

Mental Health

OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Policy 360

Tuesday, February 15, 2022



Agenda

- **Federal regulation and MHPAEA**
- **Utah behavioral health systems**
- **DSAMH/DHHS**
- **Criminal Justice and Mental Health**
- **Kem C. Gardner Institute/UHA**
- **Opioid Settlement**
- **2022 Legislation**



Definitions

- **Mental Illness**

UCA 26-15-602:

- (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning;
or
- (b) the same as that term is defined in:
 - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
 - (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.”

- **Substance Use Disorder**

- UCA 62A-15-1202:

the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

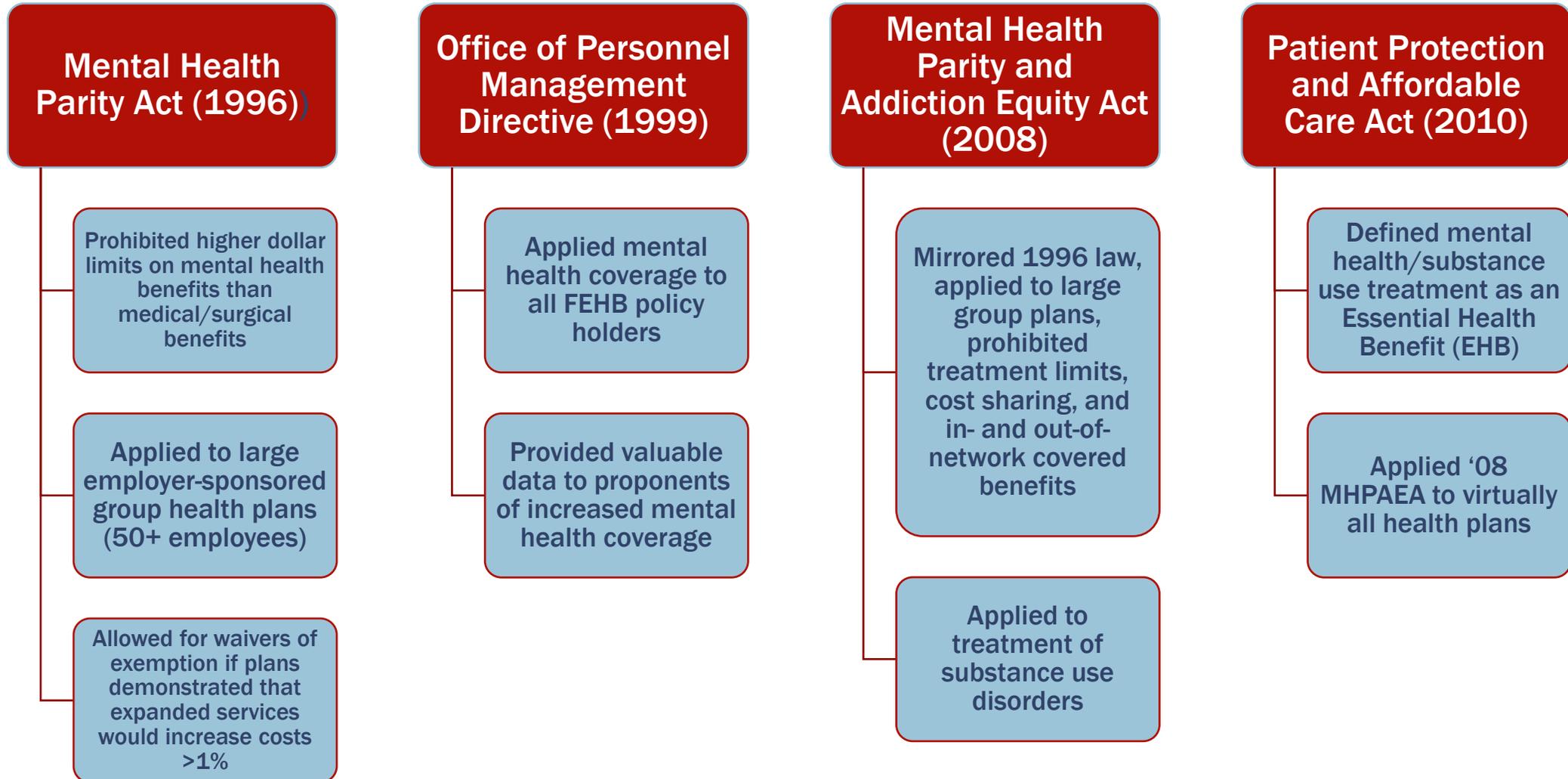
- *SAMHSA: meeting the criteria for alcohol or illicit drug abuse or dependence.*

- **Behavioral Health**

SAMHSA:

- the promotion of mental health, resilience and wellbeing;
- the treatment of mental and substance use disorders; and
- the support of those who experience and/or are in recovery from these conditions, along with their families and communities.

Mental Health – Federal Action



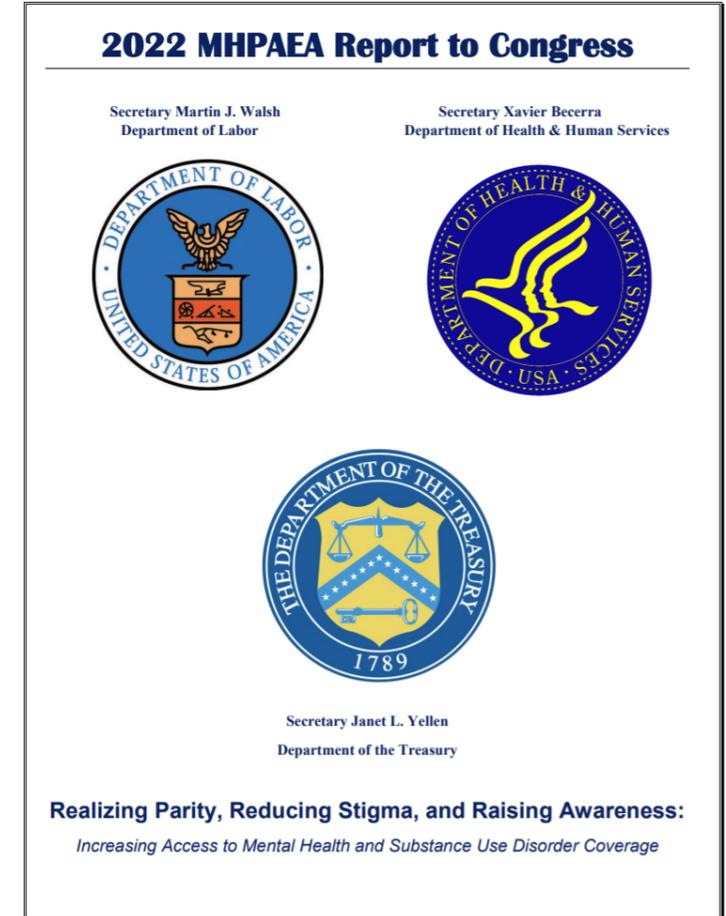


Mental Health – Federal Action

- The Consolidated Appropriations Act of 2021
 - Put in place new Dept. of Labor (DOL) enforcement mechanisms
 - Aim to ensure that plans satisfy requirements of MHPAEA
 - Requires group health plans and issuers to prepare a comparative analysis of any nonquantitative treatment limitations (NQTLs) that apply
 - NQTLs **applied no more stringently** than applied to medical/surgical benefits
- Examples of NQTLs
 - Tiered networks (preferred providers vs. participating providers)
 - Medical management standards limiting/excluding benefits based on “medical necessity” or whether treatment is “experimental or investigative”
 - Exclusions based on failure to complete a course of treatment
 - Refusal to pay for higher-cost therapies until it can be shown that a lower-cost therapy is not effective
 - Utilization reviews

Mental Health – Federal Action

- **Jan. 25, 2022: DOL/DHHS/Dept. of Treasury MHPAEA Report**
 - Health plans and health insurance issuers are failing to deliver parity for mental health and substance-use disorder benefits
 - Push for strengthening enforcement capacity
 - Increase in audits from DOL/DHHS/Dept. of Treasury
 - Employee Benefits Security Administration (EBSA):
 - 156 letters to plans and issuers for comparative analyses for 216 unique NQTLs across 86 investigations
 - No comparative analysis reviewed to date has contained sufficient information



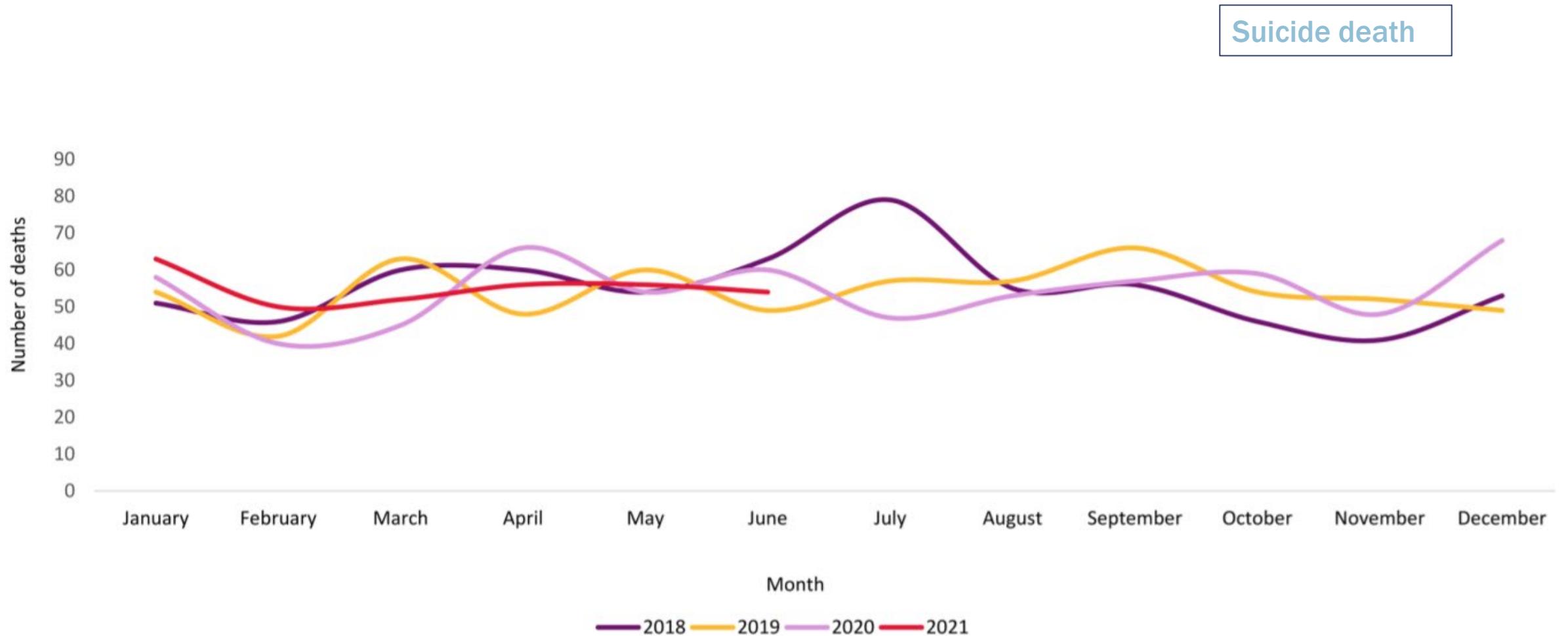


Utah by the numbers

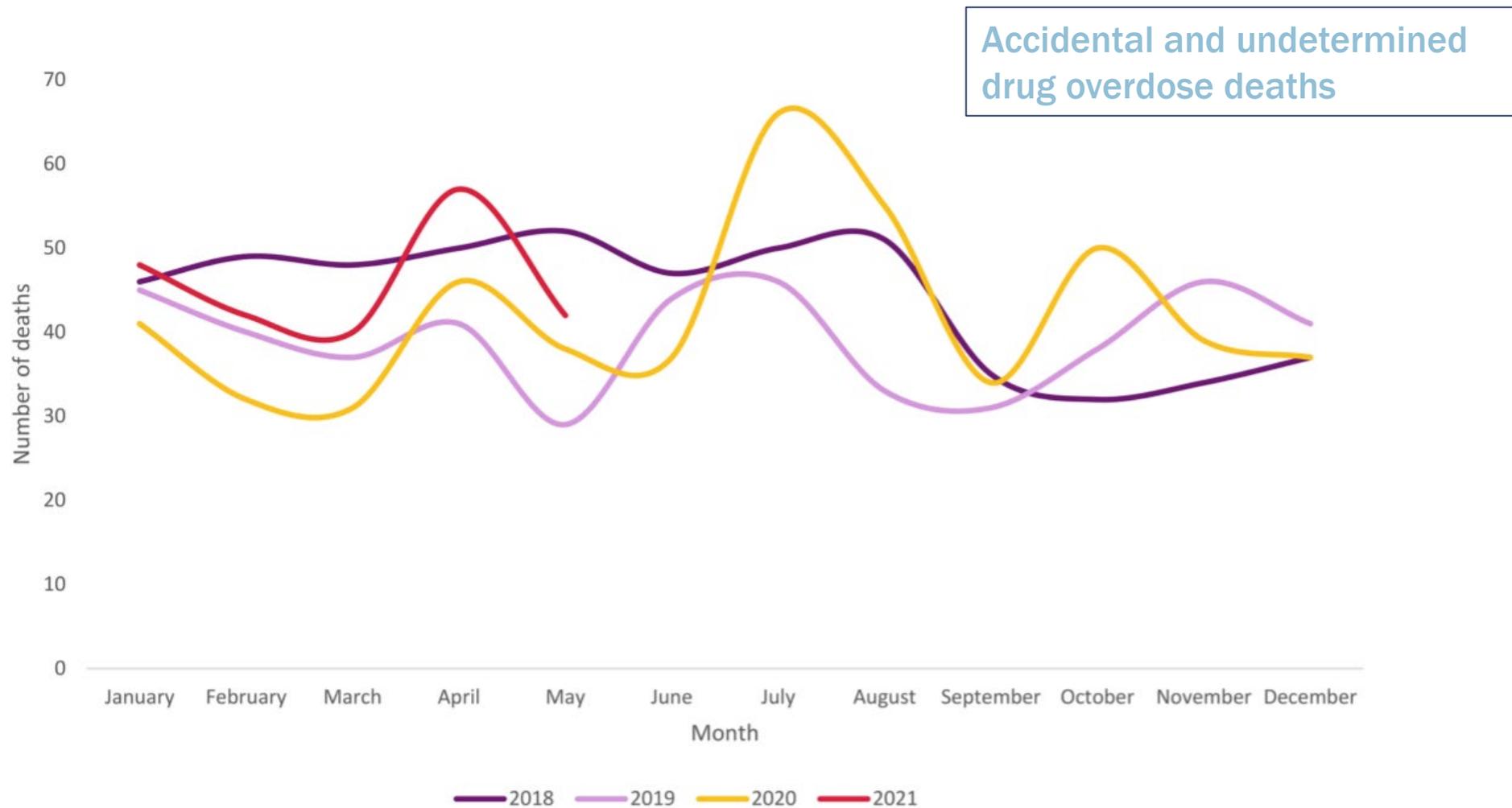
- **2018 – 2020: aged-adjusted suicide rate in UT was 21.4 per 100,000 persons, with average of 657 suicides per year – 6th highest age-adjusted rate in the U.S. in 2019**
- **2020: Suicide was the leading cause of death for Utahns ages 10-17 and 18-24; second leading cause of death for ages 25-44; and fifth leading cause of death for ages 45-64; eighth leading cause of death overall**
- **Veteran suicides account for 13% of all suicides in UT**
- **Over half of UT adults with mental illness did not receive mental health treatment or counseling**
- **60% of Utah’s depressed youth ages 12 – 17 did not receive treatment for depression**



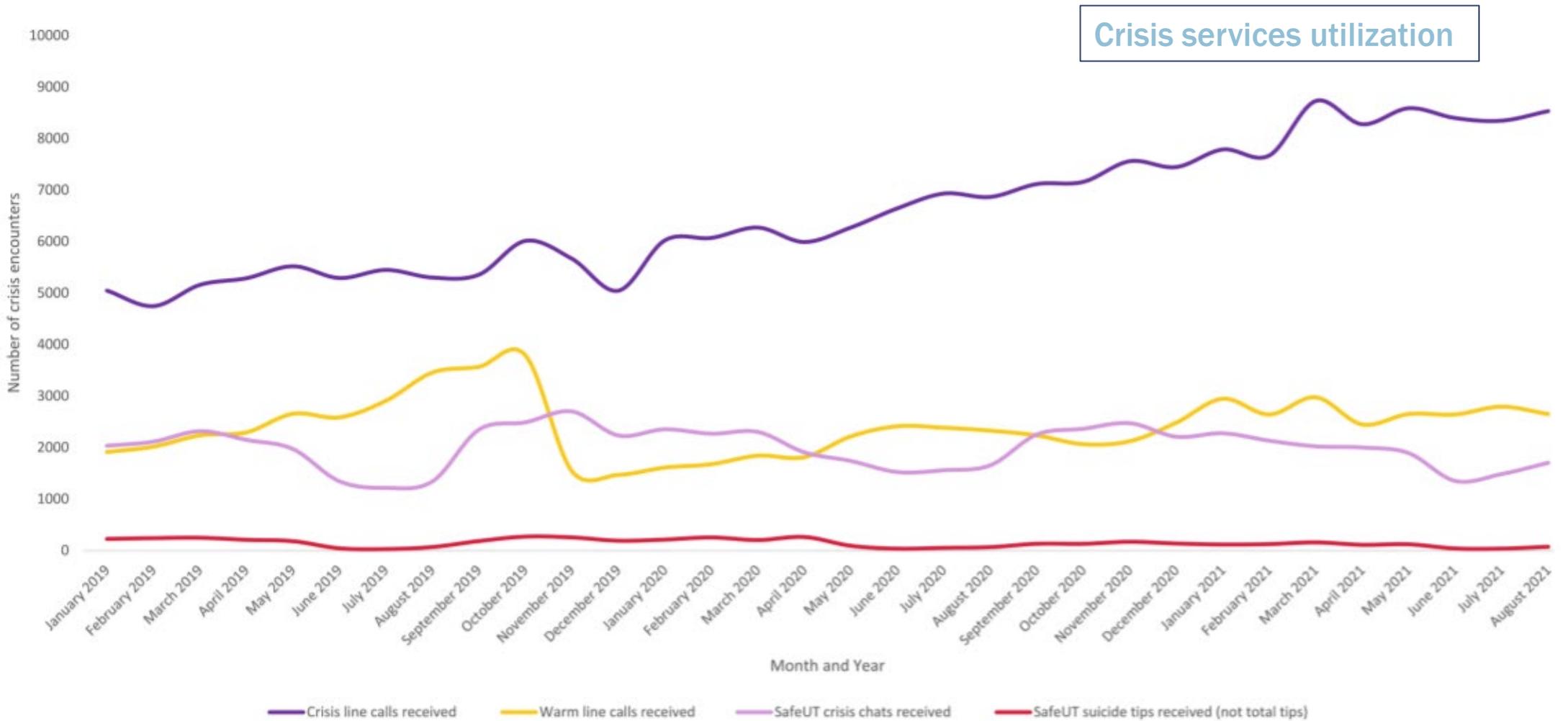
DOH Suicide and Accidental Drug Overdose in Utah 2021 Annual Report



DOH Suicide and Accidental Drug Overdose in Utah 2021 Annual Report

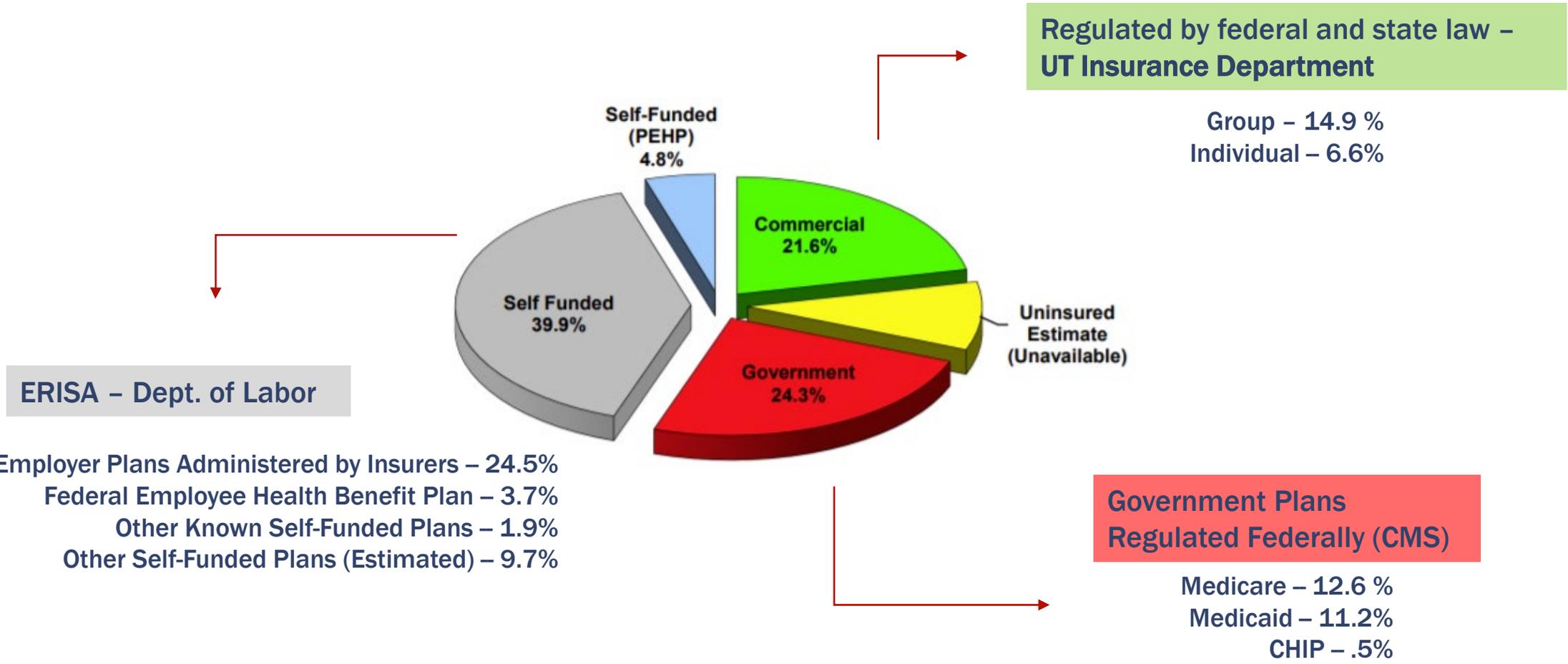


DOH Suicide and Accidental Drug Overdose in Utah 2021 Annual Report



Source: Utah Department of Health Suicide and Accidental Drug Overdoes 2021 Report

Health Insurance in UT



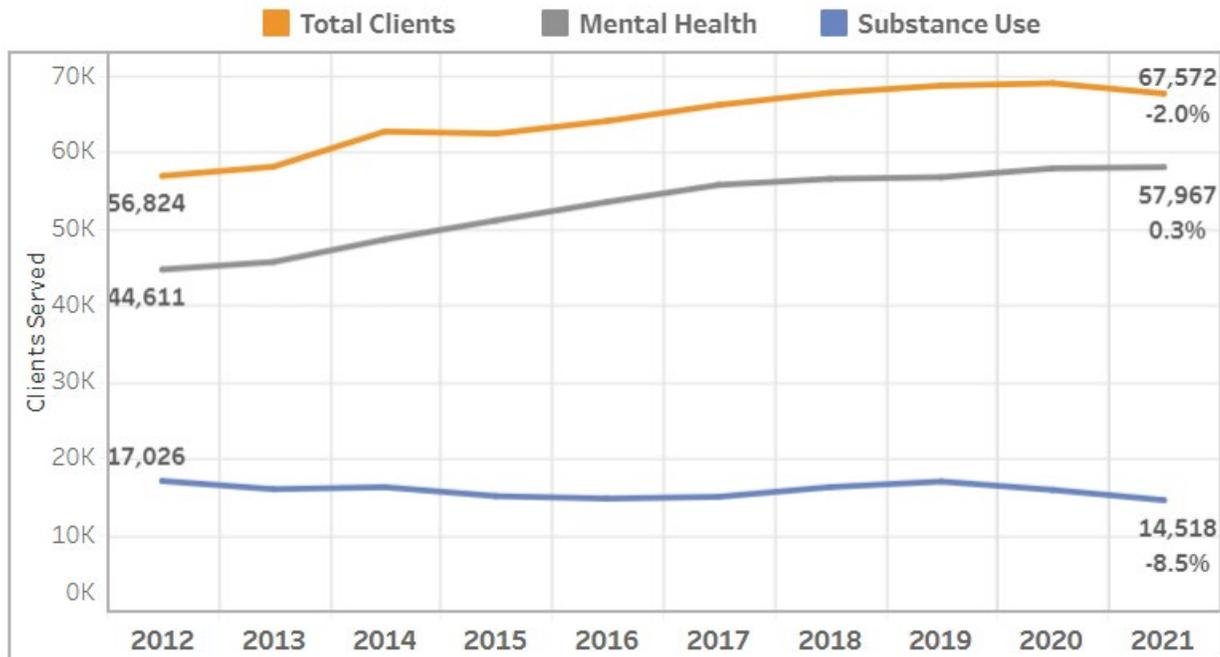
Local Mental Health Authorities



- **Bear River (Box Elder, Cache, Rich)**
- **Weber Human Services (Weber, Morgan)**
- **Davis County**
- **Tooele County**
- **Salt Lake County**
- **Summit County**
- **Utah County**
- **Wasatch County**
- **Northeastern (Daggett, Duchesne, Uintah)**
- **Central (Juab, Millard, Sanpete, Sevier, Piute, Wayne)**
- **Southwest (Beaver, Iron, Garfield, Washington, Kane)**
- **San Juan County**

Local Mental Health Authorities

Total Clients Served Across Fiscal Years



Funding Source	Percent
Medicaid	47%
Both Medicaid and Medicare	9%
Non-Medicaid	44%
Unfunded	16%
Mental Health Severity	
Serious and Persistent Mental Illness or Serious Emotional Disturbance	57.7%
Urban v. Rural	
Urban	69%
Rural	31%
Gender	
Male	48.3%
Female	51.7%

Source: Utah Department of Human Services, Division of Substance Abuse and Mental Health.



UT Crisis Line/UT Warm Line/Mobile Crisis Outreach Teams (MCOTs)/ SafeUT app

- **Goals:**

- Helping users receive support within the community on their terms
- Avoiding high-cost and emotionally impactful visits to the emergency department or hospitalization
- Preventing non-emergency use of other critical community resources like law enforcement and emergency medical services

- **2021**

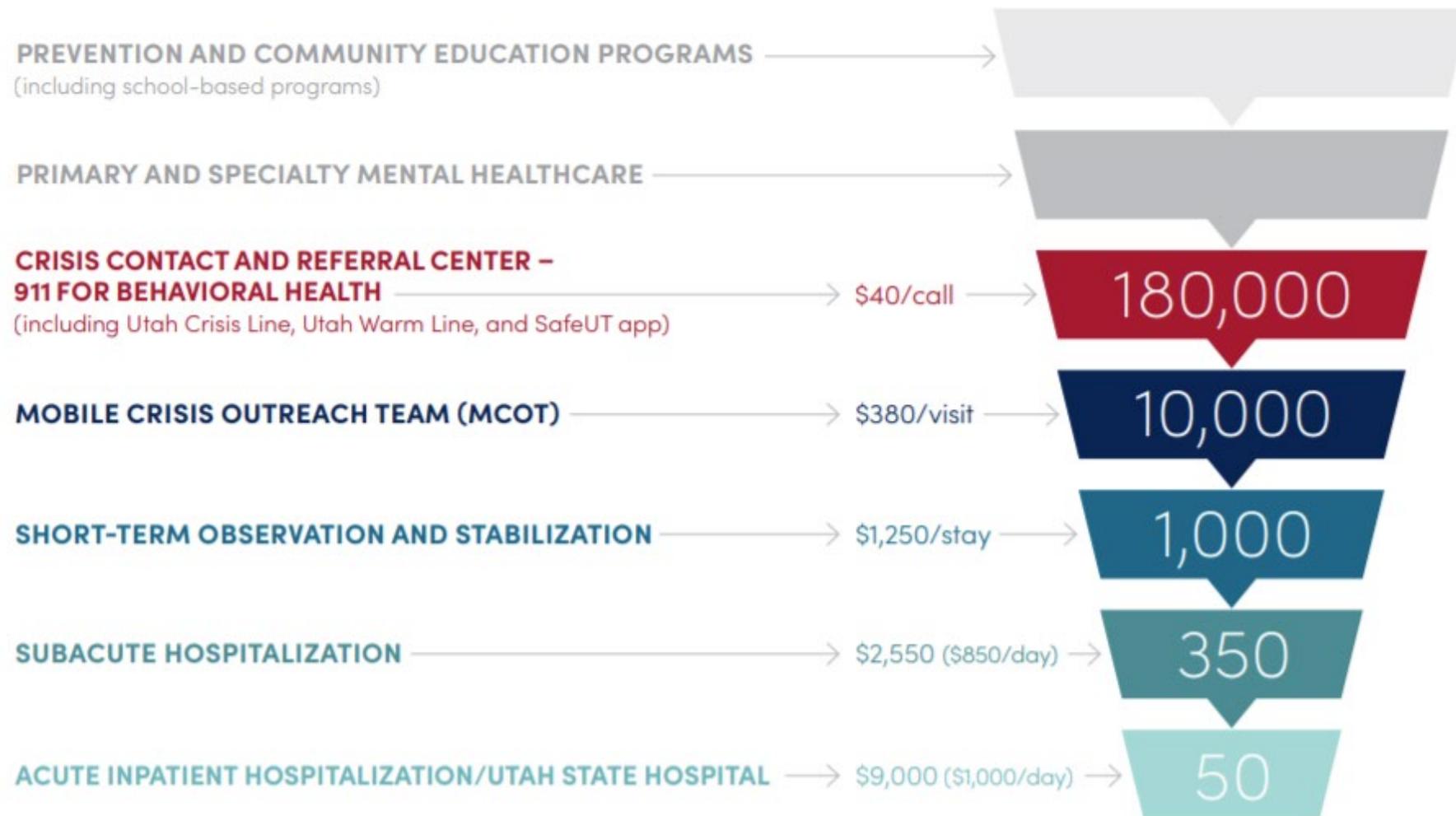
- **92,532** Crisis Line calls received (32% year-over-year increase)
- **29,903** Warm Line calls received (6% year-over-year increase)
- **6,661** MCOT contacts
- **30,527** SafeUT chats and tips received



988: National Suicide Prevention and Mental Health Crisis Lifeline

- **Several years in the making in UT –**
 - SB 232 (2014) School Safety Tip Line
 - SB 175 (2015) School Safety and Crisis Line
 - HB 41 (2018) Mental Health Crisis Line Amendments
 - SB 155 (2021) 988 Mental Health Crisis Assistance
- **Scheduled to go live for call, text, or chat on July 16, 2022**
- **The Lifeline will accept calls from anyone who is suicidal or in emotional distress, including substance use crisis**
- **Current statewide line: 1-800-273-TALK (8255)**

Upstream vs. Downstream



DSAMH in DHHS

- **DOH and DHS consolidation is in motion**

- 3 “executive sections” and 6 “functional centers”

- **Operations**

- Department Services & Supports
- Strategic Performance Management

- **Health Care Administration**

- Healthcare Delivery & Financing
- Long-Term Services & Supports

- **Community Health & Well Being**

- Children, Youth & Families
- Public Health, Prevention & Epidemiology



Division of Integrated Healthcare



Office of Behavioral Health Treatment

Other Divisions in Proposed DHHS Org Structure: Finance & Administration; Licensing & Background Checks; Customer Experience; Continuous Quality & Improvement; Data, Systems & Evaluation; Aging & Adult Services; Services for People with Disabilities; Child & Family Services; Family Health; Juvenile Justice & Youth Services; Population Health

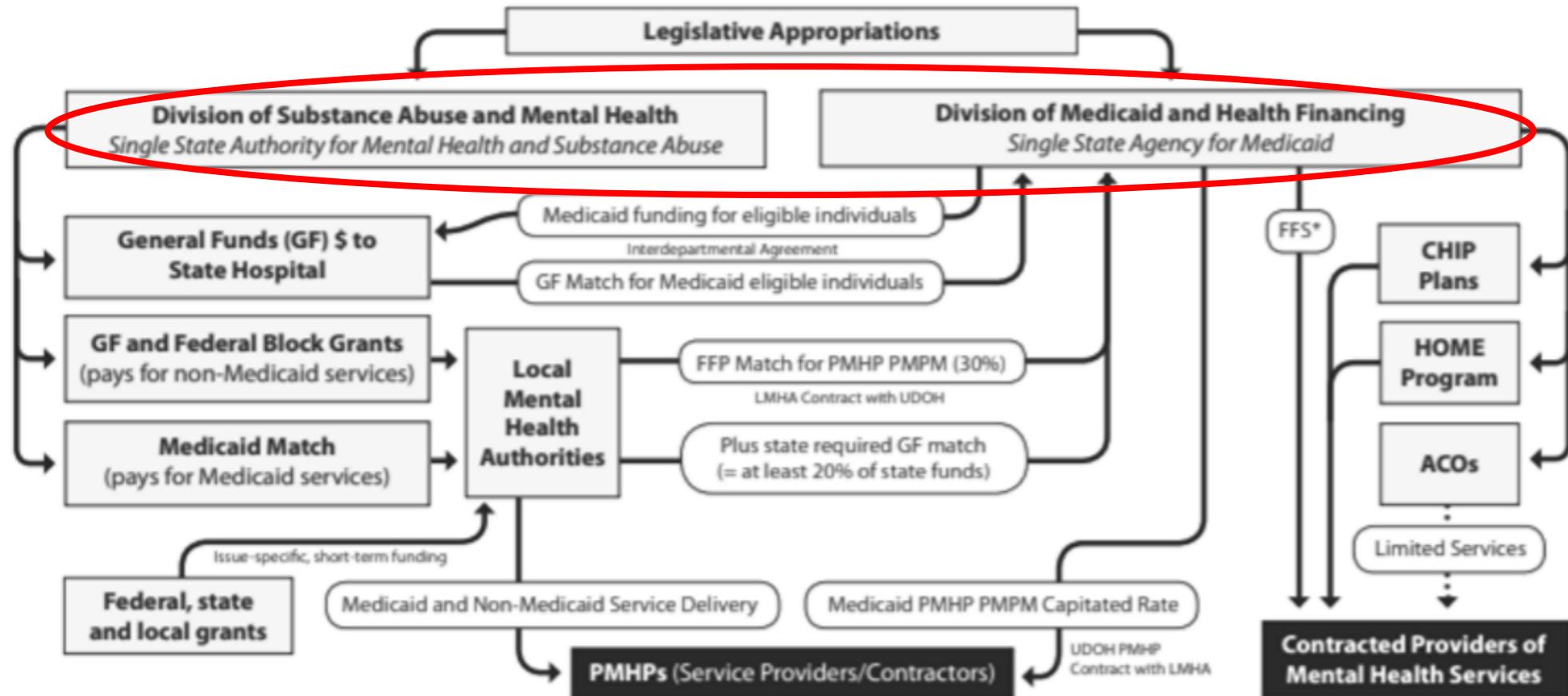
SB 45, 2nd Substitute

2nd Sub. (Salmon) S.B. 45

02-07-22 7:29 AM

- 1018 (i) the Division of Finance and Administration;
1019 (ii) the Division of Licensing and Background Checks;
1020 (iii) the Division of Customer Experience;
1021 (iv) the Division of Data, Systems, and Evaluation; and
1022 (v) the Division of Continuous Quality Improvement;
1023 (b) relating to healthcare administration:
1024 (i) the Division of Integrated Healthcare, which shall include responsibility for:
1025 (A) the state's medical assistance programs; and
1026 (B) behavioral health programs described in Title 62A, Chapter 15, Substance Abuse
1027 and Mental Health Act;
1028 (ii) the Division of Aging and Adult Services; and
1029 (iii) the Division for Services for People with Disabilities; and
1030 (c) relating to community health and well-being:
1031 (i) the Division of Child and Family Services;
1032 (ii) the Division of Family Health;
1033 (iii) the Division of Population Health;
1034 (iv) the Division of Juvenile Justice and Youth Services; and
1035 (v) the Office of Recovery Services.
1036 (4) The executive director may establish offices and bureaus to facilitate management
1037 of the department as required by, and in accordance, with:

Behavioral/Mental Health funding system



Criminal Justice and Mental Health

The Intersection of Mental Health and Criminal Justice

Officer Involved Incidents



Incarceration Rates



Reinvestment

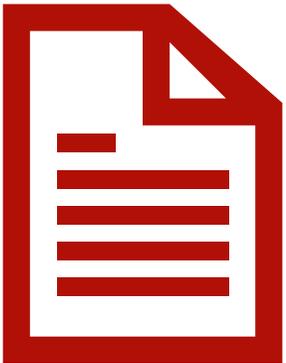


Officer Mental Health



Criminal Justice and Mental Health

Officer Involved Incidents



- 42% of police shootings in Utah in the past decade involved a person in crisis.
- 79% of them were suicidal.

Criminal Justice and Mental Health

Approaches to Addressing Officer Involved Incidents

Co-response



- Deploy social workers with law enforcement.
- Focus on intervention and diversion.

Community Response



- Holistic approach.
- Focus on prevention.

Training



- De-escalation.
- Crisis Intervention (CIT).

Criminal Justice and Mental Health

Incarceration Rates



- Globally, 1 in 7 prisoners has major depression or psychosis.
- In the U.S. 56 percent of state prisoners, 45 percent of federal prisoners and 64 percent of local jail inmates, were found to have a mental health problem.
- Female inmates have higher rates of mental health problems than male.
- Most are undiagnosed.

Criminal Justice and Mental Health

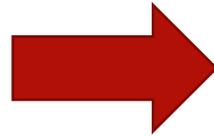


Utah Commission
on Criminal and
Juvenile Justice

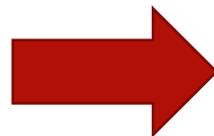
Justice Reinvestment Report

November 2014

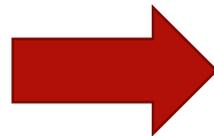
2014 CCJJ Report



Estimated cost of current structure



Diagnosed the root causes of the high cost



Made policy recommendations

Criminal Justice and Mental Health



Utah Commission
on Criminal and
Juvenile Justice

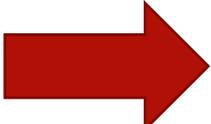
Justice Reinvestment Report

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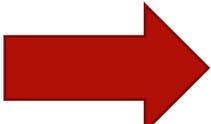
Policy Recommendations



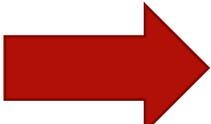
Focus on violent offenders



Strengthen probation and
parole supervision



Improve and expand reentry
and treatment services



Ensure oversight and
accountability

Justice Reinvestment Initiative

LEGISLATIVE GENERAL COUNSEL
Approved for Filing: S.C. Allred
02-26-15 11:40 AM

H.B. 348
1st Sub. (Buff)

Representative Eric K. Hutchings proposes the following substitute bill:

CRIMINAL JUSTICE PROGRAMS AND AMENDMENTS

2015 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends Utah Code provisions regarding corrections, sentencing, probation and parole, controlled substance offenses, substance abuse and mental health treatment, vehicle offenses, and related provisions to modify penalties and sentencing guidelines, treatment programs for persons in the criminal justice system, and probation and parole compliance and violations to address recidivism.

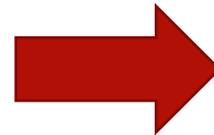
Highlighted Provisions:

This bill:

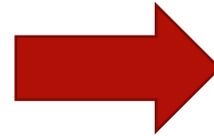
- reduces penalties for specified offenses involving controlled substances and provides that specified penalties be increased for subsequent convictions for the same offenses;
- reduces the penalties for motor vehicle and vessel offenses as specified;
- defines criminal risk factors and requires that these factors be considered in providing mental health and substance abuse treatment through governmental programs to individuals involved in the criminal justice system;
- requires the Division of Substance Abuse and Mental Health to establish standards for mental health and substance abuse treatment, and for treatment providers, concerning individuals who are incarcerated or who are required by a court or the

1st Sub. H.B. 348

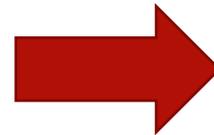
H.B. 348, “Criminal Justice Programs and Amendments”



Reduced certain penalties



Emphasized treatment



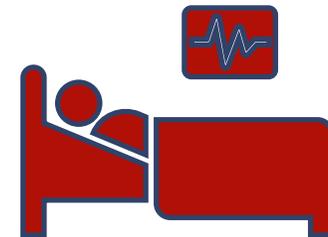
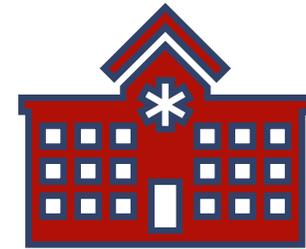
Required data collection

Justice Reinvestment Initiative

Division of Substance Abuse and Mental Health

- Establish treatment standards and performance goals.
- Track and report data about program performance and recidivism.
- Requires that CCJJ administer a performance incentive grant program that allocates funds to counties for programs and practices to reduce recidivism.

Treatment





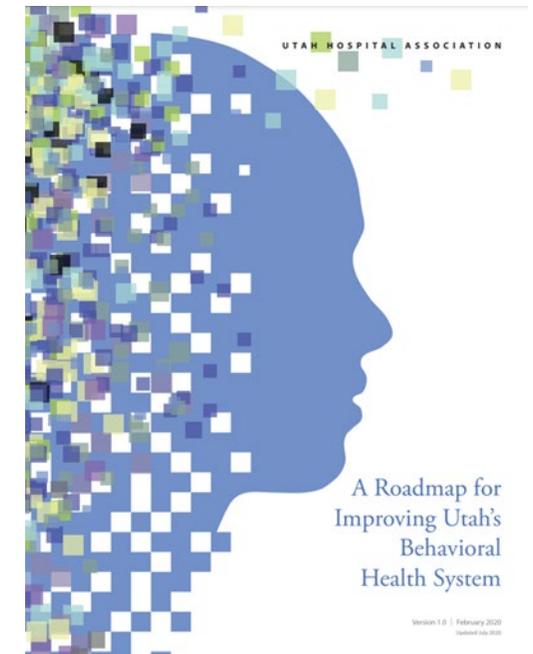
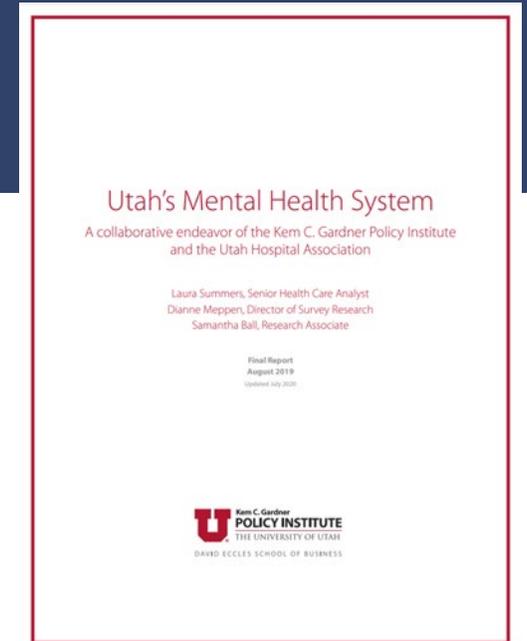
Criminal Justice and Mental Health

Officer Mental Health

- Based on an analysis from 2013, 15% of men and 18.2% of women in law enforcement had PTSD.
- What is the relationship between PTSD and officer-involved incidents?

Kem C. Gardner Institute/UHA

- **2019 Report and 2020 Roadmap**
 - Stigma
 - Lack of coverage
 - Underinsurance
 - Workforce/provider shortages
 - Emergency department challenges
 - Utah State Hospital beds
 - Community-based resources
 - Medicaid carve-out
- **Several Pieces of legislation linked to tiered recommendations from '20 Roadmap**



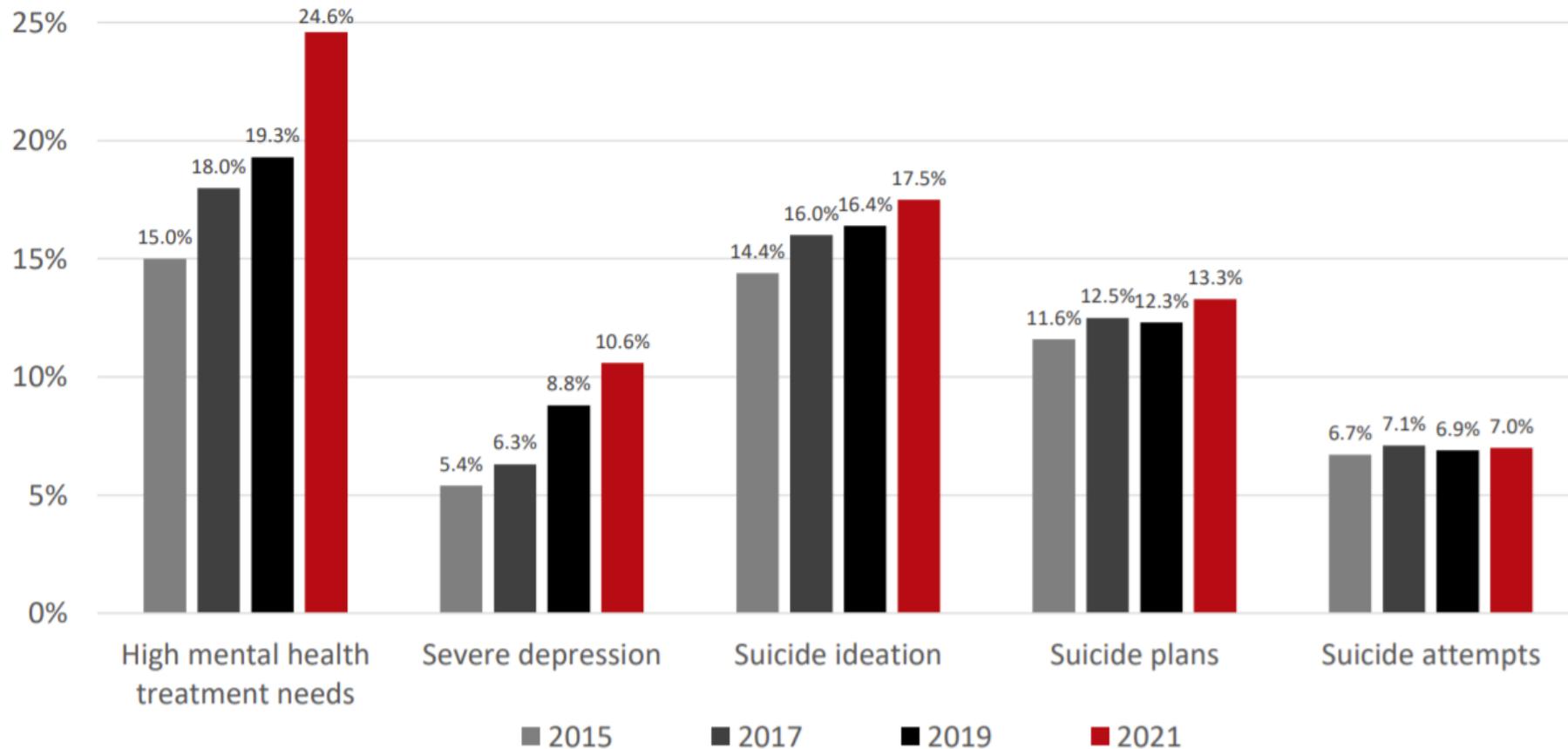


After '19 Report and '20 Roadmap?

- **Collaboration between Kem C. Gardner Institute and UHA/DSAMH/hospitals/health systems/HMHI/Local Mental Health Authorities to conduct an additional study**
 - Statewide assessment of substance use disorder systems
 - Early childhood mental health
 - Youth and school-based mental health
 - Corrections, courts, geriatric services, insurance parity, rural supports, etc.
- **National consultant to work with the Gardner Institute in preparing the Study and Blueprint**
- **Timeline is 12-18 months**

After '19 Report and '20 Roadmap?

Share of Utah Middle and High School Students with Select Mental Health Needs, 2015–2021





Mental Health Commissions and Committees

- **Utah Substance Use and Mental Health Advisory Council (USAHV+)**
 - Product of HB 101 (1990)
 - Mission is to create and coordinate a comprehensive strategy to effectively address substance use and mental health disorders throughout Utah
 - No legislators
- **Behavioral Health Crisis Response Commission**
 - Product of SB 37 (2017) – originally called the “Mental Health Crisis Line Response Commission”
 - SB 155 (2021) made changes and added several members
 - Duties are primarily to prepare for, study, and coordinate the rollout of the 988 Crisis Line
 - Senators Thatcher, Escamilla, Vickers
 - Representatives Eliason, Ballard, Dailey-Provost
- **Education and Mental Health Coordinating Council**
 - Product of HB 288 (2021)
 - Duties are to coordinate with existing groups, and make findings and recommendations regarding behavioral health support to youth and families within the state
 - Senator Millner and Representative Ward (chair)

Opioid Settlement

- **Potential state max: \$289 million**
 - Distributors: \$220 million (18 years)
 - Johnson & Johnson: \$50.7 million (9 years)
 - Mallinckrodt: \$18.3 million (9 years)

- **Settlement uses (non-comprehensive):**
 - Prevention
 - Criminal Justice
 - Treatment and Recovery
 - Harm Reduction



UTAH STATE LEGISLATURE 2022 GENERAL SESSION

OPIOID SETTLEMENT

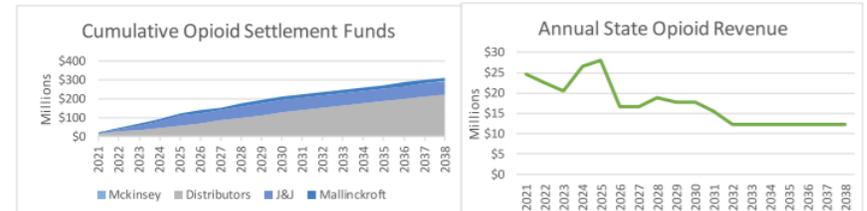
EXECUTIVE OFFICES AND CRIMINAL JUSTICE SUBCOMMITTEE & SOCIAL SERVICES SUBCOMMITTEE
STAFF: SEAN FAHERTY & ALEXANDER WILSON

ISSUE BRIEF

On July 21, 2021, certain parties of legal suits alleging harm caused by the manufacture and distribution of opioid pharmaceuticals announced a settlement agreement. The agreement which involved the three largest pharmaceutical distributors, McKesson, Cardinal Health, and AmerisourceBergen, and the manufacturer Janssen Pharmaceuticals, Inc. including its parent company Johnson & Johnson, could result in a significant financial impact for the State of Utah. The state could also receive funds from the Mallinckrodt bankruptcy (the bankruptcy plan for Purdue Pharma is being renegotiated). The state has already received \$5.5 million from the consulting firm McKinsey, but at the time of the writing of this brief, other settlements/bankruptcies remain unresolved. All settlements received by the state would be deposited into the Opioid Litigation Settlement Restricted Account, created by H.B. 373, "Attorney General Fund Amendments" during the 2020 General Session which requires an appropriation to spend from this fund. The intent of this brief is to outline the total potential amount of all funds associated with these legal suits and the potential uses of this funding.

Potential Future State Revenue:

Case	Total National Settlement	Potential State Max	Time Period
Distributors (AmerisourceBergen, Cardinal, McKesson)	\$21.1 billion	\$220 million	18 years
Johnson & Johnson	\$5 billion	\$50.7 million	9 years
Mallinckrodt	\$1.6 billion	\$18.3 million	9 years
Total:	\$27.7 billion	\$289 million	



Settlement Uses (non-comprehensive, complete list found in "Opioid Abatement Uses"):

- Prevention
 - o May be used for: Prescription Drug Monitoring programs, Screening, Education, Community Development, Primary Prevention, Drug Take Back Programs
- Criminal Justice
 - o May be used for: Law Enforcement (task forces, interdiction, training), Community Corrections, Jail-Based Treatment, Post-Incarceration Programs
- Treatment and Recovery
 - o May be used for: Treatment Expansion, Recovery supports, Rural Programs, Research
- Harm Reduction
 - o May be used for: Overdose Surveillance, HIV and Hepatitis Treatment, Naloxone, Drug-Checking Services, Syringe Exchanges, Family Support.



Mental / Behavioral Health 2022 Session Legislation

- **HB 13: Special License Plate Designation (Eliason)**
- **HB 23: First Responder Mental Health Services Amendments (Wilcox, R.)**
- **HB 48: Utah Substance Use and Mental Health Advisory Council Sunset Extension (Eliason)**
- **HB 49: Study on State Hospital Capacity Sunset Amendments (Eliason)**
- **HB 99: Civil Commitment Amendments (Dailey-Provost)**
- **HB 110: Alcohol Education Amendments**
- **HB 148: Commitment in Criminal Proceedings (Abbott)**
- **HB 161: Overdose Harm Reduction Working Group (Dailey-Provost)**
- **HB 167: Mental Illness Psychotherapy Drug Task Force (Brammer)**
- **HB 195: Auricular Detoxification Amendments (Harrison)**
- **HB 207: Inmate Treatment Amendments (Watkins)**
- **HB 236: Behavioral Health Amendments (Eliason)**
- **HB 261: Civil Commitment Revisions (Lyman)**
- **HB 266: Trauma-informed Research and Training Grant Program (Hawkins)**
- **HB 278: Behavioral Health Treatment Access Amendments (Eliason)**
- **HB 283: Mental Health Professional Licensing Amendments (Thurston)**
- **HB 325: Mental Health Support and Law Enforcement Co-response (Stoddard)**
- **HB 358: Mental Health Treatment Amendments (King)**
- **HB 363: Modifications to Civil Commitment (Eliason)**
- **HB 370: Mental Health Professional Amendments (Wilcox)**



Mental / Behavioral Health 2022 Session Legislation

- **SB 41: Behavioral Health Services Amendments (Kennedy)**
- **SB 44: Mental Health Professional Practice Amendments (Kennedy)**
- **SB 131: Clinical Mental Health Counselor Licensing Sunset Extension (Weiler)**
- **SB 143: Office of Student Health Affairs (Riebe)**
- **SB 171: Behavioral Health Curriculum Program (Thatcher)**
- **SB 177: Behavioral Health Crisis Response Amendments (Thatcher)**
- **SB 179: Criminal Justice Amendments (Weiler)**
- **SB 189: Drug Induced Homicide Amendments (Weiler)**
- **SB 201: Alcoholic Beverage Control Act Enforcement (Owens)**



Questions

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