OPIOID AND OVERDOSE FATALITY REVIEW

AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: ____________

LONG TITLE

General Description:
This bill modifies and enacts provisions relating to review of drug-related overdose fatalities in the state.

Highlighted Provisions:
This bill:
- defines terms and modifies definitions;
- modifies the circumstances under which a custodian of vital records may permit inspection or provide a copy of a vital record;
- creates the position of overdose fatality examiner within the Office of the Medical Examiner;
- creates the Opioid and Overdose Fatality Review Committee within the Department of Health;
- requires the Opioid and Overdose Fatality Review Committee to close a meeting in accordance with the Open and Public Meetings Act when an individual fatality is discussed; and
- makes technical changes.

Money Appropriated in this Bill:
This bill appropriates in fiscal year 2021:
- to Department of Health -- Disease Control and Prevention -- Disease Control and
Prevention, as an ongoing appropriation:
   • from General Fund, $60,000;
      to Department of Health -- Disease Control and Prevention -- Office of the Medical Examiner, as an ongoing appropriation:
      • from General Fund, $115,000; and
      to Department of Health -- Disease Control and Prevention -- Office of the Medical Examiner, as a one-time appropriation:
      • from the General Fund, One-time, $121,000.

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:

26-2-15, as last amended by Laws of Utah 2008, Chapter 3
26-2-22, as last amended by Laws of Utah 2015, Chapter 137
52-4-205, as last amended by Laws of Utah 2019, Chapter 417
78B-6-142, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

26-4-30, Utah Code Annotated 1953
26-7-10, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:
Section 1. Section 26-2-15 is amended to read:

26-2-15. Petition for establishment of unregistered birth or death -- Court procedure.
   (1) A person holding a direct, tangible, and legitimate interest as described in Subsection 26-2-22[(2)](3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file [it] the petition in the Utah district court for the county where:
      (a) the birth or death is alleged to have occurred;
      (b) the person resides whose birth is to be established; or
(c) the decedent named in the petition resided at the date of death.

(2) In order for the court to have jurisdiction, the petition shall:

(a) allege the date, time, and place of the birth or death; and

(b) state either that no certificate of birth or death has been registered or that a copy of the registered certificate cannot be obtained.

(3) The court shall set a hearing for five to 10 days after the [filing of the petition] day on which the petition is filed.

(4) (a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.

(b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.

(5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.

(6) (a) For purposes of this section, the birth certificate of an adopted alien child, as defined in Section 78B-6-108, is considered to be unobtainable if the child was born in a country that is not recognized by department rule as having an established vital records registration system.

(b) If the adopted child was born in a country recognized by department rule, but a person described in Subsection (1) is unable to obtain a certified copy of the birth certificate, the state registrar shall authorize the preparation of a birth certificate if [he] the state registrar receives a written statement signed by the registrar of the child's birth country stating a certified copy of the birth certificate is not available.

Section 2. Section 26-2-22 is amended to read:

26-2-22. Inspection of vital records.

(1) As used in this section:

(a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.

(b) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.
"Opioid use intervention or suicide prevention effort" means a program that studies or promotes the prevention of opioid overdose deaths, as defined in Section 26-7-10, or suicides in the state.

The vital records shall be open to inspection, but only in compliance with the provisions of this chapter, department rules, and Sections 78B-6-141 and 78B-6-144.

It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter, department rule, Section 78B-6-141, or Section 78B-6-144.

An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

A birth parent may not access an adoption document under Subsection 78B-6-141(3).

A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:
   (i) the subject;
   [(ii) a member of the subject's immediate family;]
   (ii) an immediate family member of the subject;
   (iii) the guardian of the subject;
   (iv) a designated legal representative of the subject; or
   (v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for [an opioid use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or
(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

[(3) For purposes of Subsection (2):]

[(a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild;]

[(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records;]

[(te)] (4) (a) [except] Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or [the] an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act [of 1996], or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest[; and] under this section.

[(td)] (b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

[(f)] (5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection [(f)] (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

[(g)] (6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

[(h)] (7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:
152 (a) for a birth parent's election to permit identifying information about the birth parent
to be made available[;] under Section 78B-6-141;
154 (b) for the release of information by the mutual-consent, voluntary adoption registry,
under Section 78B-6-144; [and]
156 (c) for collecting fees and donations [pursuant to] under Section 78B-6-144.5[;] and
157 (d) for the review and approval of a request described in Subsection (3)(d).
158 Section 3. Section 26-4-30 is enacted to read:
159 26-4-30. Overdose fatality examiner.
160 (1) Within funds appropriated by the Legislature, the department shall provide
compensation, at a standard rate determined by the department, to an overdose fatality
examiner.
163 (2) The overdose fatality examiner shall:
164 (a) work with the medical examiner to compile data regarding overdose and opioid
related deaths, including:
166 (i) toxicology information;
167 (ii) demographics; and
169 (iii) the source of opioids or drugs;
169 (b) as relatives of the deceased are willing, gather information from relatives of the
deceased regarding the circumstances of the decedent's death;
171 (c) maintain a database of information described in Subsections (2)(a) and (b);
172 (d) coordinate no less than monthly with the suicide prevention coordinator described
in Section 62A-15-1101; and
174 (e) coordinate no less than quarterly with the Opioid and Overdose Fatality Review
Committee created in Section 26-7-10.
176 Section 4. Section 26-7-10 is enacted to read:
177 26-7-10. Opioid and Overdose Fatality Review Committee.
178 (1) As used in this section:
179 (a) "Committee" means the Opioid and Overdose Fatality Review Committee created
in this section.
181 (b) "Opioid overdose death" means a death primarily caused by opioids or another
substance that closely resembles an opioid.
(2) The department shall establish the Opioid and Overdose Fatality Review Committee.

(3) (a) The committee shall consist of:

(i) the attorney general, or the attorney general's designee;
(ii) a state, county, or municipal law enforcement officer;
(iii) the manager of the department's Violence Injury Program, or the manager's designee;
(iv) an emergency medical services provider;
(v) a representative from the Office of the Medical Examiner;
(vi) a representative from the Division of Substance Abuse and Mental Health;
(vii) a representative from the Office of Vital Records;
(viii) a representative from the Office of Health Care Statistics;
(ix) a representative from the Division of Occupational and Professional Licensing;
(x) a healthcare professional who specializes in the prevention, diagnosis, and treatment of substance use disorders;
(xi) a representative from a state or local jail or detention center;
(xii) a representative from the Department of Corrections;
(xiii) a representative from Juvenile Justice Services;
(xiv) a representative from the Department of Public Safety;
(xv) a representative from the Commission on Criminal and Juvenile Justice;
(xvi) a physician from a Utah-based medical center; and
(xvii) a physician from a nonprofit vertically integrated health care organization.

(b) The president of the Senate may appoint one member of the Senate, and the speaker of the House of Representatives may appoint one member of the House of Representatives, to serve on the committee.

(4) The executive director of the department shall appoint a committee coordinator.

(5) (a) The department shall give the committee access to all reports, records, and other documents that are relevant to the committee's responsibilities under Subsection (6) including reports, records, or documents that are private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) In accordance with Subsection 63G-2-206(6), the committee is subject to the same
restrictions on disclosure of a report, record, or other document received under Subsection
(5)(a) as the department.

(6) The committee shall:

(a) conduct a multidisciplinary review of available information regarding a decedent of
an opioid overdose death, which shall include:

(i) consideration of the decedent's points of contact with health care systems, social
services systems, criminal justice systems, and other systems; and

(ii) identification of specific factors that put the decedent at risk for opioid overdose;

(b) promote cooperation and coordination among government entities involved in
opioid misuse, abuse, or overdose prevention;

(c) develop an understanding of the causes and incidence of opioid overdose deaths in
the state;

(d) make recommendations for changes to law or policy that may prevent opioid
dose deaths;

(e) inform public health and public safety entities of emerging trends in opioid
dose deaths;

(f) monitor overdose trends on non-opioid overdose deaths; and

(g) review non-opioid overdose deaths in the manner described in Subsection (6)(a),
when the committee determines that there are a substantial number of overdose deaths in the
state caused by the use of a non-opioid.

(7) A committee may interview or request information from a staff member, a
provider, or any other person who may have knowledge or expertise that is relevant to the
review of an opioid overdose death.

(8) A majority vote of committee members present constitutes the action of the
committee.

(9) The committee may meet up to eight times each year.

(10) When an individual case is discussed in a committee meeting under Subsection
(6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections
52-4-204 through 52-4-206.

Section 5. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed
meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional
competence, or physical or mental health of an individual;
(b) strategy sessions to discuss collective bargaining;
(c) strategy sessions to discuss pending or reasonably imminent litigation;
(d) strategy sessions to discuss the purchase, exchange, or lease of real property,
including any form of a water right or water shares, if public discussion of the transaction
would:
(i) disclose the appraisal or estimated value of the property under consideration; or
(ii) prevent the public body from completing the transaction on the best possible terms;
(e) strategy sessions to discuss the sale of real property, including any form of a water
right or water shares, if:
(i) public discussion of the transaction would:
(A) disclose the appraisal or estimated value of the property under consideration; or
(B) prevent the public body from completing the transaction on the best possible terms;
(ii) the public body previously gave public notice that the property would be offered for
sale; and
(iii) the terms of the sale are publicly disclosed before the public body approves the
sale;
(f) discussion regarding deployment of security personnel, devices, or systems;
(g) investigative proceedings regarding allegations of criminal misconduct;
(h) as relates to the Independent Legislative Ethics Commission, conducting business
relating to the receipt or review of ethics complaints;
(i) as relates to an ethics committee of the Legislature, a purpose permitted under
Subsection 52-4-204(1)(a)(iii)(C);
(j) as relates to the Independent Executive Branch Ethics Commission created in
Section 63A-14-202, conducting business relating to an ethics complaint;
(k) as relates to a county legislative body, discussing commercial information as
defined in Section 59-1-404;
(l) as relates to the Utah Higher Education Assistance Authority and its appointed
board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;  
(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or  
(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and  
(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and  
(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).  
(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality
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307 review report described in Subsection 62A-16-301(1)(a), and the responses to the report
308 described in Subsections 62A-16-301(2) and (4);
309  (b) a meeting of the Child Welfare Legislative Oversight Panel to:
310  (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the
311 responses to the report described in Subsections 62A-16-301(2) and (4); or
312  (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);
313 [and]
314  (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
315 Section 26-7-10, to review and discuss an individual case, as described in Subsection
316 26-7-10(10); and
317  ([c]) (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
318 purpose of advising the Natural Resource Conservation Service of the United States
319 Department of Agriculture on a farm improvement project if the discussed information is
320 protected information under federal law.
321  (3) In a closed meeting, a public body may not:
322  (a) interview a person applying to fill an elected position;
323  (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
324 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
325 or
326  (c) discuss the character, professional competence, or physical or mental health of the
327 person whose name was submitted for consideration to fill a midterm vacancy or temporary
328 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
329 Temporary Absence in Elected Office.
330 Section 6. Section 78B-6-142 is amended to read:
331
332 78B-6-142. Adoption order from foreign country.
333  (1) Except as otherwise provided by federal law, an adoption order rendered to a
334 resident of this state that is made by a foreign country shall be recognized by the courts of this
335 state and enforced as if the order were rendered by a court in this state.
336  (2) A person who adopts a child in a foreign country may register the order in this state.
337 A petition for registration of a foreign adoption order may be combined with a petition for a
338 name change. If the court finds that the foreign adoption order meets the requirements of
Subsection (1), the court shall order the state registrar to:
(a) file the order pursuant to Section 78B-6-137; and
(b) file a certificate of birth for the child pursuant to Section 26-2-28.
(3) If a clerk of the court is unable to establish the fact, time, and place of birth from the documentation provided, a person holding a direct, tangible, and legitimate interest as described in Subsection 26-2-22[(2)](3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth pursuant to Subsection 26-2-15(1).

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1
To Department of Health -- Disease Control and Prevention
From General Fund $60,000
Schedule of Programs:
Disease Control and Prevention $60,000

ITEM 2
To Department of Health -- Disease Control and Prevention
From General Fund $115,000
From General Fund, One-time $121,000
Schedule of Programs:
Office of the Medical Examiner $236,000