

Ariel Defay proposes the following substitute bill:

Dyslexia Testing Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor: Ariel Defay

LONG TITLE

General Description:

This bill addresses dyslexia assessment and diagnosis.

Highlighted Provisions:

This bill:

▸ requires a school district or charter school to take certain actions, including individualized intervention, if a dyslexia assessment administered by a licensed individual practicing within the scope of practice for the individual's license, indicates that a student lacks reading competency, demonstrates characteristics of dyslexia, or is lagging in acquiring a reading skill;

▸ provides certain protections to educational professionals;

▸ amends provisions related to the scope of practice for mental health therapists and psychologists to:

- align with an approved diagnostic and statistical manual for mental disorders; and
- clarify that the scope of practice includes the evaluation and treatment of disorders as defined in the approved diagnostic and statistical manual for mental disorders, including dyslexia;

▸ defines terms; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-4-307, as last amended by Laws of Utah 2024, Chapter 60

29 **58-60-102**, as last amended by Laws of Utah 2025, Chapter 367

30 **58-61-102**, as last amended by Laws of Utah 2024, Chapter 420

31

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

33 Section 1. Section **53E-4-307** is amended to read:

34 **53E-4-307 . Benchmark assessments in reading -- Report to parent.**

35 (1) As used in this section:

36 (a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or
37 ability that has been organized into a hierarchical arrangement leading to higher
38 levels of knowledge, skill, or ability.

39 (b)(i) "Diagnosis" means a formal determination that an individual has dyslexia based
40 on a comprehensive evaluation conducted by a qualified professional acting
41 within the scope of the professional's license or credentials.

42 (ii) "Diagnosis" does not mean:

43 (A) screening;

44 (B) a recommendation from an educational professional to screen a student for
45 dyslexia; or

46 (C) results from a diagnostic assessment.

47 [(b)] (c) "Diagnostic assessment" means an assessment that measures key literacy skills,
48 including phonemic awareness, sound-symbol recognition, alphabet knowledge,
49 decoding and encoding skills, and comprehension, to determine a student's specific
50 strengths and weaknesses in a skill area.

51 [(e)] (d) "Dyslexia" means a learning disorder that:

52 (i) is neurological in origin and is characterized by difficulties with:

53 (A) accurate or fluent word recognition; and

54 (B) poor spelling and decoding abilities; and

55 (ii) typically results from a deficit in the phonological component of language that is
56 often unexpected in relation to other cognitive abilities and the provision of
57 effective classroom instruction.

58 (e) "Dyslexia assessment" means a diagnostic assessment for the identification of
59 dyslexia or a psychoeducational evaluation for the diagnosis of dyslexia.

60 [(d)] (f) "Evidence-based" means the same as that term is defined in Section 53G-11-303.

61 [(e)] (g) "Evidence-informed" means the same as that term is defined in Section
62 53G-11-303.

63 (h) "Qualified professional" means an individual who has specialized formal training in
 64 identifying and evaluating reading disorders, including dyslexia.

65 (i) "Qualifying dyslexia assessment" means a dyslexia assessment administered by an
 66 individual who is:

67 (i) licensed under Title 58, Occupations and Professions;

68 (ii) practicing within the scope of practice for the individual's license; and

69 (iii) competent by training, education, and experience to administer the dyslexia
 70 assessment.

71 (j) "Screening" means the use of evidence-based measures to identify whether a student
 72 may:

73 (i) be at risk for characteristics of dyslexia; and

74 (ii) need additional assessment, progress monitoring, and intervention related to
 75 dyslexia.

76 (2) The state board shall approve a benchmark assessment for use statewide by school
 77 districts and charter schools to assess the reading competency of students in grades 1
 78 through 6 as provided by this section.

79 (3)(a) A school district or charter school shall:

80 ~~[(a)]~~ (i) administer benchmark assessments to students in grades 1, 2, and 3 at the
 81 beginning, middle, and end of the school year using the benchmark assessment
 82 approved by the state board; and

83 ~~[(b)]~~ (ii) after administering a benchmark assessment, report the results to a student's
 84 parent.

85 (b) A student's parent may provide the results of a qualifying dyslexia assessment to a
 86 school district or charter school.

87 (4)(a) If a benchmark assessment~~[-or]~~, supplemental reading assessment, or qualifying
 88 dyslexia assessment indicates a student lacks competency in a reading skill, is
 89 demonstrating characteristics of dyslexia, or is lagging behind other students in the
 90 student's grade in acquiring a reading skill, the school district or charter school shall:

91 (i) administer diagnostic assessments to the student;

92 (ii) using data from the diagnostic assessment, provide specific, focused, and
 93 individualized intervention or tutoring to develop the reading skill;

94 (iii) administer formative assessments and progress monitoring at recommended
 95 levels for the benchmark assessment to measure the success of the focused
 96 intervention;

- 97 (iv) inform the student's parent of activities that the parent may engage in with the
98 student to assist the student in improving reading proficiency;
- 99 (v) provide information to the parent regarding appropriate interventions available to
100 the student outside of the regular school day that may include tutoring, before and
101 after school programs, or summer school; and
- 102 (vi) provide instructional materials that are evidence-informed for core instruction
103 and evidence-based for intervention and supplemental instruction.

104 (b) Nothing in this section or in Section 53F-4-203 or 53G-11-303 requires a reading
105 software product to demonstrate the statistically significant effect size described in
106 Subsection 53G-11-303(1)(a) in order to be used as an instructional material
107 described in Subsection (4)(a)(vi).

108 (5)(a) In accordance with Section 53F-4-201 and except as provided in Subsection (5)(b),
109 the state board shall contract with one or more educational technology providers for a
110 benchmark assessment system for reading for students in kindergarten through grade
111 6.

112 (b) If revenue is insufficient for the benchmark assessment system for the grades
113 described in Subsection (5)(a), the state board shall first prioritize funding a
114 benchmark assessment for students in kindergarten through grade 3.

115 (6) A student with dyslexia is only eligible for special education services if the student
116 meets federal eligibility criteria.

117 (7)(a) A school district or charter school may not discipline, retaliate against, or subject
118 to adverse employment action an educational professional solely for recommending
119 or referring a student for dyslexia screening, consistent with:

120 (i) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or

121 (ii) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.

122 (b) An educational professional's recommendation that a student receive a dyslexia
123 screening does not constitute a diagnosis of dyslexia.

124 Section 2. Section **58-60-102** is amended to read:

125 **58-60-102 . Definitions.**

126 As used in this chapter, unless a different meaning is established by definition under a
127 specific section or part:

128 (1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

129 (2) "Client" or "patient" means an individual who consults or is examined or interviewed by
130 an individual licensed under this chapter who is acting in the individual's professional

131 capacity.

132 (3) "Clinical supervision" means work experience conducted under the supervision of a
133 clinical supervisor, including the practice of mental health therapy, direct client care,
134 direct clinical supervision, direct observation, and other duties and activities completed
135 in the course of the day-to-day job functions and work of:

136 (a) a certified social worker;

137 (b) an associate marriage and family therapist;

138 (c) an associate clinical mental health counselor; or

139 (d) an associate master addiction counselor, wherein the supervisor is available for
140 consultation with the supervisee by personal face-to-face contact, or direct voice
141 contact by telephone, radio, or other means within a reasonable time consistent with
142 the acts and practices in which the supervisee is engaged.

143 (4) "Clinical supervisor" means an individual who oversees and mentors one or more
144 mental health therapists licensed under this chapter, and who:

145 (a)(i) is licensed, in good standing, as a mental health therapist;

146 (ii) is approved or certified in good standing as a supervisor by a national
147 professional organization for social work, mental health counseling, addiction
148 counseling, marriage and family therapy, psychology, medicine, or nursing, or
149 other organization as approved by the division;

150 (iii)(A) has completed eight or more hours of supervision instruction that meets
151 minimum standards established by the division in rule; or

152 (B) has completed a graduate course on clinical supervision from an accredited
153 program;

154 (iv) completes continuing education in clinical supervision, as established by the
155 division in rule; and

156 (v) provides supervision to no more than the number of individuals to whom the
157 supervisor can reasonably provide clinical supervision by performing the duties
158 and responsibilities of a supervisor, including:

159 (A) being available to the supervisee for consultation by personal face-to-face
160 contact, or by direct voice contact by telephone, video conference, or other
161 means within a reasonable time frame;

162 (B) providing instruction, direction, oversight, observation, evaluation, and
163 feedback, to enable the supervisee to acquire the knowledge, skills, techniques,
164 and abilities necessary to engage in the practice of behavioral health care

- 165 ethically, safely, and competently; and
- 166 (C) maintaining routine personal contact with the supervisee; and
- 167 (b)(i) is qualified and acting as a valid supervisor, in accordance with applicable law
- 168 and division rules, as of April 30, 2024; and
- 169 (ii) has satisfied the requirements of Subsection (4)(a), as of January 1, 2027.
- 170 (5) "Confidential communication" means information obtained by an individual licensed
- 171 under this chapter, including information obtained by the individual's examination of the
- 172 client or patient, which is:
- 173 (a)(i) transmitted between the client or patient and an individual licensed under this
- 174 chapter in the course of that relationship; or
- 175 (ii) transmitted among the client or patient, an individual licensed under this chapter,
- 176 and individuals who are participating in the diagnosis or treatment under the
- 177 direction of an individual licensed under this chapter, including members of the
- 178 client's or patient's family; and
- 179 (b) made in confidence, for the diagnosis or treatment of the client or patient by the
- 180 individual licensed under this chapter, and by a means not intended to be disclosed to
- 181 third persons other than those individuals:
- 182 (i) present to further the interest of the client or patient in the consultation,
- 183 examination, or interview;
- 184 (ii) reasonably necessary for the transmission of the communications; or
- 185 (iii) participating in the diagnosis and treatment of the client or patient under the
- 186 direction of the mental health therapist.
- 187 (6) "Designated examiner" means the same as that term is defined in Section 26B-5-301.
- 188 (7)(a) "Direct client care" means the practice of mental health therapy performed as an
- 189 applicant for licensure.
- 190 (b) "Direct client care" includes:
- 191 (i) the practice of mental health therapy;
- 192 (ii) the utilization of patient-reported progress and outcomes to inform care; and
- 193 (iii) direct observation.
- 194 (8)(a) "Direct clinical supervision" means an applicant for licensure and the applicant's
- 195 direct clinical supervisor meeting in real time and in accordance with the applicant
- 196 for licensure's supervision contract as defined by division rule.
- 197 (b) "Direct clinical supervision" includes group supervision.
- 198 (9) "Direct clinical supervisor" means the clinical supervisor who has signed the

- 199 supervision contract with the applicant for licensure.
- 200 (10) "Direct observation" means observation of an applicant for licensure's live or recorded
201 direct client care:
- 202 (a)(i) by the applicant for licensure's clinical supervisor; or
203 (ii) by a licensee under Subsection (4)(a) who the applicant for licensure's direct
204 clinical supervisor approves; and
- 205 (b) after which the applicant for licensure and the observer under Subsection (10)(a)
206 meet, in-person or electronically, to discuss the direct client care for the purpose of
207 developing the applicant for licensure's clinical knowledge and skill.
- 208 (11) "FBI Rap Back System" means the same as that term is defined in Section 53-10-108.
- 209 (12) "Group supervision" means an applicant for licensure meeting with the applicant's
210 direct clinical supervisor and at least one of the direct clinical supervisor's other
211 supervised applicants for licensure:
- 212 (a) while the clinical supervisor and the applicants:
213 (i) can see and openly communicate with each other; and
214 (ii) are present in the same room or via electronic video; and
- 215 (b) for the purpose of developing the applicants' clinical knowledge and skill.
- 216 (13) "Hypnosis" means, when referring to individuals exempted from licensure under this
217 chapter, a process by which an individual induces or assists another individual into a
218 hypnotic state without the use of drugs or other substances and for the purpose of
219 increasing motivation or to assist the individual to alter lifestyles or habits.
- 220 (14) "Individual" means a natural person.
- 221 (15) "Mental health therapist" means an individual who is practicing within the scope of
222 practice defined in the individual's respective licensing act and is licensed under this title
223 as:
- 224 (a) a physician and surgeon, or osteopathic physician engaged in the practice of mental
225 health therapy;
- 226 (b) an advanced practice registered nurse, specializing in psychiatric mental health
227 nursing;
- 228 (c) an advanced practice registered nurse intern, specializing in psychiatric mental health
229 nursing;
- 230 (d) a psychologist qualified to engage in the practice of mental health therapy;
- 231 (e) a certified psychology resident qualifying to engage in the practice of mental health
232 therapy;

- 233 (f) a physician assistant specializing in mental health care under Section 58-70a-501.1;
- 234 (g) a clinical social worker;
- 235 (h) a certified social worker;
- 236 (i) a marriage and family therapist;
- 237 (j) an associate marriage and family therapist;
- 238 (k) a clinical mental health counselor;
- 239 (l) an associate clinical mental health counselor;
- 240 (m) a master addiction counselor; or
- 241 (n) an associate master addiction counselor.
- 242 (16) "Mental illness" means a mental [~~or emotional condition~~] disorder defined in an
- 243 approved diagnostic and statistical manual for mental disorders generally recognized in
- 244 the professions of mental health therapy listed under Subsection (15).
- 245 (17) "Practice of mental health therapy" means treatment or prevention of another
- 246 individual's mental illness or emotional disorder, whether in person or remotely,
- 247 including:
- 248 (a) conducting a professional evaluation of an individual's condition of mental health,
- 249 mental illness, or emotional disorder consistent with standards generally recognized
- 250 in the professions of mental health therapy listed under Subsection (15);
- 251 (b) establishing a diagnosis in accordance with established written standards generally
- 252 recognized in the professions of mental health therapy listed under Subsection (15);
- 253 (c) conveying an opinion as to the validity of an individual's established diagnosis;
- 254 (d) prescribing a plan for the prevention or treatment of a condition of mental illness or
- 255 emotional disorder; and
- 256 (e) engaging in the conduct of professional intervention, including:
- 257 (i) psychotherapy by the application of established methods and procedures generally
- 258 recognized in the professions of mental health therapy listed under Subsection (15);
- 259 and
- 260 (ii) modes of treatment designed to treat interpersonal dysfunction; and
- 261 (f) holding oneself out as providing, or has having the skills, experience, or training to
- 262 competently provide, any of the services described in Subsections (17)(a) through (e).
- 263 (18) "Remotely" means communicating via [~~Internet~~] internet, telephone, or other electronic
- 264 means that facilitate real-time audio or visual interaction between individuals when they
- 265 are not physically present in the same room at the same time.
- 266 (19) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

267 (20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may
268 be further defined by division rule.

269 Section 3. Section **58-61-102** is amended to read:

270 **58-61-102 . Definitions.**

271 In addition to the definitions in Section 58-1-102, as used in this chapter:

272 (1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

273 (2) "Client" or "patient" means an individual who consults or is examined or interviewed by
274 a psychologist acting in his professional capacity.

275 (3) "Confidential communication" means information, including information obtained by
276 the psychologist's examination of the client or patient, which is:

277 (a)(i) transmitted between the client or patient and a psychologist in the course of that
278 relationship; or

279 (ii) transmitted among the client or patient, the psychologist, and individuals who are
280 participating in the diagnosis or treatment under the direction of the psychologist,
281 including members of the client's or patient's family; and

282 (b) made in confidence, for the diagnosis or treatment of the client or patient by the
283 psychologist, and by a means not intended to be disclosed to third persons other than
284 those individuals:

285 (i) present to further the interest of the client or patient in the consultation,
286 examination, or interview;

287 (ii) reasonably necessary for the transmission of the communications; or

288 (iii) participating in the diagnosis and treatment of the client or patient under the
289 direction of the psychologist.

290 (4) "Hypnosis" means, regarding individuals exempted from licensure under this chapter, a
291 process by which one individual induces or assists another individual into a hypnotic
292 state without the use of drugs or other substances and for the purpose of increasing
293 motivation or to assist the individual to alter lifestyles or habits.

294 (5) "Individual" means a natural person.

295 (6) "Mental health therapist" means an individual licensed under this title as a:

296 (a) physician and surgeon, or osteopathic physician engaged in the practice of mental
297 health therapy;

298 (b) an advanced practice registered nurse, specializing in psychiatric mental health
299 nursing;

300 (c) an advanced practice registered nurse intern, specializing in psychiatric mental health

- 301 nursing;
- 302 (d) psychologist qualified to engage in the practice of mental health therapy;
- 303 (e) a certified psychology resident qualifying to engage in the practice of mental health
- 304 therapy;
- 305 (f) clinical social worker;
- 306 (g) certified social worker;
- 307 (h) marriage and family therapist;
- 308 (i) an associate marriage and family therapist;
- 309 (j) a clinical mental health counselor; or
- 310 (k) an associate clinical mental health counselor.
- 311 (7) "Mental illness" means a mental [~~or emotional condition~~] disorder defined in an
- 312 approved diagnostic and statistical manual for mental disorders generally recognized in
- 313 the professions of mental health therapy listed under Subsection (6).
- 314 (8) "Practice of mental health therapy" means the treatment or prevention of mental illness,
- 315 whether in person or remotely, including:
- 316 (a) conducting a professional evaluation of an individual's condition of mental health,
- 317 mental illness, or emotional disorder;
- 318 (b) establishing a diagnosis in accordance with established written standards generally
- 319 recognized in the professions of mental health therapy listed under Subsection (6);
- 320 (c) prescribing a plan for the prevention or treatment of a condition of mental illness or
- 321 emotional disorder; and
- 322 (d) engaging in the conduct of professional intervention, including psychotherapy by the
- 323 application of established methods and procedures generally recognized in the
- 324 professions of mental health therapy listed under Subsection (6).
- 325 (9)(a) "Practice of psychology" includes:
- 326 (i) the practice of mental health therapy by means of observation, description,
- 327 evaluation, interpretation, intervention, and treatment to effect modification of
- 328 human behavior by the application of generally recognized professional
- 329 psychological principles, methods, and procedures for the purpose of preventing,
- 330 treating, or eliminating mental or emotional illness or dysfunction, the symptoms
- 331 of any of these, or maladaptive behavior;
- 332 (ii) the observation, description, evaluation, interpretation, or modification of human
- 333 behavior by the application of generally recognized professional principles,
- 334 methods, or procedures requiring the education, training, and clinical experience

- 335 of a psychologist, for the purpose of assessing, diagnosing, preventing, or
336 eliminating symptomatic, maladaptive, or undesired behavior and of enhancing
337 interpersonal relationships, work and life adjustment, personal effectiveness,
338 behavioral health, and mental health;
- 339 (iii) psychological testing and the evaluation or assessment of personal characteristics
340 such as intelligence, personality, abilities, interests, aptitudes, and
341 neuropsychological functioning;
- 342 (iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy,
343 hypnosis, and behavior analysis and therapy;
- 344 (v) diagnosis and treatment of mental and emotional disorders of disability,
345 alcoholism and substance abuse, disorders of habit or conduct, and the
346 psychological aspects of physical illness, accident, injury, or disability; and
- 347 (vi) psychoeducational evaluation, therapy, remediation, and consultation.
- 348 (b) An individual practicing psychology may provide services to individuals, couples,
349 families, groups of individuals, members of the public, and individuals or groups
350 within organizations or institutions.
- 351 (10) "Remotely" means communicating via [~~Internet~~] internet, telephone, or other electronic
352 means that facilitate real-time audio or visual interaction between individuals when they
353 are not physically present in the same room at the same time.
- 354 (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-61-501.
- 355 (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-61-502, and may
356 be further defined by division rule.
- 357 **Section 4. Effective Date.**
- 358 This bill takes effect on May 6, 2026.