

1 **Guardianship and Conservatorship Resources Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor:

2 **LONG TITLE**

3 **General Description:**

4 This bill addresses guardianship and conservatorship resources.

5 **Highlighted Provisions:**

6 This bill:

7 ▸ requires local mental health authorities, the state protection and advocacy agency, and
8 certain offices and divisions within the Department of Health and Human Services to
9 provide information and referrals to resources related to guardianship and
10 conservatorship to individuals that contact those entities;

11 ▸ permits the Office of Public Guardian to provide training and assistance related to
12 guardianship and conservatorship;

13 ▸ amends provisions related to an advance mental health care directive to include an
14 individual's preferences regarding a person to serve as guardian for the individual;

15 ▸ defines terms; and

16 ▸ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **17-77-301**, as renumbered and amended by Laws of Utah 2025, First Special Session,
24 Chapter 14

25 **26B-5-382**, as last amended by Laws of Utah 2025, First Special Session, Chapter 16

26 **75A-9-108**, as enacted by Laws of Utah 2025, Chapter 439

27 ENACTS:

28 **26B-1-244**, Utah Code Annotated 1953

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

32 Section 1. Section **17-77-301** is amended to read:

33 **17-77-301 . Local mental health authorities -- Responsibilities.**

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

36 (ii) In each county operating under a county executive-council form of government
37 under Section 17-62-203, the county legislative body is the local mental health
38 authority, except that the county executive administers any contract for plan
39 services.

40 (iii) In each county operating under a council-manager form of government under
41 Section 17-62-204, the county manager is the local mental health authority.

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

44 (i) provide mental health services to individuals within the county; and

45 (ii) cooperate with the division's efforts to promote integrated programs that address
46 an individual's substance use, mental health, and physical healthcare needs, as
47 described in Section 26B-5-102.

48 (c) Within legislative appropriations and county matching funds required by this section,
49 each local mental health authority shall cooperate with the department's efforts to
50 promote a system of care, as defined in Section 26B-5-101, for minors with or at risk
51 for complex emotional and behavioral needs, as described in Section 26B-5-101.

52 (2)(a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
53 Cooperation Act, two or more counties may join to:

54 (i) provide mental health prevention and treatment services; or

55 (ii) create a united local health department that combines substance use treatment
56 services, mental health services, and local health department services in
57 accordance with Subsection (3).

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

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

61 (i)(A) designate the county treasurer of one of the participating counties or another
62 individual as the treasurer for the combined mental health authorities and as the
63 custodian of money available for the joint services; and

64 (B) provide that the designated county treasurer, or other disbursing officer

- 65 authorized by the designated county treasurer, may make payments from the
66 money available for the joint services upon audit of the appropriate county
67 auditor representing the participating counties;
- 68 (ii) provide for the appointment of an independent auditor or a county auditor of one
69 of the participating counties as the designated auditing officer for the combined
70 mental health authorities;
- 71 (iii)(A) provide for the appointment of the county attorney or district attorney of
72 one of the participating counties as the designated legal officer for the
73 combined mental health authorities; and
- 74 (B) authorize the designated legal officer to request and receive the assistance of
75 the county or district attorneys of the other participating counties in defending
76 or prosecuting actions within their counties relating to the combined mental
77 health authorities; and
- 78 (iv) provide for the adoption of management, clinical, financial, procurement,
79 personnel, and administrative policies as already established by one of the
80 participating counties or as approved by the legislative body of each participating
81 county or interlocal board.
- 82 (d) An agreement for joint mental health services may provide for:
- 83 (i) joint operation of services and facilities or for operation of services and facilities
84 under contract by one participating local mental health authority for other
85 participating local mental health authorities; and
- 86 (ii) allocation of appointments of members of the mental health advisory council
87 between or among participating counties.
- 88 (3)(a) A county governing body may elect to combine the local mental health authority
89 with:
- 90 (i) the local substance abuse authority created in Part 2, Local Substance Abuse
91 Authorities; or
- 92 (ii) the local health department created in Title 26A, Chapter 1, Part 1, Local Health
93 Department Act.
- 94 (b) A local mental health authority that joins with a united local health department shall
95 comply with this part.
- 96 (4)(a) Each local mental health authority is accountable to the department and the state
97 with regard to the use of state and federal funds received from the department for
98 mental health services, regardless of whether the services are provided by a private

99 contract provider.

100 (b)(i) Each local mental health authority shall comply, and require compliance by the
101 local mental health authority's contract provider, with all directives issued by the
102 department regarding the use and expenditure of state and federal funds received
103 from the department for the purpose of providing mental health programs and
104 services.

105 (ii) The department shall:

106 (A) ensure that directives issued by the department described in Subsection
107 (4)(b)(i) are not duplicative or conflicting; and

108 (B) consult and coordinate with local mental health authorities with regard to
109 programs and services.

110 (5)(a) Each local mental health authority shall:

111 (i) review and evaluate mental health needs and services, including mental health
112 needs and services for:

113 (A) an individual incarcerated in a county jail or other county correctional facility;
114 and

115 (B) an individual who is a resident of the county and who is court ordered to
116 receive assisted outpatient treatment under Section 26B-5-351;

117 (ii) in accordance with Subsections (5)(b) and (c), annually prepare and submit to the
118 division a plan approved by the county legislative body for mental health funding
119 and service delivery, either directly by the local mental health authority or by
120 contract;

121 (iii) establish and maintain, either directly or by contract, programs licensed under
122 Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

123 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
124 programs and prescribe the director's duties;

125 (v) provide input and comment on new and revised rules established by the division;

126 (vi) establish and require contract providers to establish administrative, clinical,
127 personnel, financial, procurement, and management policies regarding mental
128 health services and facilities, in accordance with the rules of the division, and state
129 and federal law;

130 (vii) establish mechanisms allowing for direct citizen input;

131 (viii) annually contract with the division to provide mental health programs and

132 services in accordance with the provisions of Title 26B, Chapter 5, Health Care -

- 133 Substance Use and Mental Health;
- 134 (ix) comply with all applicable state and federal:
- 135 (A) statutes;
- 136 (B) policies;
- 137 (C) audit requirements;
- 138 (D) contract requirements; and
- 139 (E) [any] directives resulting from those audits and contract requirements;
- 140 (x) provide funding equal to at least 20% of the state funds that it receives to fund
- 141 services described in the plan;
- 142 (xi) comply with the requirements and procedures of:
- 143 (A) Title 11, Chapter 13, Interlocal Cooperation Act;
- 144 (B) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts; and
- 145 (C) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions,
- 146 Interlocal Organizations, and Other Local Entities Act;
- 147 (xii) take and retain physical custody of minors committed to the physical custody of
- 148 local mental health authorities by a judicial proceeding under Title 26B, Chapter
- 149 5, Part 4, Commitment of Persons Under Age 18; and
- 150 (xiii) cooperate with the Department of Corrections to complete the requirements
- 151 described in Section 64-14-204.
- 152 (b) Each plan under Subsection (5)(a)(ii) shall include services for adults, youth, and
- 153 children, which shall include:
- 154 (i) inpatient care and services;
- 155 (ii) residential care and services;
- 156 (iii) outpatient care and services;
- 157 (iv) 24-hour crisis care and services;
- 158 (v) psychotropic medication management;
- 159 (vi) psychosocial rehabilitation, including vocational training and skills development;
- 160 (vii) case management;
- 161 (viii) community supports, including:
- 162 (A) in-home services;
- 163 (B) housing;
- 164 (C) family support services; and
- 165 (D) respite services;
- 166 (ix) consultation and education services, including:

- 167 (A) case consultation; and
- 168 (B) collaboration with other county service agencies, public education, and public
169 information;
- 170 (x) services to an individual incarcerated in a county jail or other county correctional
171 facility; and
- 172 (xi) services to an individual described in Subsection 64-14-204(8)(a).
- 173 (c) Each plan under Subsection (5)(a)(ii) shall include, in a form and format usable by a
174 first responder, an inclusive list of providers of mental health services for individuals
175 within the local mental health authority's jurisdiction.
- 176 (6)(a) If a local mental health authority provides for a local mental health crisis line
177 under the plan for 24-hour crisis care and services described in Subsection (5)(b)(iv),
178 the local mental health authority shall:
- 179 (i) collaborate with the statewide mental health crisis line described in Section
180 26B-5-610;
- 181 (ii) ensure that each individual who answers calls to the local mental health crisis line:
182 (A) is a mental health therapist or a crisis worker; and
183 (B) meets the standards of care and practice established by the Division of
184 Integrated Healthcare, in accordance with Section 26B-5-610; and
- 185 (iii) ensure that when necessary, based on the local mental health crisis line's
186 capacity, calls are immediately routed to the statewide mental health crisis line to
187 ensure that when an individual calls the local mental health crisis line, regardless
188 of the time, date, or number of individuals trying to simultaneously access the
189 local mental health crisis line, a mental health therapist or a crisis worker answers
190 the call without the caller first:
191 (A) waiting on hold; or
192 (B) being screened by an individual other than a mental health therapist or crisis
193 worker.
- 194 (b) If a local mental health authority does not provide for a local mental health crisis line
195 under the plan for 24-hour crisis care and services described in Subsection (5)(b)(iv),
196 the local mental health authority shall use the statewide mental health crisis line as a
197 local crisis line resource.
- 198 (7) Before disbursing any public funds, each local mental health authority shall require that
199 each entity that receives any public funds from a local mental health authority agrees in
200 writing that:

- 201 (a) the entity's financial records and other records relevant to the entity's performance of
202 the services provided to the mental health authority shall be subject to examination
203 by:
- 204 (i) the division;
 - 205 (ii) the local mental health authority director;
 - 206 (iii)(A) the county treasurer and county or district attorney; or
207 (B) if two or more counties jointly provide mental health services under an
208 agreement under Subsection (2), the designated treasurer and the designated
209 legal officer;
 - 210 (iv) the county legislative body; and
 - 211 (v) in a county with a county executive that is separate from the county legislative
212 body, the county executive;
- 213 (b) the county auditor may examine and audit the entity's financial and other records
214 relevant to the entity's performance of the services provided to the local mental health
215 authority; and
- 216 (c) the entity will comply with the provisions of Subsection (4)(b).
- 217 (8)(a) A local mental health authority may receive for mental health services:
- 218 (i) property;
 - 219 (ii) grants;
 - 220 (iii) gifts;
 - 221 (iv) supplies;
 - 222 (v) materials;
 - 223 (vi) contributions; and
 - 224 (vii) any benefit derived from the items described in Subsections (8)(a)(i) through (vi).
- 225 (b) If the items described in Subsections (8)(a)(i) through (vi) are conditioned upon their
226 use for a specified service or program, they shall be so used.
- 227 (9) Public funds received for the provision of services in accordance with the local mental
228 health plan may not be used for any other purpose except those authorized in the
229 contract between the local mental health authority and the provider for the provision of
230 plan services.
- 231 (10) A local mental health authority shall:
- 232 (a) provide assisted outpatient treatment services to a resident of the county who has
233 been ordered under Section 26B-5-351 to receive assisted outpatient treatment; and
 - 234 (b) to the extent feasible, coordinate with the Department of Corrections to ensure the

235 continuity of mental health services for county residents who are on probation or
236 parole.

237 (11)(a) A local mental health authority shall provide to an individual that contacts the
238 local mental health authority information and referrals to resources regarding
239 guardianship and conservatorship, including about:

240 (i) alternatives to guardianship or conservatorship;

241 (ii) the Office of Public Guardian and other guardianship or conservatorship agencies;

242 (iii) family support organizations and agencies;

243 (iv) how to apply for guardianship or conservatorship;

244 (v) training on:

245 (A) alternatives to guardianship;

246 (B) court processes and procedures; and

247 (C) serving as a guardian or conservator;

248 (vi) mental health resources, including resources provided by:

249 (A) the local mental health authority;

250 (B) the department; and

251 (C) local and national private organizations;

252 (vii) how to find a guardianship-specific attorney, including information about how
253 to access the Utah State Bar attorney directory or other attorney directories;

254 (viii) free legal resources, including:

255 (A) the Utah State Law Library's self-help center established in accordance with
256 Section 9-7-313;

257 (B) legal clinics; and

258 (C) other agencies and organizations providing free legal assistance;

259 (ix) court resources; and

260 (x) regulations and standards related to guardianship and conservatorship.

261 (b) The local mental health authority shall provide information and referrals described in
262 Subsection (11)(a) to each individual that contacts the local mental health authority,
263 regardless of the method of contact, including:

264 (i) by phone;

265 (ii) by email;

266 (iii) through the local mental health authority's website; or

267 (iv) any other method of contact.

268 Section 2. Section **26B-1-244** is enacted to read:

269 **26B-1-244 . Guardianship and conservatorship public education and resources --**
270 **Training and assistance provided by the Office of Public Guardian.**

- 271 (1) As used in this section, "covered entity" means:
- 272 (a) the Office of Substance Use and Mental Health created in Section 26B-5-102;
 - 273 (b) the Division of Aging and Adult Services created in Section 26B-6-102;
 - 274 (c) the Office of Public Guardian created in Section 26B-6-302;
 - 275 (d) the Division of Services for People with Disabilities created in Section 26B-6-402;
 - 276 and
 - 277 (e) the entity designated by the governor as the protection and advocacy agency for
278 disabled individuals in the state.
- 279 (2) A covered entity shall provide to an individual that contacts the covered entity
280 information and referrals to resources regarding guardianship and conservatorship,
281 including about:
- 282 (a) alternatives to guardianship or conservatorship;
 - 283 (b) the Office of Public Guardian and other guardianship or conservatorship agencies;
 - 284 (c) family support organizations and agencies;
 - 285 (d) how to apply for guardianship or conservatorship;
 - 286 (e) training on:
 - 287 (i) alternatives to guardianship;
 - 288 (ii) court processes and procedures; and
 - 289 (iii) servicing as a guardian or conservator;
 - 290 (f) mental health resources, including resources provided by:
 - 291 (i) local mental health authorities;
 - 292 (ii) the department; and
 - 293 (iii) local and national private organizations;
 - 294 (g) how to find a guardianship-specific attorney, including information about how to
295 access the Utah State Bar attorney directory or other attorney directories;
 - 296 (h) free legal resources, including:
 - 297 (i) the Utah State Law Library's self-help center established in accordance with
298 Section 9-7-313;
 - 299 (ii) legal clinics; and
 - 300 (iii) other agencies and organizations providing free legal assistance;
 - 301 (i) court resources; and
 - 302 (j) regulations and standards related to guardianship and conservatorship.

303 (3) A covered entity shall provide information and referrals described in Subsection (2) to
 304 each individual that contacts the covered entity, regardless of the method of contact,
 305 including:

306 (a) by phone;

307 (b) by email;

308 (c) through the covered entity's website; or

309 (d) any other method of contact.

310 (4)(a) The Office of Public Guardian may provide training or assistance to the public
 311 related to guardianship and conservatorship including:

312 (i) training on alternatives to guardianship;

313 (ii) training on and assistance with navigating court processes and procedures; and

314 (iii) training serving as a guardian or conservator.

315 (b) An employee or volunteer of the Office of Public Guardian that provides the training
 316 or assistance described in Subsection (4)(a) may not represent parties or give legal
 317 advice.

318 Section 3. Section **26B-5-382** is amended to read:

319 **26B-5-382 . HOME Court Pilot Program -- Requirements -- Funding --**
 320 **Reporting.**

321 (1) As used in this section, "pilot program" means the HOME Court Pilot Program
 322 established in Subsection (2).

323 (2) Subject to appropriations from the Legislature and the assignment of a judge to preside
 324 over the proceedings, the Third Judicial District Court of Salt Lake County shall
 325 establish and administer a HOME Court Pilot Program beginning October 1, 2024, and
 326 ending June 30, 2029, that provides for comprehensive and individualized,
 327 court-supervised treatment and services to individuals with mental illness.

328 (3) The pilot program shall:

329 (a) allow a person to petition the court for an order requiring an individual's participation
 330 in the pilot program;

331 (b) require the court to substitute the local mental health authority as the petitioner if the
 332 initial petitioner is not the local mental health authority;

333 (c) provide an opportunity for the parties to enter into an agreement regarding an
 334 individual's participation in the pilot program, including a treatment plan, prior to a
 335 court order under Subsection (3)(e);

336 (d) provide for a hearing at which information is presented to determine whether an

- 337 individual qualifies for court-ordered participation in the pilot program as provided in
338 Subsection (3)(e);
- 339 (e) require the court to order an individual to participate in the pilot program if, upon
340 completion of the hearing described in Subsection (3)(d), the court finds by clear and
341 convincing evidence that:
- 342 (i) the individual resides or may be presently found within Salt Lake County;
- 343 (ii) the individual has a mental illness;
- 344 (iii) because of the individual's mental illness, the individual:
- 345 (A) is unlikely to survive or remain safe without supervision, assistance, or
346 services; or
- 347 (B) meets the criteria described in Subsection 26B-5-351(14)(c)(i) or (ii);
- 348 (iv) there is no appropriate less-restrictive alternative to a court order for participation
349 in the pilot program;
- 350 (v) the individual is likely to benefit from participation in the pilot program; and
- 351 (vi) there is adequate capacity within the pilot program to meet the individual's need
352 for services described in Subsection (3)(f);
- 353 (f) upon the court's order for an individual to participate in the pilot program, require the
354 local mental health authority to prepare a comprehensive and individualized
355 treatment plan, for approval by the court, that includes the following components for
356 the individual to successfully achieve the purposes of the pilot program:
- 357 (i) mental health services;
- 358 (ii) housing resources;
- 359 (iii) social services;
- 360 (iv) case management;
- 361 (v) peer support;
- 362 (vi) exit or transition services; and
- 363 (vii) individualized goals for the successful completion of the pilot program;
- 364 (g) upon the court's approval of a treatment plan prepared by the local mental health
365 authority:
- 366 (i) require the local mental health authority to coordinate services required for
367 participation in the pilot program; and
- 368 (ii) require the court to conduct regular review hearings as deemed necessary to
369 evaluate the individual's progress in completing the treatment plan; and
- 370 (h) operate in a manner that is consistent with the procedures for ordering assisted

371 outpatient treatment under Section 26B-5-351.

372 (4)(a)(i) If a individual participating in the pilot program has an outstanding warrant
373 or pending criminal matter in another Utah court, the Third Judicial District Court
374 of Salt Lake County may notify the other court in which the individual has an
375 outstanding warrant or pending criminal matter regarding the individual's
376 participation in the pilot program.

377 (ii) Upon receiving notice of an individual's participation in the pilot program under
378 Subsection (4)(a)(i), the other court may, if deemed appropriate, recall the warrant
379 or stay the case in which the individual is involved unless the warrant or case
380 involves a felony charge.

381 (iii) In determining whether to recall a warrant or stay a case under Subsection
382 (4)(a)(ii), the other court shall consider the likelihood of the individual's
383 successful completion of the pilot program, the severity of the pending charges,
384 the impact on victims' rights, and the impact on the government's ability and right
385 to prosecute the case.

386 (b)(i) If an individual described in Subsection (4)(a)(i) successfully completes the
387 pilot program, the Third Judicial District Court of Salt Lake County may notify
388 the other court in which the individual has an outstanding warrant or pending
389 criminal matter regarding the individual's successful completion of the pilot
390 program.

391 (ii) Upon receiving notice of an individual's successful completion of the pilot
392 program under Subsection (4)(b)(i), the other court shall consider the effect of the
393 individual's completion of the pilot program on the case pending before that court,
394 including the dismissal of criminal charges if deemed appropriate.

395 (5)(a) Costs of all services provided under the pilot program, including the costs
396 incurred by the multidisciplinary team described in Subsection (5)(b)(ii)(B), shall be
397 paid by Salt Lake County.

398 (b) If the Legislature appropriates money to the division for implementation of the pilot
399 program, the division shall:

400 (i) require the local mental health authority, as part of the plan required under
401 Subsection 17-77-301(5), to submit to the division a proposal for implementation
402 of the pilot program on or before May 15 of each year;

403 (ii) review the proposal described in Subsection (5)(b)(i) to ensure that the proposal:
404 (A) meets the requirements of this section; and

- 405 (B) establishes a multidisciplinary team, with a sufficient number of stakeholders,
 406 to adequately address the provision of treatment and services under the pilot
 407 program;
- 408 (iii) upon approval of the proposal described in Subsection (5)(b)(i), contract funds
 409 appropriated for the pilot program with the local mental health authority; and
 410 (iv) conduct an annual audit and review of the local mental health authority, and any
 411 contracted provider, regarding the use of funds appropriated for the pilot program.
- 412 (c) The matching requirement in Subsection [~~17-77-301(6)(a)(x)~~] 17-77-301(5)(a)(x)
 413 does not apply to funds appropriated by the Legislature for the pilot program.
- 414 (d) Subject to appropriation by the Legislature, Salt Lake County may:
- 415 (i) apply to the division to receive funds to cover the county's costs under the pilot
 416 program; and
 417 (ii) pay county contributions to the nonfederal share of Medicaid expenditures with
 418 funds appropriated for the pilot program.
- 419 (6) The department shall:
- 420 (a) establish and evaluate metrics for the success of the pilot program with input from
 421 the local mental health authority, the Utah Homeless Services Board created in
 422 Section 35A-16-204, and the Judicial Council; and
 423 (b) in collaboration with the local mental health authority, submit to the Health and
 424 Human Services Interim Committee a report on or before June 30 of each year,
 425 beginning in calendar year 2025, regarding the outcomes of the pilot program.
- 426 Section 4. Section **75A-9-108** is amended to read:
- 427 **75A-9-108 . Advance mental health care directive.**
- 428 (1)(a) An individual may create an advance health care directive that addresses only
 429 mental health care for the individual.
- 430 (b) The directive may include a health care instruction, a power of attorney for health
 431 care, or both.
- 432 (2) A health care instruction under this section may include the individual's:
- 433 (a) general philosophy and objectives regarding mental health care; or
 434 (b) specific goals, preferences, and wishes regarding the provision, withholding, or
 435 withdrawal of a form of mental health care, including:
- 436 (i) preferences regarding professionals, programs, and facilities;
 437 (ii) admission to a mental-health facility, including duration of admission;
 438 (iii) preferences regarding medications;

- 439 (iv) refusal to accept a specific type of mental health care, including a medication; [
440 and]
- 441 (v) preferences regarding crisis intervention[-] ; and
- 442 (vi) preferences regarding a person to serve as guardian for the individual if one is
443 appointed, including an emergency guardian appointed in accordance with Section
444 75-5-310.

445 (3) A power of attorney for health care under this section may appoint an agent to make
446 decisions only for mental health care.

447 **Section 5. Effective Date.**

448 This bill takes effect on May 6, 2026.