

HB0383S02 compared with HB0383S01

~~{Omitted text}~~ shows text that was in HB0383S01 but was omitted in HB0383S02

inserted text shows text that was not in HB0383S01 but was inserted into HB0383S02

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1 **Department of Health and Human Services Amendments**
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Logan J. Monson
Senate Sponsor:

2
3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions of the Health and Humans Services code and related provisions.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ removes rulemaking authority from the Primary Care Grant Committee;
- 9 ▶ clarifies the membership of the Compassionate Use Board;
- 10 ▶ provides for the designation of a vice chair of the Utah Health Workforce Advisory Council;
- 12 ▶ clarifies that the recommendations of the Utah Health Workforce Advisory Council are
independent of the governor and the Department of Health and Human Services (department);
- 15 ▶ amends provisions related to a qualified individual for purposes of the department's fatality
review;
- 17 ▶ authorizes the department to make rules related to the congregate care ombudsman;
- 18 ▶ amends provisions related to Medicaid dental benefits and instructs the department to apply for
waivers to provide dental services;
- 20 ▶

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provides that a rural hospital's contracted hiring group may provide education loan repayment assistance to a physician to qualify for a education loan repayment assistance contract with the department;

▸ clarifies provisions related to the transfer of an individual in the custody of the Department of Corrections to the state hospital;

▸ clarifies that the Division of Services for People with Disabilities (division) may use certain funds for individuals transitioning to home- and community-based services, rather than division services;

▸ amends provisions related to the child protection ombudsman;

▸ updates the name of the Department of Health and Human Services in certain provisions;

▸ corrects code references; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-906 (Effective 05/06/26), as last amended by Laws of Utah 2015, Chapter 451

26A-1-128 (Effective 05/06/26), as last amended by Laws of Utah 2023, Chapter 327

26B-1-216 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 470

26B-1-410 (Effective 05/06/26) (Repealed 07/01/35), as last amended by Laws of Utah 2025, Chapters 112, 277

26B-1-421 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 494

26B-1-425 (Effective 05/06/26) (Repealed 07/01/27), as last amended by Laws of Utah 2024, Chapter 245

26B-1-501 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapters 113, 288

26B-2-124.2 (Effective 05/06/26), as enacted by Laws of Utah 2025, Chapter 63

26B-3-107 (Effective 05/06/26) (Partially Repealed 07/01/28), as last amended by Laws of Utah 2025, Chapter 494

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26B-3-208 (Effective 05/06/26), as last amended by Laws of Utah 2023, Chapter 304 and
renumbered and amended by Laws of Utah 2023, Chapter 306

26B-4-703 (Effective 05/06/26) (Repealed 07/01/26), as last amended by Laws of Utah 2024,
Chapter 250

26B-5-372 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-6-402 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-6-703 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 250

26B-7-501 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

26B-7-508 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

26B-7-514 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

26B-7-516 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 173

26B-7-518 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-8-217 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 421

63I-1-226 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapters 47, 277 and 366

77-37-4 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 156

80-2-1104 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 250

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

Section 1. Section **19-6-906** is amended to read:

19-6-906. Decontamination standards -- Specialist certification standards -- Rulemaking.

(1) The Department of Health and Human Services shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with the local health departments and the Department of Environmental Quality, to establish:

(a) decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris under this part;

(b) appropriate methods for the testing of buildings and interior surfaces, and furnishings, soil, and septic tanks for contamination; and

(c) when testing for contamination may be required.

(2) The Department of Environmental Quality Waste Management and Radiation Control Board shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with

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the Department of Health and Human Services and local health departments, to establish within the Department of Environmental Quality Division of Environmental Response and Remediation:

- (a) certification standards for any private person, firm, or entity involved in the decontamination of contaminated property; and
- (b) a process for revoking the certification of a decontamination specialist who fails to maintain the certification standards.
- (3) All rules made under this part shall be consistent with other state and federal requirements.
- (4) The board has authority to enforce the provisions under Subsection (2).

Section 2. Section **26A-1-128** is amended to read:

26A-1-128. Tobacco, electronic cigarette, and nicotine product permits -- Enforcement.

A local health department:

- (1) shall enforce the requirements of Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products;
- (2) may enforce licensing requirements for entities that hold a business license to sell a tobacco product, an electronic cigarette product, or a nicotine product under Section 10-8-41.6 or Section ~~[17-50-333]~~ 17-78-1004; and
- (3) may recommend to a municipality or county that the business license of a retail tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6, Section ~~[17-50-333]~~ 17-78-1004, or Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products.

Section 3. Section **26B-1-216** is amended to read:

26B-1-216. Powers and duties of the department -- Quality and design.

The department shall:

- (1) monitor and evaluate the quality of services provided by the department including:
 - (a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making recommendations relating to a fatality review;
 - (b) overseeing the duties of the child protection ombudsman ~~[appointed]~~ created under Section 80-2-1104; and
 - (c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;
- (2) conduct investigations described in Section 80-2-703;

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- 122 (3) develop an integrated human services system and implement a system of care by:
- 123 (a) designing and implementing a comprehensive continuum of services for individuals who receive
services from the department or a service provider contracted with the department;
- 126 (b) establishing and maintaining department contracts with public and private service providers;
- 128 (c) establishing standards for the use of service providers who contract with the department;
- 130 (d) coordinating a service provider network to be used within the department to ensure individuals
receive the appropriate type of services;
- 132 (e) centralizing the department's administrative operations; and
- 133 (f) integrating, analyzing, and applying department-wide data and research to monitor the quality,
effectiveness, and outcomes of services provided by the department;
- 135 (4)
- (a) coordinate with the Driver License Division, the Department of Public Safety, and any other
law enforcement agency to test and provide results of blood or urine samples submitted to the
department as part of an investigation for a driving offense that may have occurred and there is
reason to believe the individual's blood or urine may contain:
- 140 (i) alcohol; or
- 141 (ii) other drugs or substances that the department reasonably determines could impair an individual
or that is illegal for the individual to possess or consume; and
- 143 (b) ensure that the results of the test described in Subsection (4)(a) are provided through a secure
medium and in a timely manner;
- 145 (5) use available data to structure programs and activities to ensure populations have access to health
and wellness education, information, resources, and services;
- 147 (6) efficiently use funding and resources to promote health and safety; and
- 148 (7) include an understanding of the impacted populations and supporting data in staff training.
- 150 Section 4. Section **26B-1-410** is amended to read:
- 151 **26B-1-410. Primary Care Grant Committee.**
- 153 (1) As used in this section:
- 154 (a) "Committee" means the Primary Care Grant Committee created in Subsection (2).
- 155 (b) "Program" means the Primary Care Grant Program described in Sections 26B-4-310 and 26B-4-313.
- 157 (2) There is created the Primary Care Grant Committee.
- 158 (3) The committee shall:

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- 159 (a) review grant applications forwarded to the committee by the department under Subsection
26B-4-312(1);
- 161 (b) recommend, to the executive director, grant applications to award under Subsection 26B-4-310(1);
- 163 (c) evaluate:
- 164 (i) the need for primary health care as defined in Section 26B-4-301 in different areas of the state;
- 166 (ii) how the program is addressing those needs; and
- 167 (iii) the overall effectiveness and efficiency of the program;
- 168 (d) review annual reports from primary care grant recipients; and
- 169 (e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of
committee members[; ~~and~~] .
- 171 [~~(f) make rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant
selection criteria.~~]
- 174 (4) The committee shall consist of:
- 175 (a) as chair, the executive director or an individual designated by the executive director; and
- 177 (b) six members appointed by the governor to serve up to two consecutive, two-year terms of office,
including:
- 179 (i) four licensed health care professionals; and
- 180 (ii) two community advocates who are familiar with a medically underserved population as defined
in Section 26B-4-301 and with health care systems, where at least one is familiar with a rural
medically underserved population.
- 183 (5) The executive director may remove a committee member:
- 184 (a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or
- 186 (b) for a rational reason.
- 187 (6) A committee member may not receive compensation or benefits for the member's service, except
a committee member who is not an employee of the department may receive per diem and travel
expenses in accordance with:
- 190 (a) Section 63A-3-106;
- 191 (b) Section 63A-3-107; and
- 192 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- 194 Section 5. Section **26B-1-421** is amended to read:

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26B-1-421. Compassionate Use Board.

- (1) The definitions in Section 26B-4-201 apply to this section.
- (2)
 - (a) The department shall establish a Compassionate Use Board consisting of:
 - (i) seven [~~qualified~~] recommending medical providers that the executive director appoints with the advice and consent of the Senate:
 - (A) who are knowledgeable about the medicinal use of cannabis;
 - (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
 - (C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and
 - (ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.
 - (b) In appointing the seven [~~qualified~~] recommending medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.
- (3)
 - (a) Of the members of the Compassionate Use Board that the executive director first appoints:
 - (i) three shall serve an initial term of two years; and
 - (ii) the remaining members shall serve an initial term of four years.
 - (b) After an initial term described in Subsection (3)(a) expires:
 - (i) each term is four years; and
 - (ii) each board member is eligible for reappointment.
 - (c) A member of the Compassionate Use Board may serve until a successor is appointed.
 - (d) Four members constitute a quorum of the Compassionate Use Board.
- (4) A member of the Compassionate Use Board may receive:
 - (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and
 - (b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.
- (5) The Compassionate Use Board shall:

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- 228 (a) review and recommend for department approval a petition to the board regarding an individual
described in Subsection 26B-4-213(2)(a), a minor described in Subsection 26B-4-213(2)(c), or an
individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical
cannabis card for compassionate use, for the standard or a reduced period of validity, if:
- 233 (i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's
recommending medical provider is actively treating the individual for an intractable condition that:
- 236 (A) substantially impairs the individual's quality of life; and
- 237 (B) has not, in the recommending medical provider's professional opinion, adequately responded to
conventional treatments;
- 239 (ii) the recommending medical provider:
- 240 (A) recommends that the individual or minor be allowed to use medical cannabis; and
- 242 (B) provides a letter, relevant treatment history, and notes or copies of progress notes describing
relevant treatment history including rationale for considering the use of medical cannabis; and
- 245 (iii) the Compassionate Use Board determines that:
- 246 (A) the recommendation of the individual's recommending medical provider is justified; and
- 248 (B) based on available information, it may be in the best interests of the individual to allow the use of
medical cannabis;
- 250 (b) when a recommending medical provider recommends that an individual described in Subsection
26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a
medical cannabis device or medical cannabis to vaporize a medical cannabis treatment, review and
approve or deny the use of the medical cannabis device or medical cannabis;
- 255 (c) unless no petitions are pending:
- 256 (i) meet to receive or review compassionate use petitions at least quarterly; and
- 257 (ii) if there are more petitions than the board can receive or review during the board's regular schedule,
as often as necessary;
- 259 (d) except as provided in Subsection (6), complete a review of each petition and recommend to the
department approval or denial of the applicant for qualification for a medical cannabis card within
90 days after the day on which the board received the petition; and
- 263 (e) consult with the department regarding the criteria described in Subsection (6).
- 264 (6) The department shall make rules, in consultation with the Compassionate Use Board and in
accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process

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and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

- 269 (a) time is of the essence;
- 270 (b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and
- 272 (c) sufficient factors are present regarding the petitioner's safety.
- 273 (7)
- (a)
 - (i) The department shall review:
 - 274 (A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and
 - 277 (B) any expedited petitions the department receives under the process described in Subsection (6).
 - 279 (ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:
 - 283 (A) issue the relevant medical cannabis card; and
 - 284 (B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the recommending medical provider described in Subsection (5)(a).
- 287 (b) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.
- 290 (c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.
- 294 (8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

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(9) The Compassionate Use Board shall annually report the board's activity to the advisory board.

Section 6. Section **26B-1-425** is amended to read:

26B-1-425. Utah Health Workforce Advisory Council -- Creation and membership.

(1) There is created within the department the Utah Health Workforce Advisory Council.

(2) The council shall be comprised of at least 14 but not more than 19 members.

(3) The following are members of the council:

(a) the executive director or that individual's designee;

(b) the executive director of the Department of Workforce Services or that individual's designee;

(c) the commissioner of higher education of the Utah System of Higher Education or that individual's designee;

(d) the state superintendent of the State Board of Education or that individual's designee;

(e) the executive director of the Department of Commerce or that individual's designee;

(f) the director of the Division of Multicultural Affairs or that individual's designee;

(g) the director of the Utah Substance Use and Mental Health Advisory Committee or that individual's designee;

(h) the chair of the Utah Indian Health Advisory Board; and

(i) the chair of the Utah Medical Education Council created in Section 26B-4-706.

(4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce as defined in Section 26B-4-705.

(5)

(a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.

(b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.

(6)

(a) The executive director or the executive director's designee shall chair the council.

(b) The executive director or the executive director's designee shall designate a member appointed under Subsection (4) to serve as vice chair of the council.

(7)

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(a) As used in this Subsection (7), "health workforce" means the same as that term is defined in Section 26B-4-705.

(b) The council shall:

(i) meet at least once each quarter;

(ii) study and provide recommendations to an entity described in Subsection (8) regarding:

(A) health workforce supply;

(B) health workforce employment trends and demand;

(C) options for training and educating the health workforce;

(D) the implementation or improvement of strategies that entities in the state are using or may use to address health workforce needs including shortages, recruitment, retention, and other Utah health workforce priorities as determined by the council;

(iii) provide guidance to an entity described in Subsection (8) regarding health workforce related matters;

(iv) review and comment on legislation relevant to Utah's health workforce; [and]

(v) advise the Utah Board of Higher Education and the Legislature on the status and needs of the health workforce who are in training[-] , including making policy recommendations; and

(vi) maintain independence from the department and the governor such that the council and the council's subcommittees are able to provide independent advice and recommendations, especially regarding proposed bills and policy considerations.

(8) The council shall provide information described in Subsections (7)(b)(ii) and (iii) to:

(a) the Legislature;

(b) the department;

(c) the Department of Workforce Services;

(d) the Department of Commerce;

(e) the Utah Medical Education Council; and

(f) any other entity the council deems appropriate upon the entity's request.

(9)

(a) The Utah Medical Education Council created in Section 26B-4-706 is a subcommittee of the council.

(b) The council may establish subcommittees to support the work of the council.

(c) A member of the council shall chair a subcommittee created by the council.

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- 364 (d) Except for the Utah Medical Education Council, the chair of the subcommittee may appoint any
individual to the subcommittee.
- 366 (10) For any report created by the council that pertains to any duty described in Subsection (7), the
council shall:
- 368 (a) provide the report to:
- 369 (i) the department; and
- 370 (ii) any appropriate legislative committee; and
- 371 (b) post the report on the council's website.
- 372 (11) The executive director shall:
- 373 (a) ensure the council has adequate staff to support the council and any subcommittee created by the
council; and
- 375 (b) provide any available information upon the council's request if:
- 376 (i) that information is necessary for the council to fulfill a duty described in Subsection (7); and
- 378 (ii) the department has access to the information.
- 379 (12) A member of the council or a subcommittee created by the council may not receive compensation
or benefits for the member's service but may receive per diem and travel expenses as allowed in:
- 382 (a) Section 63A-3-106;
- 383 (b) Section 63A-3-107; and
- 384 (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- 386 Section 7. Section **26B-1-501** is amended to read:
- 387 **26B-1-501. Definitions.**
- As used in this part:
- 389 (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- 390 (2) "Child" means the same as that term is defined in Section 80-1-102.
- 391 (3) "Committee" means a fatality review committee that is formed under Section 26B-1-503 or
26B-1-504.
- 393 (4) "Dependency" means the same as that term is defined in Section 80-1-102.
- 394 (5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection
26B-1-502(5).
- 396 (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician or physician assistant,
places a child in serious or critical condition.

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- 398 (7) "Neglect" means the same as that term is defined in Section 80-1-102.
- 399 [(7)] (8) "Qualified individual" means an individual who:
- 400 (a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by
the department or a division of the department;
- 402 (b)
- (i) is in the custody of the department or a division of the department; and
- 403 (ii) is placed in a residential placement by the department or a division of the department;
- 405 (c) at the time that the individual dies, has an open case for the receipt of child welfare services,
including:
- 407 (i) an investigation for abuse, neglect, or dependency;
- 408 (ii) foster care;
- 409 (iii) in-home services; or
- 410 (iv) substitute care;
- 411 (d) had an open case for the receipt of child welfare services within one year before the day on which
the individual dies;
- 413 (e) was the subject of an accepted referral received by Adult Protective Services within one year before
the day on which the individual dies, if:
- 415 (i) the department or a division of the department is aware of the death; and
- 416 (ii) the death is reported as a homicide, suicide, or an undetermined cause;
- 417 (f) received services from, or under the direction of, the Division of Services for People with
Disabilities within one year before the day on which the individual dies;
- 419 (g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital
or the Utah State Developmental Center, if the department is aware of the death;
- 422 (h) is a child who:
- 423 (i) suffers a near fatality; and
- 424 (ii) is the subject of an open case for the receipt of child welfare services within one year before the day
on which the child suffered the near fatality, including:
- 426 (A) an investigation for abuse, neglect, or dependency;
- 427 (B) foster care;
- 428 (C) in-home services; or
- 429 (D) substitute care; or

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(i) is designated as a qualified individual by the executive director.

~~[(8) "Neglect" means the same as that term is defined in Section 80-1-102.]~~

(9) "Substitute care" means the same as that term is defined in Section 80-1-102.

Section 8. Section **26B-2-124.2** is amended to read:

26B-2-124.2. Congregate care ombudsman.

(1) As used in this section:

(a) "Ombudsman" means the congregate care ombudsman created under this section.

(b) "Report" means a communication received by the ombudsman and containing information that the ombudsman determines warrants further investigation.

(2) There is created within the department the title and position of congregate care ombudsman.

(3)

(a) The core roles and functions of the ombudsman include:

(i) serving as a resource and advocate for children admitted to congregate care programs; and

(ii) receiving and investigating reports pertaining to a congregate care program or staff.

(b) The ~~[ombudsmann]~~ ombudsman shall meet the following minimum qualifications:

(i) have an understanding of congregate care services and supports;

(ii) have an understanding of consumer-oriented public policy advocacy; and

(iii) have an understanding of public policy and customer advocacy, including at minimum:

(A) a bachelors degree in social work, public policy, or other related field;

(B) three years of experience in a field related to social work or public policy; or

(C) a combination of experience and degree that the department deems sufficient.

(4) The ombudsman shall have the following authority and duties:

(a) to receive and consider communications pertaining to:

(i) a congregate care program; and

(ii) any individual who has accessed a congregate care program;

(b) to investigate, at the ombudsman's discretion, a report for which the department or other state agency lacks investigative authority;

(c) to interview:

(i) any child admitted to a congregate care program;

(ii) the parent or guardian of a child admitted to a congregate care program;

(iii) any individual staff of a congregate care program;

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- (iv) a sending or receiving agency or program, whether public or private; or
- (v) any individual who has entered a program within the last year;
- (d) to enter or inspect any physical area of a program's facilities;
- (e) to access, copy, or inspect a program's records, including communications; and
- (f) to observe a program's operations, programming, or facilities.
- (5) The ombudsman shall refer all reports or information received by the ombudsman to the:
- (a) department; and
- (b) any other state or local agency authorized to investigate the report or information.
- (6) The ombudsman shall:
- (a) keep generally accepted business hours; and
- (b) maintain a messaging system to receive calls and collect messages during non-operating hours.
- (7) The ~~[office]~~ department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this section.
- Section 9. Section **26B-3-107** is amended to read:
- 26B-3-107. Dental benefits.**
- ~~[(1)~~
- ~~(a) Except as provided in Subsection (8), the division may establish a competitive bid process to bid out Medicaid dental benefits under this chapter.]~~
- ~~[(b) The division may bid out the Medicaid dental benefits separately from other program benefits.]~~
- ~~[(2) The division shall use the following criteria to evaluate dental bids:]~~
- ~~[(a) ability to manage dental expenses;]~~
- ~~[(b) proven ability to handle dental insurance;]~~
- ~~[(c) efficiency of claim paying procedures;]~~
- ~~[(d) provider contracting, discounts, and adequacy of network; and]~~
- ~~[(e) other criteria established by the department.]~~
- ~~[(3) The division shall request bids for the program's benefits at least once every five years.]~~
- ~~[(4) The division's contract with dental plans for the program's benefits shall include risk sharing provisions in which the dental plan must accept 100% of the risk for any difference between the division's premium payments per client and actual dental expenditures.]~~
- ~~[(5) The division may not award contracts to:]~~
- ~~[(a) more than three responsive bidders under this section; or]~~

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- 497 ~~[(b) an insurer that does not have a current license in the state.]~~
498 ~~[(6)~~
 ~~(a) The division may cancel the request for proposals if:]~~
499 ~~[(i) there are no responsive bidders; or]~~
500 ~~[(ii) the division determines that accepting the bids would increase the program's costs.]~~
502 ~~[(b) If the division cancels a request for proposal or a contract that results from a request for proposal~~
 ~~described in Subsection (6)(a), the division shall report to the Health and Human Services Interim~~
 ~~Committee regarding the reasons for the decision.]~~
505 ~~[(7) Title 63G, Chapter 6a, Utah Procurement Code, shall apply to this section.]~~
506 ~~[(8)]~~ (1)
 (a) The division may:
507 (i) establish a dental health care delivery system and payment reform pilot program for Medicaid
 dental benefits to increase access to cost effective and quality dental health care by increasing
 the number of dentists available for Medicaid dental services; and
511 (ii) target specific Medicaid populations or geographic areas in the state.
512 (b) The pilot program shall establish compensation models for dentists and dental hygienists that:
514 (i) increase access to quality, cost effective dental care; and
515 (ii) use funds from the Division of Family Health that are available to reimburse dentists for educational
 loans in exchange for the dentist agreeing to serve Medicaid and under-served populations.
518 (c) The division may amend the state plan and apply to the Secretary of the United States Department
 of Health and Human Services for waivers or pilot programs if necessary to establish the new dental
 care delivery and payment reform model.
521 (d) The division shall evaluate the pilot program's effect on the cost of dental care and access to dental
 care for the targeted Medicaid populations.
523 ~~[(9)]~~ (2)
 (a) As used in this Subsection ~~[(9)]~~ (2), "dental hygienist" means an individual who is licensed as a
 dental hygienist under Section 58-69-301.
525 (b) The department shall reimburse a dental hygienist for dental services performed in a public health
 setting and in accordance with Subsection ~~[(9)(c)]~~ (2)(c) beginning on the earlier of:
528 (i) January 1, 2023; or
529

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(ii) 30 days after the date on which the replacement of the department's Medicaid Management Information System software is complete.

531 (c) The department shall reimburse a dental hygienist directly for a service provided through the Medicaid program if:

533 (i) the dental hygienist requests to be reimbursed directly; and

534 (ii) the dental hygienist provides the service within the scope of practice described in Section 58-69-801.

536 (d)

(i) Except as provided in this Subsection [(9)] (2), nothing in this Subsection [(9)] (2) shall be interpreted as expanding or otherwise altering the limitations and scope of practice for a dental hygienist.

539 (ii) A dental hygienist may only directly bill and receive compensation for billing codes that fall within the scope of practice of a dental hygienist.

541 Section 10. Section **26B-3-208** is amended to read:

542 **26B-3-208. Medicaid waiver for delivery of adult dental services.**

544 (1)

(a) Before June 30, 2016, the department shall ask CMS to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2)(a).

547 (b) Before June 30, 2018, the department shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b)(i) and (d) through (f), to an individual described in Subsection (2)(b)(i).

551 (c) Before June 30, 2019, the department shall submit to CMS a request for waivers, or an amendment to existing waivers, from federal law necessary for the state to:

553 (i) provide dental services, in accordance with Subsections (2)(b)(ii) and (d) through (f) to an individual described in Subsection (2)(b)(ii); and

555 (ii) provide the services described in Subsection (2)(g).

556 (d) On or before January 1, 2024, the department shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental

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services, in accordance with Subsections (2)(b)(iii) and (d) through (f), to an individual described in Subsection (2)(b)(iii).

560 (e) The department shall submit to CMS a request for waivers, or an amendment of existing waivers,
from federal law necessary for the state to provide dental services, in accordance with Subsections
564 (2)(b)(iv) and (d) through (f), to an individual described in Subsection (2)(b)(iv).

(2)

(a) To the extent funded, the department shall provide dental services to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older and eligible for the program.

567 (b) Notwithstanding Subsection (2)(a):

568 (i) if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:

570 (A) qualifies for the health coverage improvement program described in Section 26B-3-207; and

572 (B) is receiving treatment in a substance abuse treatment program, as defined in Section 26B-2-101, licensed under Chapter 2, Part 1, Human Services Programs and Facilities;

575 (ii) if a waiver is approved under Subsection (1)(c)(i), the department shall provide dental services to an individual who is an aged individual as defined in 42 U.S.C. Sec. 1382c(a)(1); and

578 (iii) if a waiver is approved under Subsection (1)(d), the department shall provide dental services to an individual who is:

580 (A) not described in Subsection (2)(a);

581 (B) not described in Subsection (2)(b)(i);

582 (C) not described in Subsection (2)(b)(ii);

583 (D) not pregnant;

584 (E) 21 years old or older; and

585 (F) eligible for full services through the Medicaid program[-] ; and

586 (iv) if a waiver is approved under Subsection (1)(e), the department shall provide dental services to an individual who is:

588 (A) not described in Subsection (2)(a);

589 (B) not described in Subsection (2)(b)(i);

590 (C) not described in Subsection (2)(b)(ii);

591 (D) not described in Subsection (2)(b)(iii); and

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- 592 (E) eligible for full services through the Medicaid program.
- 593 (c) To the extent possible, services to individuals described in Subsection (2)(a) shall be provided
through the University of Utah School of Dentistry and the University of Utah School of Dentistry's
associated statewide network.
- 596 (d) The department shall provide the services to individuals described in Subsection (2)(b):
- 598 (i) by contracting with an entity that:
- 599 (A) has demonstrated experience working with individuals who are being treated for both a substance
use disorder and a major oral health disease;
- 601 (B) operates a program, targeted at the individuals described in Subsection (2)(b), that has
demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to
those individuals described in Subsection (2)(b);
- 604 (C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing
dental services to the population described in Subsection (2)(b); and
- 607 (D) is willing to pay all state costs associated with applying for the waiver described in Subsection (1)
(b) and administering the program described in Subsection (2)(b); and
- 610 (ii) through a fee-for-service payment model.
- 611 (e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the
program described in Subsection (2)(b).
- 613 (f) Each fiscal year, the University of Utah School of Dentistry shall, in compliance with state and
federal regulations regarding intergovernmental transfers, transfer funds to the program in an
amount equal to the program's non-federal share of the cost of providing services under this section
through the school during the fiscal year.
- 617 (g) If a waiver is approved under Subsection (1)(c)(ii), the department shall provide coverage for
porcelain and porcelain-to-metal crowns if the services are provided:
- 619 (i) to an individual who qualifies for dental services under Subsection (2)(b); and
- 620 (ii) by an entity that covers all state costs of:
- 621 (A) providing the coverage described in this Subsection (2)(g); and
- 622 (B) applying for the waiver described in Subsection (1)(c).
- 623 (h) Where possible, the department shall ensure that dental services described in Subsection (2)(a) that
are not provided by the University of Utah School of Dentistry or the University of Utah School of
Dentistry's associated network are provided:

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- 626 (i) through free-for-service reimbursement until July 1, 2018; and
627 (ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental
benefits.
- 629 (i) Subject to appropriations by the Legislature, and as determined by the department, the scope,
amount, duration, and frequency of services provided under this section may be limited.
- 632 (3)
(a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin
providing dental services in the manner described in Subsection (2) no later than July 1, 2017.
- 635 (b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin
providing dental services to the population described in Subsection (2)(b) within 90 days from the
day on which the waivers are granted.
- 638 (c) If the waivers requested under Subsection (1)(c)(i) are granted, the Medicaid program shall begin
providing dental services to the population described in Subsection (2)(b)(ii) within 90 days after the
day on which the waivers are granted.
- 641 (d) If the waivers requested under Subsection (1)(d) are granted, the Medicaid program shall begin
providing dental services to the population described in Subsection (2)(b)(iii) within 90 days after
the day on which the waivers are granted.
- 644 (4) If the federal share of the cost of providing dental services under this section will be less than
55% during any portion of the next fiscal year, the Medicaid program shall cease providing dental
services under this section no later than the end of the current fiscal year.
- 648 Section 11. Section **26B-4-703** is amended to read:
- 649 **26B-4-703. Rural Physician Loan Repayment Program -- Purpose -- Repayment limit --
Funding -- Reporting -- Rulemaking -- Advisory committee.**
- 652 (1) There is created within the department the Rural Physician Loan Repayment Program to provide,
within funding appropriated by the Legislature for this purpose, education loan repayment assistance
to physicians in accordance with Subsection (2).
- 655 (2) The department may enter into an education loan repayment assistance contract with a physician if:
657 (a) the physician:
658 (i) locates or continues to practice in a rural county; and
659 (ii) has a written commitment from a rural hospital or a rural hospital's contracted hiring group that the
[hospital] employer will provide education loan repayment assistance to the physician;

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- 662 (b) the assistance provided by the program does not exceed the assistance provided by the rural hospital
or the rural hospital's contracted hiring group; and
- 664 (c) the physician is otherwise eligible for assistance under administrative rules adopted under
Subsection (6).
- 666 (3) Funding for the program:
- 667 (a) shall be a line item within an appropriations act;
- 668 (b) may be used to pay for the per diem and travel expenses of the Rural Physician Loan Repayment
Program Advisory Committee under Subsection 26B-1-423(5); and
- 670 (c) may be used to pay for department expenses incurred in the administration of the program:
- 672 (i) including administrative support provided to the Rural Physician Loan Repayment Program
Advisory Committee created under Subsection 26B-1-423(7); and
- 674 (ii) in an amount not exceeding 10% of funding for the program.
- 675 (4) Refunds of loan repayment assistance, penalties for breach of contract, and other payments to the
program are dedicated credits to the program.
- 677 (5) Before November 2025 and every five years thereafter, the department shall provide a report of the
program's revenues, expenditures, and outcomes for the preceding five years to the Social Services
Appropriations Subcommittee.
- 680 (6)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall
make rules governing the administration of the program, including rules that address:
- 683 (i) application procedures;
- 684 (ii) eligibility criteria;
- 685 (iii) verification of the amount provided by a rural hospital, or the rural hospital's contracted hiring
group, to a physician for repayment of the physician's education loans;
- 688 (iv) service conditions, which at a minimum shall include professional service by the physician in
the rural hospital providing loan repayment assistance to the physician;
- 691 (v) selection criteria and assistance amounts;
- 692 (vi) penalties for failure to comply with service conditions or other terms of a loan repayment
assistance contract; and
- 694 (vii) criteria for modifying or waiving service conditions or penalties in the case of extreme
hardship or for other good cause.

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(b) The department shall seek and consider the recommendations of the Rural Physician Loan Repayment Program Advisory Committee created in Section 26B-1-423 as it develops and modifies rules to administer the program.

Section 12. Section 26B-5-372 is amended to read:

26B-5-372. Admission of person in custody of Department of Corrections to state hospital -- Retransfer of person to Department of Corrections.

(1)

(a) The executive director of the Department of Corrections or the executive director's designee may request the director or the director's designee to admit a person who is in the custody of the Department of Corrections to the state hospital, [if the clinical director within the Department of Corrections finds] in coordination with the department and Correctional Health Services, if the following individuals find that the inmate has mentally deteriorated to the point that admission to the state hospital is necessary to ensure adequate mental health treatment[. In determining whether that inmate should be placed in the state hospital, the director of the division shall consider:] :

[(a) the mental health treatment needs of the inmate;]

[(b) the treatment programs available at the state hospital; and]

[(c) whether the inmate meets the requirements of Subsection 26B-5-306(2).]

(i) the executive director of the Department of Corrections or the executive director's designee; and

(ii) the director or the director's designee.

(b) If a finding described in Subsection (1)(a) is made, the Department of Corrections and the department shall enter into a memorandum of understanding that outlines:

(i) the process used for determining the inmate's eligibility for admission to the state hospital;

(ii) a process for transferring the inmate to the state hospital;

(iii) a process for developing a treatment plan for the inmate; and

(iv) a discharge process.

(c) The following individuals shall execute the memorandum of understanding described in Subsection (1)(b):

(i) the executive director of the Department of Corrections or the executive director's designee; and

(ii) the director or the director's designee.

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[(2) If the director denies the admission of an inmate as requested by the clinical director within the Department of Corrections, the Board of Pardons and Parole shall determine whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole shall consider:]

[(a) the mental health treatment needs of the inmate;]

[(b) the treatment programs available at the state hospital; and]

[(c) whether the inmate meets the requirements of Subsection 26B-5-306(2).]

[(3) The state hospital shall receive any person in the custody of the Department of Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody of the Department of Corrections, and the state hospital shall act solely as the agent of the Department of Corrections.]

[(4) Inmates transferred to the state hospital pursuant to this section shall be transferred back to the Department of Corrections through negotiations between the director and the director of the Department of Corrections. If agreement between the director and the director of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall have final authority in determining whether a person will be transferred back to the Department of Corrections. In making that determination, that board shall consider:]

[(a) the mental health treatment needs of the inmate;]

[(b) the treatment programs available at the state hospital;]

[(c) whether the person continues to meet the requirements of Subsection 26B-5-306(2);]

[(d) the ability of the state hospital to provide adequate treatment to the person, as well as safety and security to the public; and]

[(e) whether, in the opinion of the director, in consultation with the clinical director of the state hospital, the person's treatment needs have been met].

Section 13. Section **26B-6-402** is amended to read:

26B-6-402. Division of Services for People with Disabilities -- Creation -- Authority -- Direction -- Provision of services.

(1) There is created within the department the Division of Services for People with Disabilities, under the administrative direction of the executive director of the department.

(2) In accordance with this part, the division has the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families in this state.

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(3) Within appropriations from the Legislature, the division shall provide services to any individual with a disability who is eligible to receive division services.

(4)

(a) Except as provided in Subsection (4)(c), any new appropriations designated to serve eligible individuals waiting for services from the division shall be allocated, as determined by the division by rule based on the:

(i) severity of the disability;

(ii) urgency of the need for services;

(iii) ability of a parent or guardian to provide the individual with appropriate care and supervision; and

(iv) length of time during which the individual has not received services from the division.

(b) Funds from Subsection (4)(a) that are not spent by the division at the end of the fiscal year may be used as set forth in Subsection (7).

(c) Subsections (4)(a) and (b) do not apply to any new appropriations designated to provide limited support services.

(5) The division:

(a) has the functions, powers, duties, rights, and responsibilities described in Section 26B-6-403; and

(b) is authorized to work in cooperation with other state, governmental, and private agencies to carry out the responsibilities described in Subsection (5)(a).

(6) Within appropriations authorized by the Legislature, and to the extent allowed under Title XIX of the Social Security Act, the division shall ensure that the services and support that the division provides to an individual with a disability:

(a) are provided in the least restrictive and most enabling environment;

(b) ensure opportunities to access employment; and

(c) enable reasonable personal choice in selecting services and support that:

(i) best meet individual needs; and

(ii) promote:

(A) independence;

(B) productivity; and

(C) integration in community life.

(7)

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(a) Appropriations to the division are nonlapsing.

(b) After an individual stops receiving services under this section, the division shall use the funds that paid for the individual's services to provide services under this section to another eligible individual in an intermediate care facility transitioning to ~~[division]~~ home- and community-based services, if the funds were allocated under a program established under Section 26B-3-108 to transition individuals with intellectual disabilities from an intermediate care facility.

(c) Except as provided in Subsection (7)(b), if an individual receiving services under Subsection (4)(a) ceases to receive those services, the division shall use the funds that were allocated to that individual to provide services to another eligible individual waiting for services as described in Subsection (4)(a).

(d) Funds unexpended by the division at the end of the fiscal year may be used only for one-time expenditures unless otherwise authorized by the Legislature.

(e) A one-time expenditure under this section:

(i) is not an entitlement;

(ii) may be withdrawn at any time; and

(iii) may provide short-term, limited services, including:

(A) respite care;

(B) service brokering;

(C) family skill building and preservation classes;

(D) after school group services; and

(E) other professional services.

Section 14. Section **26B-6-703** is amended to read:

26B-6-703. Powers and duties of ombudsman.

The ombudsman shall:

(1) develop and maintain expertise in laws and policies governing the rights and privileges of an individual with a disability;

(2) provide training and information to private citizens, civic groups, governmental entities, and other interested parties across the state regarding:

(a) the role and duties of the ombudsman;

(b) the rights and privileges of an individual with a disability; and

(c) services available in the state to an individual with a disability;

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- 827 (3) develop a website to provide the information described in Subsection (2) in a form that is easily
accessible;
- 829 (4) receive, process, and investigate complaints in accordance with this part;
- 830 (5) review periodically the procedures of state entities that serve individuals with a disability;
- 832 (6) cooperate and coordinate with governmental entities and other organizations in the community in
exercising the duties under this section, including the long-term care ombudsman program, created
in Section 26B-2-303, and the child protection ombudsman, [~~appointed~~] created under Section
80-2-1104, when there is overlap between the responsibilities of the ombudsman and the long-term
care ombudsman program or the child protection ombudsman;
- 838 (7) as appropriate, make recommendations to the division regarding rules to be made in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the ombudsman considers
necessary to carry out the ombudsman's duties under this part; and
- 841 (8) perform other duties required by law.

842 Section 15. Section **26B-7-501** is amended to read:

843 **26B-7-501. Definitions.**

As used in this part:

- 845 (1) "Community location" means the same as that term is defined:
- 846 (a) as it relates to a municipality, in Section 10-8-41.6; and
- 847 (b) as it relates to a county, in Section [~~17-50-333~~] 17-78-1004.
- 848 (2) "Electronic cigarette" means the same as that term is defined in Section 76-9-1101.
- 849 (3) "Electronic cigarette product" means the same as that term is defined in Section 76-9-1101.
- 851 (4) "Electronic cigarette substance" means the same as that term is defined in Section 76-9-1101.
- 853 (5) "Employee" means an employee of a tobacco retailer.
- 854 (6) "Enforcing agency" means the department, or any local health department enforcing the provisions
of this part.
- 856 (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.
- 858 (8) "Local health department" means the same as that term is defined in Section 26A-1-102.
- 859 (9) "Manufacture" includes:
- 860 (a) to cast, construct, or make electronic cigarettes; or
- 861 (b) to blend, make, process, or prepare an electronic cigarette substance.
- 862

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(10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:

(a) is prefilled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

(11) "Manufacturer sealed electronic cigarette product" means:

(a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or

(b) a prefilled electronic cigarette as that term is defined in Section 76-9-1101.

(12) "Nicotine" means the same as that term is defined in Section 76-9-1101.

(13) "Nicotine product" means the same as that term is defined in Section 76-9-1101.

(14) "Non-tobacco shisha" means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(15) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.

(16) "Permit" means a tobacco retail permit issued under Section 26B-7-507.

(17) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

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(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

896 (j)

(i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

899 (ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

902 (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

904 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or the members' guests or families;

907 (m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

910 (n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

912 (o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and

914 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.

915 (18)

(a) "Proof of age" means:

916 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

918 (ii) a valid identification that:

919 (A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

921 (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

923 (C) includes date of birth; and

924 (D) has a picture affixed;

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(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.

(19) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(20) "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section ~~[17-50-333]~~ 17-78-1004.

(21) "Shisha" means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(22) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.

(23) "Tax commission license" means a license issued by the State Tax Commission under:

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- 957 (a) Section 59-14-201 to sell a cigarette at retail;
958 (b) Section 59-14-301 to sell a tobacco product at retail; or
959 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.
- 960 (24) "Tobacco product" means:
961 (a) a tobacco product as defined in Section 76-9-1101; or
962 (b) tobacco paraphernalia as defined in Section 76-9-1101.
- 963 (25) "Tobacco retailer" means a person that is required to obtain a tax commission license.
- 964 Section 16. Section **26B-7-508** is amended to read:
965 **26B-7-508. Permit application.**
- 966 (1) A local health department shall issue a permit for a tobacco retailer if the local health department
determines that the applicant:
968 (a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4);
and
970 (b) meets all requirements for a permit under this part.
- 971 (2) An applicant for a permit shall:
972 (a) submit an application described in Subsection (3) to the local health department with jurisdiction
over the area where the tobacco retailer is located; and
974 (b) pay all applicable fees described in Section 26B-7-509.
- 975 (3) The application for a permit shall include:
976 (a) the name, address, and telephone number of each proprietor;
977 (b) the name and mailing address of each proprietor authorized to receive permit-related communication
and notices;
979 (c) the business name, address, and telephone number of the single, fixed location for which a permit is
sought;
981 (d) evidence that the location for which a permit is sought has a valid tax commission license;
983 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been
determined to have violated, or has been a proprietor at a location that has been determined to have
violated:
986 (i) a provision of this part;
987 (ii) Section 26B-7-503;
988 (iii) Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents;

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- 990 (iv) [~~Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity~~] Title 76, Chapter
17, Part 4, Offenses Concerning Patterns of Unlawful Activity;
- 992 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the
United States Food and Drug Administration, 21 C.F.R. Part 1140; or
- 995 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a
tobacco product, an electronic cigarette product, or a nicotine product; and
- 998 (f) the dates of all violations disclosed under this Subsection (3).
- 999 (4)
- (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty
business permit shall include evidence showing whether the business is located within:
- 1002 (i) 1,000 feet of a community location;
- 1003 (ii) 600 feet of another retail tobacco specialty business; or
- 1004 (iii) 600 feet of property used or zoned for agricultural or residential use.
- 1005 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line
from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of
a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or
zoning districts.
- 1009 (5) The department or a local health department may not deny a permit to a retail tobacco specialty
business under Subsection (4) if the retail tobacco specialty business meets the requirements
described in Subsection 10-8-41.6(7) or [~~17-50-333(7)~~] Section 17-78-1004.
- 1012 (6)
- (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, a permit process for local health departments in accordance with
this part.
- 1015 (b) The permit process established by the department under Subsection (6)(a) may not require any
information in an application that is not required by this section.
- 1017 Section 17. Section **26B-7-514** is amended to read:
- 1018 **26B-7-514. Permit violation.**
- A person is in violation of the permit issued under this part if the person violates:
- 1020 (1) a provision of this part;
- 1021 (2) a provision of licensing laws under Section 10-8-41.6 or Section [~~17-50-333~~] 17-78-1004;

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- 1022 (3) a provision of Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical
Solvents;
- 1024 (4) a provision of Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;
- 1026 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the
United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- 1028 (6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a
tobacco product, an electronic cigarette product, or a nicotine product.
- 1030 Section 18. Section **26B-7-516** is amended to read:
- 1031 **26B-7-516. Inspection of retail tobacco businesses.**
The department or a local health department may inspect a tobacco retailer to determine
whether the tobacco retailer:
- 1034 (1) continues to meet the qualifications for the permit issued under this part;
- 1035 (2) if applicable, continues to meet the requirements for a retail tobacco specialty business license
issued under Section 10-8-41.6 or Section ~~[17-50-333]~~ 17-78-1004;
- 1037 (3) engaged in a pattern of unlawful activity under ~~[Title 76, Chapter 17, Part 4, Offenses Concerning
a Pattern of Unlawful Activity]~~ Title 76, Chapter 17, Part 4, Offenses Concerning Patterns of
Unlawful Activity;
- 1040 (4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless
tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- 1043 (5) has violated any other provision of state law or local ordinance.
- 1044 Section 19. Section **26B-7-518** is amended to read:
- 1045 **26B-7-518. Penalties.**
- 1046 (1)
- (a) If an enforcing agency determines that a person has violated the terms of a permit issued under this
part, the enforcing agency may impose the penalties described in this section.
- 1049 (b) If multiple violations are found in a single inspection by an enforcing agency or a single
investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall
treat the multiple violations as one single violation under Subsections (2), (3), and (4).
- 1053 (2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation by a law
enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing
agency shall:

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- 1056 (a) on a first violation at a retail location, impose a penalty of \$1,000;
- 1057 (b) on a second violation at the same retail location that occurs within one year of a previous violation,
impose a penalty of \$1,500;
- 1059 (c) on a third violation at the same retail location that occurs within two years after two previous
violations, impose:
- 1061 (i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which
the third violation occurs; or
- 1063 (ii) a penalty of \$2,000; and
- 1064 (d) on a fourth or subsequent violation within two years of three previous violations:
- 1065 (i) impose a penalty of \$2,000;
- 1066 (ii) revoke a permit of the retailer; and
- 1067 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license
issued under Section 10-8-41.6 or [~~17-50-333~~] 17-78-1004 be suspended or revoked.
- 1070 (3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency
under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a
nicotine product to an individual under 21 years old and the violation is committed by the owner of
the general tobacco retailer, the enforcing agency shall:
- 1075 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and
- 1076 (b) on the second violation for the same general tobacco retailer within one year of the first violation:
- 1078 (i) impose a fine of \$5,000; and
- 1079 (ii) revoke the permit for the general tobacco retailer.
- 1080 (4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement
agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or
a nicotine product to an individual under 21 years old, the enforcing agency shall:
- 1084 (a) on the first violation:
- 1085 (i) impose a fine of \$5,000; and
- 1086 (ii) immediately suspend the permit for 30 consecutive days; and
- 1087 (b) on the second violation at the same retail location within two years of the first violation:
- 1089 (i) impose a fine of \$10,000; and
- 1090 (ii) revoke the permit for the retail tobacco specialty business.
- 1091 (5)

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(a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3); or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2), (3), or (4).

(b) A person whose permit:

(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked under this section may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.

(6) Violations of this part, Section 10-8-41.6, or Section [17-50-333] 17-78-1004 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 20. Section **26B-8-217** is amended to read:

26B-8-217. Records of medical examiner -- Confidentiality.

(1) For purposes of this section, "deidentify" means to remove personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent.

(2) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

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- 1127 (3)
- (a) Upon written request from an individual described in Subsections (3)(a)(i) through (iv), the medical examiner shall provide a copy of the autopsy report, toxicology report, lab reports, investigative reports, documents generated by the medical examiner related to any report, and any other specifically requested portions of the medical examiner record, if any, to any of the following:
- 1132 (i) a decedent's immediate relative;
- 1133 (ii) a decedent's legal representative;
- 1134 (iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or
- 1136 (iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.
- 1139 (b) Subject to Subsection (3)(c), upon written request from the director or a designee of the director of an entity described in Subsections (3)(b)(i) through (iv), the medical examiner may provide a copy of any medical examiner report or other portions of the medical examiner's record described in Subsection (3)(a), to any of the following entities as necessary for performance of the entity's official purposes:
- 1144 (i) a local health department;
- 1145 (ii) a local mental health authority;
- 1146 (iii) a public health authority; or
- 1147 (iv) another state or federal governmental agency.
- 1148 (c) The medical examiner may provide a copy of a report or portion of the medical examiner's record described in Subsection (3)(a), if the report or portion of the medical examiner's record relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1153 (4) Reports provided under Subsection (3) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.
- 1155 (5)
- (a) The medical examiner may provide a medical examiner record to a researcher who:
- 1157 (i) has an advanced degree;
- 1158 (ii)

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(A) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

1161 (B) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

1163 (iii) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the department; and

1166 (iv) provides to the medical examiner an approval from:

1167 (A) the researcher's sponsoring organization; and

1168 (B) the Utah Department of Health and Human Services Institutional Review Board.

1170 (b) Records provided under Subsection (5)(a) may not include a third party record, unless:

1172 (i) a court has ordered disclosure of the third party record; and

1173 (ii) disclosure is conducted in compliance with state and federal law.

1174 (c)

(i) A person who obtains a medical examiner record under Subsection (5)(a) shall:

1175 (A) maintain the confidentiality of the medical examiner record and deidentify the medical examiner record before using the medical examiner record in research;

1177 (B) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

1180 (C) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

1182 (D) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

1185 (E) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;

1187 (F) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

1189 (G) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

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(ii) A person who fails to comply with the requirements of Subsections (5)(c)(i)(A) through (D) is guilty of a class B misdemeanor.

1195 (6)

(a) Except as provided in Subsections (6)(b) and (c), it is a class B misdemeanor for a person who receives a photograph or video of a decedent under Subsection (3) of this section to knowingly share, publish, or otherwise distribute or make available to another person a photograph or video of a decedent if the photograph or video:

1199 (i) is part of the medical examiner's record; and

1200 (ii) is not in the public domain at the time that the person shared, published, distributed, or otherwise made the photograph or video available.

1202 (b) Subsection (6) does not apply to an employee or contractor of the Office of the Medical Examiner who, in the course of performing or assisting with the duties of the Office of the Medical Examiner, and in accordance with any applicable department rules, shares, publishes, distributes, or makes available:

1206 (i) a photograph or video of a decedent for consultation with other professionals in determining cause and manner of the decedent's death; or

1208 (ii) a deidentified photograph or video of a decedent for:

1209 (A) training and services authorized under Section 26B-8-222;

1210 (B) research;

1211 (C) presentations and publication for academic or educational purposes; or

1212 (D) other purposes provided by law.

1213 (c) Subsection (6) does not apply to:

1214 (i) a member, a contractor, or an employee of a law enforcement agency or prosecutorial agency who, in the course of performing or assisting with the duties of the agency, shares, publishes, distributes, or makes available a deidentified photograph or video of a decedent for the purposes of training;

1218 (ii) an individual who shares or makes available a photograph or video of a decedent for the purposes of adjudicating a claim in an administrative or judicial proceeding; or

1221 (iii) an individual who shares, publishes, distributes, or makes available a photograph or video of a decedent pursuant to lawful subpoena, court order, or the Government Records Access and Management Act.

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(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.

1228 (8) Except as provided in this [chapter] part or ordered by a court, the medical examiner may not
disclose any part of a medical examiner record.

1230 Section 21. Section **63I-1-226** is amended to read:

1231 **63I-1-226. Repeal dates: Titles 26 through 26B.**

1232 (1) Subsection 26B-1-204(2)(g), regarding the Youth Electronic Cigarette, Marijuana, and Other Drug
Prevention Committee, is repealed July 1, 2030.

1234 (2) Subsection 26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed July 1, 2035.

1236 (3) Section 26B-1-315, Medicaid ACA Fund, is repealed July 1, 2034.

1237 (4) Section 26B-1-318, Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

1238 (5) Section 26B-1-402, Rare Disease Advisory Council Grant Program -- Creation -- Reporting, is
repealed July 1, 2026.

1240 (6) Section 26B-1-409, Utah Digital Health Service Commission -- Creation -- Membership -- Duties, is
repealed July 1, 2025.

1242 (7) Section 26B-1-410, Primary Care Grant Committee, is repealed July 1, 2035.

1243 (8) Section 26B-1-417, Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties, is
repealed July 1, 2029.

1245 (9) Section 26B-1-422, Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties,
is repealed July 1, 2029.

1247 (10) Section 26B-1-425, Utah Health Workforce Advisory Council -- Creation and membership, is
repealed July 1, 2027.

1249 (11) Section 26B-1-428, Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee
and Program -- Creation -- Membership -- Duties, is repealed July 1, 2030.

1251 (12) Section 26B-1-430, Coordinating Council for Persons with Disabilities -- Policy regarding services
to individuals with disabilities -- Creation -- Membership -- Expenses, is repealed July 1, 2027.

1254 (13) Section 26B-1-432, Newborn Hearing Screening Committee, is repealed July 1, 2026.

1255 (14) Section 26B-2-407, Drinking water quality in child care centers, is repealed July 1, 2027.

1257 (15) Subsection [26B-3-107(9)]26B-3-107(2), regarding reimbursement for dental hygienists, is
repealed July 1, 2028.

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- 1259 (16) Section 26B-3-136, Children's Health Care Coverage Program, is repealed July 1, 2025.
- 1260 (17) Section 26B-3-137, Reimbursement for diabetes prevention program, is repealed June 30, 2027.
- 1262 (18) Subsection 26B-3-213(2)(b), regarding consultation with the Behavioral Health Crisis Response
Committee, is repealed December 31, 2026.
- 1264 (19) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is repealed July 1, 2027.
- 1266 (20) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.
- 1267 (21) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.
- 1268 (22) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.
- 1269 (23) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.
- 1270 (24) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.
- 1271 (25) Section 26B-3-308, Penalties, is repealed July 1, 2027.
- 1272 (26) Section 26B-3-309, Immunity, is repealed July 1, 2027.
- 1273 (27) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2034.
- 1274 (28) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2034.
- 1276 (29) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.
- 1277 (30) Section 26B-3-910, Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue
Fund, is repealed July 1, 2028.
- 1279 (31) Section 26B-4-710, Rural residency training program, is repealed July 1, 2025.
- 1280 (32) Subsection 26B-5-112(1)(b), regarding consultation with the Behavioral Health Crisis Response
Committee, is repealed December 31, 2026.
- 1282 (33) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health Crisis Response
Committee, is repealed December 31, 2026.
- 1284 (34) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed December 31,
2026.
- 1286 (35) Section 26B-5-114, Behavioral Health Receiving Center Grant Program, is repealed December 31,
2026.
- 1288 (36) Section 26B-5-118, Collaborative care grant program, is repealed December 31, 2024.
- 1289 (37) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed December 31, 2026.
- 1291 (38) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response Committee, is
repealed December 31, 2026.
- 1293

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- (39) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 1295 (40) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 1297 (41) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 1299 (42) Section 26B-5-612, Integrated behavioral health care grant programs, is repealed December 31, 2025.
- 1301 (43) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.
- 1303 (44) Subsection 26B-5-704(2)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.
- 1305 (45) Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.
- 1307 (46) Section 26B-7-119, Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 1308 (47) Section 26B-7-122, Communication Habits to reduce Adolescent Threats Pilot Program, is repealed July 1, 2029.
- 1310 (48) Section 26B-7-123, Report on CHAT campaign, is repealed July 1, 2029.
- 1311 (49) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2026.
- 1312 Section 22. Section **77-37-4** is amended to read:
- 1313 **77-37-4. Additional rights -- Children.**
- In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:
- 1316 (1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.
- 1318 (2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.
- 1322 (3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.

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- 1325 (4) Child victims have the right to be informed of available community resources that might assist
them and how to gain access to those resources. Law enforcement and prosecutors have the duty
to ensure that child victims are informed of community resources, including counseling prior to the
court proceeding, and have those services available throughout the criminal justice process.
- 1330 (5)
- (a) Child victims have the right, once an investigation has been initiated by law enforcement or the
Division of Child and Family Services, to keep confidential their interviews that are conducted
at a Children's Justice Center, including video and audio recordings, and transcripts of those
recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not
be distributed, released, or displayed to anyone without a court order.
- 1336 (b) A court order described in Subsection (5)(a):
- 1337 (i) shall describe with particularity to whom the recording or transcript of the interview may be released
and prohibit further distribution or viewing by anyone not named in the order; and
- 1340 (ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of
the child victim.
- 1342 (c) A parent or guardian of the child victim may petition a juvenile or district court for an order
allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The
order shall designate the agency that is required to display the recording or transcript to the parent or
guardian and shall prohibit viewing by anyone not named in the order.
- 1347 (d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used,
the court shall order the recordings and transcripts in the court's file sealed and preserved.
- 1350 (6)
- (a) The following offices and their designated employees may distribute and receive a recording or
transcript to and from one another without a court order:
- 1352 (i) the Division of Child and Family Services;
- 1353 (ii) administrative law judges employed by the Department of Health and Human Services;
- 1355 (iii) Department of Health and Human Services investigators investigating the Division of Child
and Family Services or investigators authorized to investigate under Section 80-2-703;
- 1358 (iv) an office of the city attorney, county attorney, district attorney, or attorney general;
- 1360 (v) a law enforcement agency;
- 1361 (vi) a Children's Justice Center established under Section 67-5b-102; or

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- 1362 (vii) the attorney for the child who is the subject of the interview.
- 1363 (b) In a criminal case or in a juvenile court in which the state is a party:
- 1364 (i) the parties may display and enter into evidence a recording or transcript in the course of a
prosecution;
- 1366 (ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se
defendant, respondent, or pro se respondent pursuant to a valid request for discovery;
- 1369 (iii) the attorney for the defendant or respondent may do one or both of the following:
- 1370 (A) release the recording or transcript to an expert retained by the attorney for the defendant or
respondent if the expert agrees in writing that the expert will not distribute, release, or display the
recording or transcript to anyone without prior authorization from the court; or
- 1374 (B) permit the defendant or respondent to view the recording or transcript, but may not distribute or
release the recording or transcript to the defendant or respondent; and
- 1377 (iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as
part of discovery is confidential and may not be distributed, released, or displayed without prior
authorization from the court.
- 1380 (c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as
part of discovery is confidential and may not be used as a defense to prosecution for a violation of
the disclosure rule.
- 1383 (d) In an administrative case, pursuant to a written request, the Division of Child and Family Services
may display, but may not distribute or release, a recording or transcript to the respondent or to the
respondent's designated representative.
- 1386 (e)
- (i) Within two business days of a request from a parent or guardian of a child victim, an investigative
agency shall allow the parent or guardian to view a recording after the conclusion of an interview,
unless:
- 1389 (A) the suspect is a parent or guardian of the child victim;
- 1390 (B) the suspect resides in the home with the child victim; or
- 1391 (C) the investigative agency determines that allowing the parent or guardian to view the recording
would likely compromise or impede the investigation.
- 1393 (ii) If the investigative agency determines that allowing the parent or guardian to view the recording
would likely compromise or impede the investigation, the parent or guardian may petition a juvenile

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or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).

- 1398 (iii) A Children's Justice Center shall coordinate the viewing of the recording described in this
Subsection (6)(e).
- 1400 (f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary team
assembled by the Division of Child and Family Services may view a recording or transcript, but
may not receive a recording or transcript.
- 1403 (g) A Children's Justice Center:
- 1404 (i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes
of training or evaluation; and
- 1406 (ii) may display, but may not distribute, a recording or transcript to an authorized trainee.
- 1408 (h) An authorized trainer or instructor may display a recording or transcript according to the terms of
the authorized trainer's or instructor's contract with the Children's Justice Center or according to the
authorized trainer's or instructor's scope of employment.
- 1411 (i)
- (i) In an investigation under Section 53E-6-506, in which a child victim who is the subject of the
recording or transcript has alleged criminal conduct against an educator, a law enforcement agency
may distribute or release the recording or transcript to an investigator operating under State Board of
Education authorization, upon the investigator's written request.
- 1416 (ii) If the respondent in a case investigated under Section 53E-6-506 requests a hearing authorized
under that section, the investigator operating under State Board of Education authorization may
display, release, or distribute the recording or transcript to the prosecutor operating under State
Board of Education authorization or to an expert retained by an investigator.
- 1421 (iii) Upon request for a hearing under Section 53E-6-506, a prosecutor operating under State Board
of Education authorization may display the recording or transcript to a pro se respondent, to an
attorney retained by the respondent, or to an expert retained by the respondent.
- 1425 (iv) The parties to a hearing authorized under Section 53E-6-506 may display and enter into evidence a
recording or transcript in the course of a prosecution.
- 1427 (j) Notwithstanding any other provision in this section, a law enforcement agency shall provide an
investigative report to the Utah Office for Victims of Crime as provided under Section 63M-7-529.

1430

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(7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center.

Section 23. Section **80-2-1104** is amended to read:

80-2-1104. Child protection ombudsman -- Responsibility -- Authority -- Report.

(1) As used in this section:

(a) "Complainant" means a person who initiates a complaint with the ombudsman.

(b) "Complaint" means a complaint regarding an act or omission by the division with respect to a particular child.

(c) "Ombudsman" means the child protection ombudsman ~~[appointed]~~ created under this section.

(2)

(a) There is created within the department the position of child protection ombudsman.

(b) The ~~[executive-]~~director of the Division of Customer {Service-} Experience within the department shall:

(i) ~~[appoint-]~~ select an ombudsman who has:

(A) recognized executive and administrative capacity; and

(B) experience in child welfare, and in state laws and policies governing abused, neglected, and dependent children; and

(ii) select the ombudsman solely with regard to qualifications and fitness to discharge the duties of the ombudsman.

~~[(c) The ombudsman shall:]~~

~~[(i) serve at the pleasure of the executive director of the department; and]~~

~~[(ii) devote full-time to the duties described in this section.]~~

(3) The ombudsman shall:

(a) unless the ombudsman decides not to investigate the complaint, upon receipt of a complaint, investigate whether an act or omission of the division with respect to a particular child:

(i) is contrary to statute, rule, or policy;

(ii) places a child's health or safety at risk;

(iii) is made without an adequate statement of reason; or

(iv) is based on irrelevant, immaterial, or erroneous grounds;

(b) notify the complainant and the division of:

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- 1464 (i) the ombudsman's decision to investigate or not investigate the complaint; and
1465 (ii) if the ombudsman decides not to investigate the complaint, the reason for the decision;
1467 (c) if the ombudsman finds that a person's act or omission violates state or federal criminal law,
immediately report the finding to the appropriate county or district attorney or to the attorney
general;
1470 (d) immediately notify the division if the ombudsman finds that a child needs protective custody;
1472 (e) prepare a written report of the findings and recommendations, if any, of each investigation;
1474 (f) make recommendations to the division if the ombudsman finds that:
1475 (i) a matter should be further considered by the division;
1476 (ii) an administrative act should be addressed, modified, or canceled;
1477 (iii) action should be taken by the division with regard to one of the division's employees; or
1479 (iv) any other action should be taken by the division;
1480 (g) subject to the other provisions of this Subsection (3), in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, make rules that govern the following:
1483 (i) receiving and processing a complaint;
1484 (ii) notifying a complainant and the division regarding a decision to investigate or to decline to
investigate a complaint;
1486 (iii) prioritizing workload;
1487 (iv) maximum time within which an investigation is required to be completed;
1488 (v) conducting an investigation;
1489 (vi) notifying a complainant and the division regarding the results of an investigation; and
1491 (vii) making recommendations based on the findings and results of investigations;
1492 (h) within appropriations from the Legislature, employ staff as may be necessary to carry out the
ombudsman's duties under this section;
1494 (i) provide information regarding the role, duties, and functions of the ombudsman to public agencies,
private entities, and individuals; and
1496 (j) as appropriate, make recommendations to the division regarding individual child welfare cases, and
the rules, policies, and operations of the division.
1498 (4)
(a) The ombudsman may:
1499 (i) decline to investigate a complaint or continue an investigation of a complaint;

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- 1500 (ii) conduct an investigation on the ombudsman's own initiative;
- 1501 (iii) conduct further investigation upon the request of the complainant or upon the ombudsman's
own initiative; and
- 1503 (iv) advise a complainant to pursue administrative remedies or channels of a complaint before
pursuing a complaint with the ombudsman.
- 1505 (b) Subsection (4)(a)(iv) does not prevent a complainant from making a complaint directly to the
ombudsman before pursuing an administrative remedy.
- 1507 (5)
- (a) A record of the ombudsman regarding an individual child welfare case shall be classified
in accordance with federal law and Title 63G, Chapter 2, Government Records Access and
Management Act.
- 1510 (b) The ombudsman shall have access to all of the department's written and electronic records and
databases, including those regarding individual child welfare cases.
- 1512 (c) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all
documents and information received by the ombudsman shall maintain the same classification that
was designated by the department.
- 1515 Section 24. **Effective date.**
Effective Date.
This bill takes effect on May 6, 2026.

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