

Effective 5/3/2023

Part 2
Substance Use Disorder Intervention, Prevention, and Education

26B-5-201 Definitions.

As used in this part:

- (1) "Juvenile substance use offender" means any minor who has committed a drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with Section 78A-6-103.
- (2) "Local substance abuse authority" means a county legislative body designated to provide substance abuse services in accordance with Section 17-43-201.
- (3) "Minor" means the same as that term is defined in Section 80-1-102.
- (4) "Teen substance use school" means any school established by the local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse offenders and their parents or legal guardians.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-202 Teen substance use schools -- Establishment.

The division or a local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, may establish teen substance use schools in the districts of the juvenile court.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-203 Court order to attend substance use school -- Assessments.

- (1) In addition to any other disposition ordered by the juvenile court under Section 80-6-701, the court may order:
 - (a) a minor and the minor's parent or legal guardian to attend a teen substance use school; and
 - (b) payment of an assessment in addition to any other fine imposed.
- (2) All assessments collected shall be forwarded to the county treasurer of the county where the minor resides, to be used exclusively for the operation of a teen substance use program.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-204 Commitment of minor to secure drug or alcohol facility or program -- Procedures -- Review.

- (1) As used in this section:
 - (a) "Approved treatment facility or program" means a public or private secure, inpatient facility or program that is licensed or operated by the department to provide drug or alcohol treatment or rehabilitation.
 - (b) "Drug or alcohol addiction" means that the person has a physical or psychological dependence on drugs or alcohol in a manner not prescribed by a physician.
- (2) The parent or legal guardian of a minor under 18 years old may submit that child, without the child's consent, to an approved treatment facility or program for treatment or rehabilitation of drug or alcohol addiction, upon application to a facility or program, and after a careful diagnostic

inquiry is made by a neutral and detached fact finder, in accordance with the requirements of this section.

- (3) The neutral fact finder who conducts the inquiry:
 - (a) shall be either a physician, psychologist, marriage and family therapist, psychiatric and mental health nurse specialist, or social worker licensed to practice in this state, who is trained and practicing in the area of substance use; and
 - (b) may not profit, financially or otherwise, from the commitment of the child and may not be employed by the proposed facility or program.
- (4) The review by a neutral fact finder may be conducted on the premises of the proposed treatment facility or program.
- (5) The inquiry conducted by the neutral fact finder shall include a private interview with the child, and an evaluation of the child's background and need for treatment.
- (6) The child may be committed to the approved treatment facility or program if it is determined by the neutral fact finder that:
 - (a) the child is addicted to drugs or alcohol and because of that addiction poses a serious risk of harm to himself or others;
 - (b) the proposed treatment or rehabilitation is in the child's best interest; and
 - (c) there is no less restrictive alternative that would be equally as effective, from a clinical standpoint, as the proposed treatment facility or program.
- (7) Any approved treatment facility or program that receives a child under this section shall conduct a periodic review, at intervals not to exceed 30 days, to determine whether the criteria described in Subsection (6) continue to exist.
- (8) A minor committed under this section shall be released from the facility or program upon the request of his parent or legal guardian.
- (9) Commitment of a minor under this section terminates when the minor reaches the age of 18 years old.
- (10) Nothing in this section requires a program or facility to accept any person for treatment or rehabilitation.
- (11) The parent or legal guardian who requests commitment of a minor under this section is responsible to pay any fee associated with the review required by this section and any necessary charges for commitment, treatment, or rehabilitation for a minor committed under this section.
- (12) The child shall be released from commitment unless the report of the neutral fact finder is submitted to the juvenile court within 72 hours of commitment and approved by the court.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-205 Alcohol training and education seminar.

- (1) As used in this section:
 - (a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.
 - (b) "Licensee" means a person who is:
 - (i)
 - (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and
 - (B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or
 - (ii) a business that is:
 - (A) a new or renewing licensee licensed by a city, town, or county; and

- (B) engaged in the retail sale of beer for consumption off the premises of the licensee.
 - (c) "Licensee staff" means a retail manager, retail staff, an off-premise retail manager, or off-premise retail staff.
 - (d) "Off-premise beer retailer" is as defined in Section 32B-1-102.
 - (e) "Off-premise retail manager" means the same as that term is defined in Section 32B-1-701.
 - (f) "Off-premise retail staff" means the same as that term is defined in Section 32B-1-701.
 - (g) "Retail manager" means the same as that term is defined in Section 32B-1-701.
 - (h) "Retail staff" means the same as that term is defined in Section 32B-1-701.
 - (i) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.
- (2)
- (a) This section applies to licensee staff.
 - (b) An individual who does not have a valid record that the individual has completed an alcohol training and education seminar shall:
 - (i) complete an alcohol training and education seminar before the day on which the individual begins work as licensee staff of a licensee; and
 - (ii) pay a fee to the seminar provider that is equal to or greater than the amount established under Subsection (4)(h).
 - (c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to act as licensee staff.
 - (d) A record that licensee staff has completed an alcohol training and education seminar is valid for three years after the day on which the record is issued.
 - (e) To be considered as having completed an alcohol training and education seminar, an individual shall:
 - (i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or
 - (ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).
 - (f)
 - (i) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program.
 - (ii) In developing the requirements by rule the division shall consider whether to require:
 - (A) authentication that the an individual accurately identifies the individual as taking the online course or test;
 - (B) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;
 - (C) measures to track the actual time an individual taking the online course or test is actively engaged online;
 - (D) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

- (E) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;
 - (F) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;
 - (G) measures for the division to audit online courses or tests;
 - (H) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;
 - (I) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;
 - (J) an individual who takes an online course or test to use an e-signature; or
 - (K) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.
- (3)
- (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:
 - (i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;
 - (ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;
 - (iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or
 - (iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.
 - (b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.
- (4) The division shall:
- (a)
 - (i) provide alcohol training and education seminars; or
 - (ii) certify one or more seminar providers;
 - (b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:
 - (i)
 - (A) alcohol as a drug; and
 - (B) alcohol's effect on the body and behavior;
 - (ii) recognizing the problem drinker or signs of intoxication;
 - (iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Services;
 - (iv) dealing with the problem customer, including ways to terminate sale or service; and
 - (v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;
 - (c) recertify each seminar provider every three years;
 - (d) monitor compliance with the curriculum described in Subsection (4)(b);
 - (e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;
 - (f) provide the information described in Subsection (4)(e) on request to:
 - (i) the Department of Alcoholic Beverage Services;
 - (ii) law enforcement; or

- (iii) a person licensed by the state or a local government to sell an alcoholic product;
 - (g) provide the Department of Alcoholic Beverage Services on request a list of any seminar provider certified by the division; and
 - (h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.
- (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (a) establish criteria for certifying and recertifying a seminar provider; and
 - (b) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.
- (6) A seminar provider shall:
- (a) obtain recertification by the division every three years;
 - (b) ensure that an instructor used by the seminar provider:
 - (i) follows the curriculum established under this section; and
 - (ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;
 - (c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:
 - (i) the curriculum established under this section; and
 - (ii) this section;
 - (d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;
 - (e)
 - (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and
 - (ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and
 - (f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.
- (7)
- (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:
 - (i) suspend the certification of the seminar provider for a period not to exceed 90 days after the day on which the suspension begins;
 - (ii) revoke the certification of the seminar provider;
 - (iii) require the seminar provider to take corrective action regarding an instructor; or
 - (iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).
 - (b) The division may certify a seminar provider whose certification is revoked:
 - (i) no sooner than 90 days after the day on which the certification is revoked; and
 - (ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Renumbered and Amended by Chapter 308, 2023 General Session
Amended by Chapter 371, 2023 General Session

26B-5-207 DUI -- Legislative policy -- Rehabilitation treatment and evaluation -- Use of victim impact panels.

The Legislature finds that drivers impaired by alcohol or drugs constitute a major problem in this state and that the problem demands a comprehensive detection, intervention, education, and treatment program including emergency services, outpatient treatment, detoxification, residential care, inpatient care, medical and psychological care, social service care, vocational rehabilitation, and career counseling through public and private agencies. It is the policy of this state to provide those programs at the expense of persons convicted of driving while under the influence of intoxicating liquor or drugs. It is also the policy of this state to utilize victim impact panels to assist persons convicted of driving under the influence of intoxicating liquor or drugs to gain a full understanding of the severity of their offense.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-208 Penalty for DUI conviction -- Amounts.

- (1) Courts of record and not of record may at sentencing assess against the defendant, in addition to any fine, an amount that will fully compensate agencies that treat the defendant for their costs in each case where a defendant is convicted of violating:
 - (a) Section 41-6a-502 or 41-6a-517;
 - (b) a criminal prohibition resulting from a plea bargain after an original charge of violating Section 41-6a-502; or
 - (c) an ordinance that complies with the requirements of Subsection 41-6a-510(1).
- (2) The fee assessed shall be collected by the court or an entity appointed by the court.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-209 Assessments for DUI -- Use of money for rehabilitation programs, including victim impact panels -- Rulemaking power granted.

- (1)
 - (a) Assessments imposed under Section 26B-5-208 may, pursuant to court order:
 - (i) be collected by the clerk of the court in which the person was convicted; or
 - (ii) be paid directly to the licensed alcohol or drug treatment program.
 - (b) Assessments collected by the court under Subsection (1)(a)(i) shall be forwarded to a special nonlapsing account created by the county treasurer of the county in which the fee is collected.
- (2) Assessments under Subsection (1) shall be used exclusively for the operation of licensed alcohol or drug rehabilitation programs and education, assessment, supervision, and other activities related to and supporting the rehabilitation of persons convicted of driving while under the influence of intoxicating liquor or drugs. A requirement of the rehabilitation program shall be participation with a victim impact panel or program providing a forum for victims of alcohol or drug related offenses and defendants to share experiences on the impact of alcohol or drug related incidents in their lives. The division shall establish guidelines to implement victim impact panels where, in the judgment of the licensed alcohol or drug program, appropriate victims are available, and shall establish guidelines for other programs where such victims are not available.
- (3) None of the assessments shall be maintained for administrative costs by the division.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-210 Policy -- Alternatives to incarceration.

It is the policy of this state to provide adequate and appropriate health and social services as alternatives to incarceration for public intoxication.

Renumbered and Amended by Chapter 308, 2023 General Session

26B-5-211 Administration of opioid litigation proceeds -- Requirements for governmental entities receiving opioid funds -- Reporting.

- (1) As used in this section:
 - (a) "Office" means the Office of Substance Use and Mental Health within the department.
 - (b) "Opioid funds" means money received by the state or a political subdivision of the state as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.
 - (c) "Restricted account" means the Opioid Litigation Proceeds Restricted Account created in Section 51-9-801.
- (2) Opioid funds may not be used to:
 - (a) reimburse expenditures that were incurred before the opioid funds were received by the governmental entity; or
 - (b) supplant or take the place of any funds that would otherwise have been expended for that purpose.
- (3) The office shall serve as the reporting entity to receive, compile, and submit any reports related to opioid funds that are required by law, contract, or other agreement.
- (4) The requirement described in Subsection (5) applies to:
 - (a) a recipient of opioid funds from the restricted account, in any year that opioid funds are received; and
 - (b) a political subdivision that received opioid funds.
- (5) A person described in Subsection (4) shall provide an annual report to the office, in a form and by a date established by the office, that includes:
 - (a) an accounting of all opioid funds that were received by the person in the year;
 - (b) the number of individuals served through programs funded by the opioid funds, including the individuals' age, gender, and other demographic factors reported in a de-identified manner;
 - (c) the measures that were used to determine whether the program funded by the opioid funds achieved the intended outcomes;
 - (d) if applicable, any information required to be submitted to the reporting entity under applicable law, contract, or other agreement; and
 - (e) the percentage of total funds received by the person in the year that the person used to promote the items under Subsections (6)(d)(i) through (vi).
- (6) On or before October 1 of each year, the office shall provide a written report that includes:
 - (a) the opening and closing balance of the restricted account for the previous fiscal year;
 - (b) the name of and amount received by each recipient of funds from the restricted account;
 - (c) a description of the intended use of each award, including the specific program, service, or resource funded, population served, and measures that the recipient used or will use to assess the impact of the award;
 - (d) the amount of funds expended to address each of the following items and the degree to which the department administered the program or subcontracted with a private entity:
 - (i) treatment services;
 - (ii) recovery support services;
 - (iii) prevention;

- (iv) criminal justice;
 - (v) harm reduction; and
 - (vi) expanding any of the following services:
 - (A) housing;
 - (B) legal support;
 - (C) education; and
 - (D) job training;
 - (e) a description of any finding or concern as to whether all opioid funds disbursed from the restricted account violated the prohibitions in Subsection (2) and, if applicable, complied with the requirements of a settlement agreement;
 - (f) the performance indicators and progress toward improving outcomes and reducing mortality and other harms related to substance use disorders; and
 - (g) administrative costs including indirect rates and direct service costs.
- (7) The office shall provide the information that is received, compiled, and submitted under this section:
- (a) to the Health and Human Services Interim Committee;
 - (b) to the Social Services Appropriations Subcommittee;
 - (c) if required under the terms of a settlement agreement under which opioid funds are received, to the administrator of the settlement agreement in accordance with the terms of the settlement agreement; and
 - (d) in a publicly accessible location on the department's website.
- (8) The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Amended by Chapter 271, 2024 General Session