

Effective 5/13/2014

Part 1
Department of Human Services Administration

62A-1-101 Short title.

This title shall be known as the "Utah Human Services Code."

Amended by Chapter 30, 1992 General Session

62A-1-102 Department of Human Services -- Creation.

There is created within state government the Department of Human Services, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title.

Amended by Chapter 183, 1990 General Session

62A-1-104 Definitions.

(1) As used in this title:

- (a) "Concurrence of the board" means agreement by a majority of the members of a board.
- (b) "Department" means the Department of Human Services established in Section 62A-1-102.
- (c) "Executive director" means the executive director of the department, appointed pursuant to Section 62A-1-108.
- (d) "System of care" means a broad, flexible array of services and supports for minors with or at risk for complex emotional and behavioral needs that:
 - (i) is community based;
 - (ii) integrates service planning, service coordination, and management across state and local entities;
 - (iii) includes individualized, person-centered planning;
 - (iv) builds meaningful partnerships with families and children; and
 - (v) provides supportive management and policy infrastructure that is organized into a coordinated network.

(2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title which are applicable to specific chapters or parts.

Amended by Chapter 213, 2014 General Session

62A-1-105 Creation of boards, divisions, and offices.

(1) The following policymaking boards are created within the Department of Human Services:

- (a) the Board of Aging and Adult Services;
- (b) the Board of Juvenile Justice Services; and
- (c) the Utah State Developmental Center Board.

(2) The following divisions are created within the Department of Human Services:

- (a) the Division of Aging and Adult Services;
- (b) the Division of Child and Family Services;
- (c) the Division of Services for People with Disabilities;
- (d) the Division of Substance Abuse and Mental Health; and
- (e) the Division of Juvenile Justice Services.

- (3) The following offices are created within the Department of Human Services:
- (a) the Office of Licensing;
 - (b) the Office of Public Guardian; and
 - (c) the Office of Recovery Services.

Amended by Chapter 300, 2016 General Session

62A-1-106 Adjudicative proceedings.

The department and its boards, divisions, and offices described in Section 62A-1-105 shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

62A-1-107 Boards within department -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

- (1)
- (a) This section applies only to the Board of Aging and Adult Services and the Board of Juvenile Justice Services described in Subsections 62A-1-105(1)(a) and (b).
 - (b) Each board shall have seven members who are appointed by the governor with the consent of the Senate.
- (2)
- (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.
 - (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (3) No more than four members of any board may be from the same political party. Each board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to their specific boards.
- (4) Each board shall annually elect a chairperson from its membership. Each board shall hold meetings at least once every three months. Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of any board. Four members of a board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.
- (5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

- (6) Each board shall adopt bylaws governing its activities. Bylaws shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of his appointment.
- (7) The board has program policymaking authority for the division over which it presides.

Amended by Chapter 300, 2016 General Session

62A-1-107.5 Limitation on establishment of advisory bodies.

- (1) Department divisions and boards:
 - (a) may not establish permanent, ongoing advisory groups unless otherwise specifically created in federal or state statute; and
 - (b) shall comply with the provisions of this section with regard to any advisory groups created prior to or after July 1, 2003.
- (2) Divisions and boards may establish subject-limited and time-limited ad hoc advisory groups to provide input necessary to carry out their assigned responsibilities. When establishing such an advisory group, the board must establish in writing a specific charge and time limit.
- (3) Members of any ad hoc advisory group shall receive no compensation or benefits for their service.
- (4) The provision of staffing and support to any ad hoc advisory group will be contingent on availability of human and financial resources.

Enacted by Chapter 246, 2003 General Session

62A-1-108 Executive director -- Appointment -- Compensation -- Qualifications -- Responsibilities.

- (1) The chief administrative officer of the department is the executive director, who shall be appointed by the governor with the consent of the Senate. The executive director may be removed at the will of the governor. The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation. The executive director shall be experienced in administration, management, and coordination of complex organizations.
- (2) The executive director is responsible for:
 - (a) administration and supervision of the department;
 - (b) coordination of policies and program activities conducted through the boards, divisions, and offices of the department;
 - (c) approval of the proposed budget of each board, division, and office within the department; and
 - (d) such other duties as the Legislature or governor shall assign to him.
- (3) The executive director may appoint deputy or assistant directors to assist him in carrying out the department's responsibilities.

Amended by Chapter 176, 2002 General Session

62A-1-108.5 Mental illness and intellectual disability examinations -- Responsibilities of the department.

- (1) In accomplishing its duties to conduct mental illness and intellectual disability examinations under Title 77, Utah Code of Criminal Procedure, and juvenile competency evaluations pursuant to Title 78A, Chapter 6, Juvenile Court Act, the department shall proceed as outlined

in this section and within appropriations authorized by the Legislature. The executive director may delegate the executive director's responsibilities under this section to one or more divisions within the department.

- (2) When the department is ordered by the district court to conduct a mental illness or intellectual disability examination the executive director shall:
 - (a) direct that the examination be performed at the Utah State Hospital; or
 - (b) designate at least one examiner, selected under Subsection (4), to examine the defendant in the defendant's current custody or status.
- (3) When the department is ordered by the juvenile court to conduct a juvenile competency evaluation pursuant to Title 78A, Chapter 6, Juvenile Court Act, the executive director shall:
 - (a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor; and
 - (b) upon a finding of good cause and order of the court, designate a second examiner to evaluate the minor.
- (4) The department shall establish criteria, in consultation with the Commission on Criminal and Juvenile Justice, and shall contract with persons or organizations to conduct mental illness and intellectual disability or related condition, and juvenile competency evaluations under Subsections (2)(b) and (3)(b). In making this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code.
- (5) Nothing in this section prohibits the executive director, at the request of defense counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal Procedure, and for good cause shown, from proposing a person who has not been previously selected under Subsection (4) to contract with the department to conduct the evaluation. In selecting that person, the criteria of the department established under Subsection (4) and the provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

Amended by Chapter 316, 2012 General Session

Amended by Chapter 347, 2012 General Session

62A-1-109 Division directors -- Appointment -- Compensation -- Qualifications.

The chief officer of each division and office enumerated in Section 62A-1-105 shall be a director who shall serve as the executive and administrative head of the division or office. Each division director shall be appointed by the executive director with the concurrence of the division's board. The director of any division may be removed from that position at the will of the executive director after consultation with that division's board. Each office director shall be appointed by the executive director. Directors of divisions and offices shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act. The director of each division and office shall be experienced in administration and possess such additional qualifications as determined by the executive director, and as provided by law.

Enacted by Chapter 1, 1988 General Session

62A-1-110 Executive director -- Jurisdiction over division and office directors -- Authority.

- (1) The executive director of the department has administrative jurisdiction over each division and office directors. The executive director may make changes in personnel and service functions in the divisions and offices under his administrative jurisdiction, and authorize designees to perform appropriate responsibilities, to effectuate greater efficiency and economy in the operations of the department.

- (2) The executive director may establish offices and bureaus to perform functions such as budgeting, planning, data processing, and personnel administration, to facilitate management of the department.

Amended by Chapter 292, 1991 General Session

62A-1-111 Department authority.

The department may, in addition to all other authority and responsibility granted to it by law:

- (1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;
- (2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;
- (3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;
- (4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;
- (6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;
- (7) set and collect fees for its services;
- (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;
- (9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;
- (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;
- (11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;
- (12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;
- (13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;
- (14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;
- (15) provide training and educational opportunities for its staff;
- (16) collect child support payments and any other money due to the department;
- (17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;
- (18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall include:

- (a) designation of interagency teams for each juvenile court district in the state;
 - (b) delineation of assessment criteria and procedures;
 - (c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and
 - (d) provisions for submittal of the plan and periodic progress reports to the court;
- (19) carry out the responsibilities assigned to it by statute;
- (20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;
- (21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services; and
- (22) within appropriations authorized by the Legislature, promote and develop a system of care, as defined in Section 62A-1-104, within the department and with contractors that provide services to the department or any of the department's divisions.

Amended by Chapter 296, 2016 General Session

62A-1-112 Participation in federal programs -- Federal grants -- Authority of executive director.

- (1) The executive director may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs.
- (2) Wherever state law authorizes a board, director, division, or office of the department to accept any grant, fund, or service which is to be advanced or contributed in whole or in part by the federal government, that acceptance shall be subject to the approval or disapproval of the executive director. All applications for federal grants or other federal financial assistance for the support of any department program is subject to the approval of the executive director.
- (3) If any executive or legislative provision of the federal government so requires, as a condition to participation by this state in any fund, property, or service, the executive director, with the governor's approval, shall expend whatever funds are necessary out of the money provided by the Legislature for use and disbursement by that department.

Amended by Chapter 382, 2008 General Session

62A-1-113 Department budget -- Reports from divisions.

The department shall prepare and submit to the governor, for inclusion in his budget to be submitted to the Legislature, a budget of the department's financial requirements needed to carry out its responsibilities, as provided by law during the fiscal year following the Legislature's next

Annual General Session. The executive director shall require a report from each of the divisions and offices of the department, to aid in preparation of the departmental budget.

Enacted by Chapter 1, 1988 General Session

62A-1-114 Department is state agency for specified federal programs -- Development of state plans and programs.

- (1) The department shall be the social services authority of the state, and shall be the sole state agency for administration of federally-assisted state programs or plans such as the social services block grant, low income energy assistance program block grant, alcohol, drug, and mental health block grant, child welfare, refugee assistance, and state programs supported under the Older Americans Act, 42 U.S.C. Sections 3001 et seq.
- (2) State plans and programs administered by the department shall be developed in the appropriate divisions and offices of the department, in accordance with the policy of the appropriate boards, and are subject to approval or change by the executive director to achieve coordination, efficiency, or economy.

Amended by Chapter 375, 1997 General Session

62A-1-115 Actions on behalf of department -- Party in interest.

The executive director, each of the department's boards, divisions, offices, and the director of each division or office, shall, in the exercise of any power, duty, or function under any statute of this state, is considered to be acting on behalf of the department. The department, through the executive director or through any of the department's boards, divisions, offices, or directors, shall be considered the party in interest in all actions at law or in equity, where the department or any constituent, board, division, office, or official thereof is authorized by any statute of the state to be a party to any legal action.

Enacted by Chapter 1, 1988 General Session

62A-1-117 Assignment of support -- Children in state custody.

- (1) Child support is assigned to the department by operation of law when a child is residing outside of his home in the protective custody, temporary custody, custody, or care of the state for at least 30 days.
- (2) The department has the right to receive payment for child support assigned to it under Subsection (1).
- (3) The Office of Recovery Services is the payee for the department for payment received under this section.

Enacted by Chapter 174, 1997 General Session

62A-1-118 Access to abuse and neglect information to screen employees and volunteers.

- (1) The department may conduct a background check, pursuant to Subsections 62A-2-120(1) through (4), of department employees and volunteers who have direct access, as defined in Section 62A-2-101, to a child or a vulnerable adult.
- (2) In addition to conducting a background check described in Subsection (1), and subject to the requirements of this section, the department may search the Division of Child and Family Services' Management Information System described in Section 62A-4a-1003.

- (3) With respect to department employees and volunteers, the department may only access information in the systems and databases described in Subsection 62A-2-120(3) and in the Division of Child and Family Services' Management Information System for the purpose of determining at the time of hire and each year thereafter whether a department employee or volunteer has a criminal history, an adjudication of abuse or neglect, or, since January 1, 1994, a substantiated or supported finding of abuse, neglect, or exploitation after notice and an opportunity for a hearing consistent with Title 63G, Chapter 4, Administrative Procedures Act, but only if a criminal history or identification as a possible perpetrator of abuse or neglect is directly relevant to the employment or volunteer activities of that person.
- (4) A department employee or volunteer to whom Subsection (1) applies shall submit to the department the employee or volunteer's name, other personal identifying information, and consent for the background check on a form specified by the department.
- (5) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, defining permissible and impermissible work-related activities for a department employee or volunteer with a criminal history or with one or more substantiated or supported findings of abuse, neglect, or exploitation.

Amended by Chapter 255, 2015 General Session

62A-1-119 Respite Care Assistance Fund -- Use of money -- Restrictions.

- (1) There is created an expendable special revenue fund known as the Respite Care Assistance Fund.
- (2) The fund shall consist of:
 - (a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund; and
 - (b) any additional amounts as appropriated by the Legislature.
- (3) The fund shall be administered by the director of the Utah Developmental Disabilities Council.
- (4) The fund money shall be used for the following activities:
 - (a) to support a respite care information and referral system;
 - (b) to educate and train caregivers and respite care providers; and
 - (c) to provide grants to caregivers.
- (5) An individual who receives services paid for from the fund shall:
 - (a) be a resident of Utah; and
 - (b) be a primary care giver for:
 - (i) an aging individual; or
 - (ii) an individual with a cognitive, mental, or physical disability.
- (6) The fund money may not be used for:
 - (a) administrative expenses that are normally provided for by legislative appropriation; or
 - (b) direct services or support mechanisms that are available from or provided by another government or private agency.
- (7) All interest and other earnings derived from the fund money shall be deposited into the fund.
- (8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 168, 2016 General Session

62A-1-120 Utah Marriage Commission.

- (1) As used in this section, "commission" means the Utah Marriage Commission created by this section.
- (2) There is created within the department the "Utah Marriage Commission."
- (3) The commission shall consist of 17 members appointed as follows:
 - (a) two members of the Senate appointed by the president of the Senate;
 - (b) two members of the House of Representatives appointed by the speaker of the House of Representatives;
 - (c) six current or former representatives from marriage and family studies departments, social or behavioral sciences departments, health sciences departments, colleges of law, or other related and supporting departments at institutions of higher education in this state, as shall be appointed by the governor;
 - (d) five representatives selected and appointed by the governor from among the following groups:
 - (i) social workers who are or have been licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;
 - (ii) psychologists who are or have been licensed under Title 58, Chapter 61, Psychologist Licensing Act;
 - (iii) physicians who are or have been board certified in psychiatry and are or have been licensed under Title 58, Chapter 67, Utah Medical Practice Act;
 - (iv) marriage and family therapists who are or have been licensed under Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;
 - (v) representatives of faith communities;
 - (vi) public health professionals;
 - (vii) representatives of domestic violence prevention organizations; or
 - (viii) legal professionals; and
 - (e) two representatives of the general public appointed by the members of the commission appointed under Subsections (3)(a) through (d).
- (4)
 - (a) A member appointed under Subsections (3)(c) through (e) shall serve for a term of four years. A member may be appointed for subsequent terms.
 - (b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
 - (c) A commission member shall serve until a replacement is appointed and qualified.
 - (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original appointment.
- (5)
 - (a) The commission shall annually elect a chair from its membership.
 - (b) The commission shall hold meetings as needed to carry out its duties. A meeting may be held on the call of the chair or a majority of the commission members.
 - (c) Nine commission members constitute a quorum and, if a quorum exists, the action of a majority of commission members present constitutes the action of the commission.
- (6)
 - (a) A commission member who is not a legislator may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and

- (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (7) The department shall staff the commission.
- (8) The commission shall:
 - (a) promote coalitions and collaborative efforts to uphold and encourage a strong and healthy culture of strong and lasting marriages and stable families;
 - (b) contribute to greater awareness of the importance of marriage and leading to reduced divorce and unwed parenthood in the state;
 - (c) promote public policies that support marriage;
 - (d) promote programs and activities that educate individuals and couples on how to achieve strong, successful, and lasting marriages, including promoting and assisting in the offering of:
 - (i) events;
 - (ii) classes and services, including those designed to promote strong, healthy, and lasting marriages and prevent domestic violence;
 - (iii) marriage and relationship education conferences for the public and professionals; and
 - (iv) enrichment seminars;
 - (e) actively promote measures designed to maintain and strengthen marriage, family, and the relationships between husband and wife and parents and children; and
 - (f) support volunteerism and private financial contributions and grants in partnership with the commission and in support of the commission's purposes and activities for the benefit of the state as provided in this section.
- (9) Funding for the commission shall be as approved by the Legislature through annual appropriations and the added funding sought by the commission from private contributions and grants that support the duties of the commission described in Subsection (8).

Amended by Chapter 387, 2014 General Session