in Subsection (1) are to be applied in addition to
331 definitions contained throughout this title which are applicable to specific chapters or parts.

332 Section 4. Section 62A-1-111 is amended to read:

333 **62A-1-111. Department authority.**

334 The department may, in addition to all other authority and responsibility granted to it by
335 law:

336 (1) adopt rules, not inconsistent with law, as the department may consider necessary or
337 desirable for providing social services to the people of this state;

- 338 (2) establish and manage client trust accounts in the department's institutions and
339 community programs, at the request of the client or the client's legal guardian or representative,
340 or in accordance with federal law;
- 341 (3) purchase, as authorized or required by law, services that the department is
342 responsible to provide for legally eligible persons;
- 343 (4) conduct adjudicative proceedings for clients and providers in accordance with the
344 procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- 345 (5) establish eligibility standards for its programs, not inconsistent with state or federal
346 law or regulations;
- 347 (6) take necessary steps, including legal action, to recover money or the monetary value
348 of services provided to a recipient who was not eligible;
- 349 (7) set and collect fees for its services;
- 350 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
351 or limited by law;
- 352 (9) acquire, manage, and dispose of any real or personal property needed or owned by
353 the department, not inconsistent with state law;
- 354 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
355 the proceeds thereof, may be credited to the program designated by the donor, and may be used
356 for the purposes requested by the donor, as long as the request conforms to state and federal
357 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
358 under guidelines established by the state treasurer;
- 359 (11) accept and employ volunteer labor or services; the department is authorized to
360 reimburse volunteers for necessary expenses, when the department considers that
361 reimbursement to be appropriate;
- 362 (12) carry out the responsibility assigned in the Workforce Services Plan by the State
363 Council on Workforce Services;
- 364 (13) carry out the responsibility assigned by Section [35A-8-602](#) with respect to
365 coordination of services for the homeless;
- 366 (14) carry out the responsibility assigned by Section [62A-5a-105](#) with respect to
367 coordination of services for students with a disability;
- 368 (15) provide training and educational opportunities for its staff;

- 369 (16) collect child support payments and any other money due to the department;
- 370 (17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents
371 whose child lives out of the home in a department licensed or certified setting;
- 372 (18) establish policy and procedures, within appropriations authorized by the
373 Legislature, in cases where the department is given custody of a minor by the juvenile court
374 pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not
375 competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall
376 include:
- 377 (a) designation of interagency teams for each juvenile court district in the state;
- 378 (b) delineation of assessment criteria and procedures;
- 379 (c) minimum requirements, and timeframes, for the development and implementation
380 of a collaborative service plan for each minor placed in department custody; and
- 381 (d) provisions for submittal of the plan and periodic progress reports to the court;
- 382 (19) carry out the responsibilities assigned to it by statute;
- 383 (20) examine and audit the expenditures of any public funds provided to local
384 substance abuse authorities, local mental health authorities, local area agencies on aging, and
385 any person, agency, or organization that contracts with or receives funds from those authorities
386 or agencies. Those local authorities, area agencies, and any person or entity that contracts with
387 or receives funds from those authorities or area agencies, shall provide the department with any
388 information the department considers necessary. The department is further authorized to issue
389 directives resulting from any examination or audit to local authorities, area agencies, and
390 persons or entities that contract with or receive funds from those authorities with regard to any
391 public funds. If the department determines that it is necessary to withhold funds from a local
392 mental health authority or local substance abuse authority based on failure to comply with state
393 or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of
394 services. For purposes of this Subsection (20) "public funds" means the same as that term is
395 defined in Section 62A-15-102; ~~and~~
- 396 (21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and
397 persons to provide intercountry adoption services~~[-]; and~~
- 398 (22) within appropriations authorized by the Legislature, promote and develop a
399 system of care, as defined in Section 62A-1-104, within the department and with contractors

400 that provide services to the department or any of the department's divisions.

Legislative Review Note
as of 11-21-13 5:20 PM

Office of Legislative Research and General Counsel