

1 **REPORTS TO HEALTH AND HUMAN**
2 **SERVICES**

3 2002 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Terry R. Spencer**

6 **This act modifies the Health Code, the State System of Public Education, the Human**
7 **Services Code, State Affairs in General, the Utah Criminal Code, and the Judicial Code by**
8 **eliminating requirements for reports to the Health and Human Services Interim Committee.**
9 **The act reduces the number of annual reports submitted to the committee from 34 reports**
10 **to 13 reports. The act makes technical amendments.**

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

- 13 **26-6-3.5**, as last amended by Chapter 13, Laws of Utah 1998
14 **26-9-212**, as last amended by Chapter 13, Laws of Utah 1998
15 **26-9d-10**, as last amended by Chapter 13, Laws of Utah 1998
16 **26-9e-11**, as last amended by Chapters 13 and 97, Laws of Utah 1998
17 **26-18-3.7**, as last amended by Chapter 1, Laws of Utah 2000
18 **26-18-305**, as last amended by Chapter 13, Laws of Utah 1998
19 **26-33a-104**, as last amended by Chapter 201, Laws of Utah 1996
20 **26-40-109**, as last amended by Chapter 53, Laws of Utah 2001
21 **53A-11-909**, as enacted by Chapter 25, Laws of Utah 1999
22 **53A-15-205**, as last amended by Chapter 5, Laws of Utah 2001, First Special Session
23 **62A-8-110.1**, as enacted by Chapter 106, Laws of Utah 1999
24 **62A-13-110**, as last amended by Chapter 13, Laws of Utah 1998
25 **63-25a-203**, as last amended by Chapter 270, Laws of Utah 1999
26 **63-75-7**, as last amended by Chapter 1, Laws of Utah 2000
27 **76-7-305.5**, as last amended by Chapter 13, Laws of Utah 1998



28 **78-3a-911**, as last amended by Chapter 244, Laws of Utah 2001

29 **78-3g-102**, as last amended by Chapter 1, Laws of Utah 2000

30 REPEALS:

31 **26-18-401**, as last amended by Chapter 53, Laws of Utah 2001

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

33 Section 1. Section **26-6-3.5** is amended to read:

34 **26-6-3.5. Reporting AIDS and HIV infection -- Anonymous testing.**

35 (1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome and
36 Human Immunodeficiency Virus infection, the department shall:

37 (a) require reporting of those conditions; and

38 (b) utilize contact tracing and other methods for "partner" identification and notification.

39 The department shall, by rule, define individuals who are considered "partners" for purposes of this
40 section.

41 (2) (a) The requirements of Subsection (1) do not apply to seroprevalence and other
42 epidemiological studies conducted by the department.

43 (b) The requirements of Subsection (1) do not apply to, and anonymity shall be provided
44 in, research studies conducted by universities or hospitals, under the authority of institutional
45 review boards if those studies are funded in whole or in part by research grants and if anonymity
46 is required in order to obtain the research grant or to carry out the research.

47 (3) For all purposes of this chapter, Acquired Immunodeficiency Syndrome and Human
48 Immunodeficiency Virus infection are considered communicable and infectious diseases.

49 (4) The department may establish or allow one site or agency within the state to provide
50 anonymous testing.

51 (a) The site or agency that provides anonymous testing shall maintain accurate records
52 regarding:

53 (i) the number of HIV positive individuals that it is able to contact or inform of their
54 condition;

55 (ii) the number of HIV positive individuals who receive extensive counseling;

56 (iii) how many HIV positive individuals provide verifiable information for partner
57 notification; and

58 (iv) how many cases in which partner notification is carried through.

59 (b) A statistical report of the information maintained under Subsection (4)(a) shall be
60 presented to the [~~Health and Human Services Interim Committee~~] executive director of the
61 department on an annual basis. The information collected under Subsection (4)(a) and the reports
62 required by this subsection shall be maintained and presented in such a way that no individual is
63 identifiable.

64 (c) If the information and reports indicate anonymous testing is not resulting in partner
65 notification, the department shall phase out the anonymous testing program allowed by this
66 [~~subsection~~] section.

67 Section 2. Section **26-9-212** is amended to read:

68 **26-9-212. Reporting.**

69 Annually on or before August 1, the committee shall submit a written report of its activities
70 under this part to the executive director of the department [~~and to the Health and Human Services~~
71 ~~Interim Committee~~]. The report shall include:

- 72 (1) the number and type of grant and scholarship recipients;
- 73 (2) the total amount of each grant and scholarship;
- 74 (3) the site at which each grant recipient is practicing;
- 75 (4) the site at which each scholarship recipient is practicing;
- 76 (5) the number of applications filed under this part within the preceding year; and
- 77 (6) the amount of administrative expenses incurred by the committee and by the
78 department to provide staff support during the preceding year in carrying out the provisions of this
79 part.

80 Section 3. Section **26-9d-10** is amended to read:

81 **26-9d-10. Reporting.**

82 Annually on or before August 1, the committee shall submit a written report of its activities
83 under this chapter to the executive director of the department [~~and to the Health and Human~~
84 ~~Services Interim Committee~~]. The report shall include:

- 85 (1) the number of grant and scholarship recipients;
- 86 (2) the total amount of each grant and scholarship;
- 87 (3) the nursing shortage area in which each grant recipient is practicing;
- 88 (4) the needed nursing specialty area in which each scholarship recipient is practicing;
- 89 (5) the number of scholarship recipients who are seeking graduate education pursuant to

90 the conditions of a scholarship awarded pursuant to this chapter;

91 (6) the number of applications filed under this chapter within the preceding year; and

92 (7) the amount of administrative expenses incurred by the committee and by the

93 department to provide staff support during the preceding year in carrying out the provisions of this

94 chapter.

95 Section 4. Section **26-9e-11** is amended to read:

96 **26-9e-11. Committee report.**

97 Annually on or before August 1, the committee shall submit a written report of its activities

98 under this chapter to the executive director of the department [~~and to the Health and Human~~

99 ~~Services Interim Committee~~]. The report shall include:

100 (1) the number and type of loan repayment grants and scholarships, and the areas of
101 practice of the recipients;

102 (2) the total amount of each award;

103 (3) the site at which each recipient is practicing;

104 (4) the number of applications filed under this chapter within the preceding year;

105 (5) the areas designated by the committee as medically underserved urban areas;

106 (6) the amount of administrative expenses incurred by the committee and by the

107 department to provide staff support during the preceding year in carrying out the provisions of this

108 chapter;

109 (7) an assessment of the needs in the designated medically underserved urban areas for

110 providers, and recruitment and retention programs;

111 (8) the plan for addressing the assessed needs in terms of recruitment and retention of

112 health care providers;

113 (9) the location and type of education program where each scholarship recipient is

114 receiving training;

115 (10) the location and professional activities of former award recipients, if known; and

116 (11) other information that the department considers beneficial or the committee requests

117 in evaluating the activities authorized under this chapter.

118 Section 5. Section **26-18-3.7** is amended to read:

119 **26-18-3.7. Prepaid health care delivery systems.**

120 (1) (a) Before July 1, 1996, the division shall submit to the Health Care Financing

121 Administration within the United States Department of Health and Human Services, an
122 amendment to the state's freedom of choice waiver. That amendment shall provide that the
123 following persons who are eligible for services under the state plan for medical assistance, who
124 reside in Salt Lake, Utah, Davis, or Weber counties, shall enroll in the recipient's choice of a health
125 care delivery system that meets the requirements of Subsection (2):

- 126 (i) by July 1, 1994, 40% of eligible persons;
- 127 (ii) by July 1, 1995, 65% of eligible persons; and
- 128 (iii) by July 1, 1996, 100% of eligible persons.

129 (b) The division may not enter into any agreements with mental health providers that
130 establish a prepaid capitated delivery system for mental health services that were not in existence
131 prior to July 1, 1993, until the application of the Utah Medicaid Hospital Provider Temporary
132 Assessment Act with regard to a specialty hospital as defined in Section 26-21-2 that may be
133 engaged exclusively in rendering psychiatric or other mental health treatment is repealed.

134 (c) The following are exempt from the requirements of Subsection (1)(a):

135 (i) persons who:

136 (A) receive medical assistance for the first time after July 1, 1996;

137 (B) have a mental illness, as that term is defined in Section 62A-12-202; and

138 (C) are receiving treatment for that mental illness. The division, when appropriate, shall
139 enroll these persons in a health care delivery system that meets the requirements of this section;

140 (ii) persons who are institutionalized in a facility designated by the division as a nursing
141 facility or an intermediate care facility for the mentally retarded; or

142 (iii) persons with a health condition that requires specialized medical treatment that is not
143 available from a health care delivery system that meets the requirements of this section.

144 (2) In submitting the amendment to the state's freedom of choice waiver under Subsection
145 (1), the division shall ensure that the proposed health care delivery systems have at least the
146 following characteristics, so that the system:

147 (a) is financially at risk, for a specified continuum of health care services, for a defined
148 population, and has incentives to balance the patient's need for care against the need for cost
149 control;

150 (b) follows utilization and quality controls developed by the department;

151 (c) is encouraged to promote the health of patients through primary and preventive care;

152 (d) coordinates care to avoid unnecessary duplication and services;

153 (e) conserves health care resources; and

154 (f) if permissible under the waiver, utilizes private insurance plans including health
155 maintenance organizations and other private health care delivery organizations.

156 (3) Subsection (2) does not prevent the division from contracting with other health care
157 delivery organizations if the division determines that it is advantageous to do so.

158 (4) Health care delivery systems that meet the requirements of this section may provide
159 all services otherwise available under the state plan for medical assistance, except prescribed
160 drugs.

161 (5) The division shall periodically report to the [~~Health and Human Services Interim~~
162 ~~Committee~~] executive director of the department regarding the development and implementation
163 of the amendment to the state's freedom of choice waiver required under this section.

164 Section 6. Section **26-18-305** is amended to read:

165 **26-18-305. Report on implementation.**

166 The department shall [~~report to the Health and Human Services Interim Committee by~~
167 ~~November 1, 1994, and every year thereafter~~] maintain an annual summary on the implementation
168 of the grant program for primary care services. The [~~report~~] summary shall include a description
169 of the scope and level of coverage provided to low-income persons by primary care grant programs
170 and by the medical assistance program established in Section 26-18-10 for the fiscal year. The
171 [~~report~~] summary shall also include recommendations to minimize the loss of revenue by hospitals
172 that serve a disproportionate share of persons under Section 26-18-10.

173 Section 7. Section **26-33a-104** is amended to read:

174 **26-33a-104. Purpose, powers, and duties of the committee.**

175 (1) The purpose of the committee is to direct a statewide effort to collect, analyze, and
176 distribute health care data to facilitate the promotion and accessibility of quality and cost-effective
177 health care and also to facilitate interaction among those with concern for health care issues.

178 (2) The committee shall:

179 (a) develop and adopt by rule, following public hearing and comment, a health data plan
180 that shall among its elements:

181 (i) identify the key health care issues, questions, and problems amenable to resolution or
182 improvement through better data, more extensive or careful analysis, or improved dissemination

183 of health data;

184 (ii) document existing health data activities in the state to collect, organize, or make
185 available types of data pertinent to the needs identified in Subsection (2)(a)(i);

186 (iii) describe and prioritize the actions suitable for the committee to take in response to the
187 needs identified in Subsection (2)(a)(i) in order to obtain or to facilitate the obtaining of needed
188 data, and to encourage improvements in existing data collection, interpretation, and reporting
189 activities, and indicate how those actions relate to the activities identified under Subsection
190 (2)(a)(ii);

191 (iv) detail the types of data needed for the committee's work, the intended data suppliers,
192 and the form in which such data are to be supplied, noting the consideration given to the potential
193 alternative sources and forms of such data and to the estimated cost to the individual suppliers as
194 well as to the department of acquiring these data in the proposed manner; the plan shall reasonably
195 demonstrate that the committee has attempted to maximize cost-effectiveness in the data
196 acquisition approaches selected;

197 (v) describe the types and methods of validation to be performed to assure data validity
198 and reliability;

199 (vi) explain the intended uses of and expected benefits to be derived from the data
200 specified in Subsection (2)(a)(iv), including the contemplated tabulation formats and analysis
201 methods; the benefits described must demonstrably relate to one or more of the following:
202 promoting quality health care, managing health care costs, or improving access to health care
203 services;

204 (vii) describe the expected processes for interpretation and analysis of the data flowing to
205 the committee; noting specifically the types of expertise and participation to be sought in those
206 processes; and

207 (viii) describe the types of reports to be made available by the committee and the intended
208 audiences and uses;

209 (b) have the authority to collect, validate, analyze, and present health data in accordance
210 with the plan while protecting individual privacy through the use of a control number as the health
211 data identifier;

212 (c) evaluate existing identification coding methods and, if necessary, require by rule that
213 health data suppliers use a uniform system for identification of patients, health care facilities, and

214 health care providers on health data they submit under this chapter;

215 (d) report biennially to the governor, and when requested, to the Legislature on how the
216 committee is meeting its responsibilities under this chapter; and

217 (e) advise, consult, contract, and cooperate with any corporation, association, or other
218 entity for the collection, analysis, processing, or reporting of health data identified by control
219 number only in accordance with the plan.

220 (3) The committee may adopt rules to carry out the provisions of this chapter in accordance
221 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

222 (4) Except for data collection, analysis, and validation functions described in this section,
223 nothing in this chapter shall be construed to authorize or permit the committee to perform
224 regulatory functions which are delegated by law to other agencies of the state or federal
225 governments or to perform quality assurance or medical record audit functions that health care
226 facilities, health care providers, or third-party payors are required to conduct to comply with
227 federal or state law. The committee shall not recommend or determine whether a health care
228 provider, health care facility, third-party payor, or self-funded employer is in compliance with
229 federal or state laws including but not limited to federal or state licensure, insurance,
230 reimbursement, tax, malpractice, or quality assurance statutes or common law.

231 (5) Nothing in this chapter shall be construed to require a data supplier to supply health
232 data identifying a patient by name or describing detail on a patient beyond that needed to achieve
233 the approved purposes included in the plan.

234 (6) No request for health data shall be made of health care providers and other data
235 suppliers until a plan for the use of such health data has been adopted.

236 (7) If a proposed request for health data imposes unreasonable costs on a data supplier, due
237 consideration shall be given by the committee to altering the request. If the request is not altered,
238 the committee shall pay the costs incurred by the data supplier associated with satisfying the
239 request that are demonstrated by the data supplier to be unreasonable.

240 (8) The committee does not have the authority to require any data supplier to submit fee
241 schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed
242 reimbursement arrangements, capitations, or other specific arrangements for reimbursement to a
243 health care provider.

244 (9) The committee shall not publish any health data which would disclose any of the

245 information described in Subsection (8).

246 (10) Nothing in Subsection (8) shall prevent the committee from requiring the submission
247 of health data on the reimbursements actually made to health care providers from any source of
248 payment, including consumers.

249 Section 8. Section **26-40-109** is amended to read:

250 **26-40-109. Evaluation.**

251 [(1)] The department shall develop performance measures and annually evaluate the
252 program's performance.

253 [~~(2) The department shall report annually on its evaluation to the Health and Human
254 Services Interim Committee of the Legislature before November 1.~~]

255 Section 9. Section **53A-11-909** is amended to read:

256 **53A-11-909. Alternative middle schools -- Purpose -- Implementation of program --
257 Components -- Report.**

258 (1) There is established an alternative middle schools program to improve the school
259 learning climate and help ensure safety for middle school students in the state's public education
260 system.

261 (2) For purposes of this section, "middle school students" are students age 11 to 15.

262 (3) Local school boards shall have overall responsibility for implementation of the
263 program, subject to the following considerations:

264 (a) that the FACT Council established in Title 63, Chapter 75, Families, Agencies, and
265 Communities Together for Children and Youth at Risk, and a designated steering committee of
266 persons with expertise in alternative middle school strategies shall be involved in collaborating the
267 program with other state and local agencies that provide services to youth at risk, who are middle
268 school students, and their families under Chapter 75;

269 (b) collaboration with SHOCAP, Serious Habitual Offender Comprehensive Action
270 Program, established under Title 63, Chapter 92, in those districts where SHOCAP has been
271 implemented; and

272 (c) recommendations for placement in the program may be made by:

273 (i) school administrators, after exhausting regular interventions under Title 53A, Chapter
274 11, Part 9, School Discipline and Conduct Plans;

275 (ii) the Juvenile Court;

276 (iii) state agencies and their local counterparts, such as the Division of Child And Family
277 Services, the Division of Youth Corrections, Mental Health, and local interagency councils
278 charged with implementing prevention and early intervention programs for children and youth at
279 risk; and

280 (iv) parents of middle school students, subject to their recommendations being channeled
281 through one of the entities listed in Subsections (3)(c)(i), (ii), and (iii).

282 (4) (a) The local school board or its designee shall have final approval authority over the
283 recommendations for placement in the program made under Subsection (3)(c).

284 (b) The final approval process shall include a screening and review process of all
285 recommendations and include input from parents, school personnel, and representatives of
286 agencies that are providing collaborative delivery services to the student under programs such as
287 those described in Section 63-75-6.

288 (5) The alternative middle schools program shall include the following components:

289 (a) (i) the school's location shall be as geographically close to the student's home as
290 resources for the program allow, with preference given to a school within the student's regular
291 school;

292 (ii) other options may include separate classrooms within the same building, extended
293 hours or after school hours, or off-site placement if the circumstances dictate and are what is
294 required to meet local needs;

295 (b) alternative schools must be established on the basis of a transitional setting structure
296 to prepare students to return to their regular classrooms as responsible, productive students;

297 (c) alternative middle school classrooms shall be small, with an ideal size of between 8-12
298 students, instructed by specially trained teachers, with particular consideration given to the
299 problems faced by rural schools in attracting and retaining qualified personnel;

300 (d) each student placed in an alternative school must have an individualized student
301 education and occupational plan that has been reviewed and approved by the student, the student's
302 parent or guardian, and a representative of the school;

303 (e) the school shall use an approach in dealing with students that is highly structured and
304 requires substantial parental involvement;

305 (f) its programs shall include state-approved curriculum, parent and family support
306 services, and sufficient clinical diagnosis, assessment, counseling, and treatment services to meet

307 the individual needs of students at the school;

308 (g) the school shall collaborate with local law enforcement agencies to be able to utilize
309 and expand upon the availability of resource officers; and

310 (h) the programs as related to each student must specify the intended outcomes and results
311 and the methods for measuring the accomplishment of results.

312 (6) (a) The Legislature shall provide an annual appropriation to the State Board of
313 Education to fund the alternative middle schools program established under this section.

314 (b) (i) School districts shall apply to the state board for participation under an RFP process,
315 developed by the board in consultation with the FACT Council or the steering committee referred
316 to in Subsection (3)(a).

317 (ii) The RFP process shall address the required components of an alternative middle
318 school, collaboration with other programs and entities dealing with middle school students at risk
319 and their families, and incentives to pool existing resources as a match for new monies
320 appropriated under the alternative middle schools program.

321 (7) (a) Each local school board that establishes an alternative middle school under this
322 section shall report on the school's success annually to the State Board of Education.

323 (b) The state board shall monitor each alternative middle school and make an annual
324 summary report of its findings, together with recommendations to modify, continue, or expand the
325 program, to the Legislative Education Interim Committee, [~~the Health and Human Services Interim~~
326 ~~Committee,~~] and the Judiciary Interim Committee prior to November 30.

327 Section 10. Section **53A-15-205** is amended to read:

328 **53A-15-205. Disability Determination Services Advisory Council -- Membership --**
329 **Duties -- Requirements for DDDS.**

330 (1) As used in this section, "council" means the Disability Determination Services
331 Advisory Council created in Subsection (2).

332 (2) There is created the Disability Determination Services Advisory Council to act as an
333 advisory council to the State Board of Education regarding the Division of Disability
334 Determination Services (DDDS) established under Chapter 24, Part 5.

335 (3) The council is composed of the following members:

336 (a) the administrator of DDDS;

337 (b) a representative of the United States Department of Health and Human Services, Social

338 Security Administration, appointed by the board; and

339 (c) nine persons, appointed by the board in accordance with Subsections (5) and (6), who
340 represent a cross section of:

- 341 (i) persons with disabilities;
- 342 (ii) advocates for persons with disabilities;
- 343 (iii) health care providers;
- 344 (iv) representatives of allied state and local agencies; and
- 345 (v) representatives of the general public.

346 (4) The members appointed under Subsections (3)(a) and (3)(b) serve as nonvoting
347 members of the council.

348 (5) In appointing the members described in Subsection (3)(c), the board shall:

349 (a) solicit nominations from organizations and agencies that represent the interests of
350 members described in that subsection; and

351 (b) make every effort to create a balance in terms of geography, sex, race, ethnicity, and
352 type of both mental and physical disabilities.

353 (6) In making initial appointments of members described in Subsection (3)(c), the board
354 shall appoint three members for two-year terms, three members for four-year terms, and three
355 members for six-year terms. All subsequent appointments are for four years. The board shall fill
356 any vacancy that occurs on the council for any reason by appointing a person for the unexpired
357 term of the vacated member. Council members are eligible for one reappointment and serve until
358 their successors are appointed.

359 (7) Five voting members of the council constitute a quorum. The action of a majority of
360 a quorum represents the action of the council.

361 (8) Members of the council serve without compensation but may be reimbursed for
362 expenses incurred in the performance of their official duties.

363 (9) (a) The council shall annually elect a chairperson from among the membership
364 described, and shall adopt bylaws governing its activities.

365 (b) The chairperson shall set the meeting agenda.

366 (10) The council shall:

367 (a) advise DDDS and the Social Security Administration regarding its practices and
368 policies on the determination of claims for social security disability benefits;

369 (b) participate in the development of new internal practices and procedures of DDDS and
370 policies of the Social Security Administration regarding the evaluation of disability claims;

371 (c) recommend changes to practices and policies to ensure that DDDS is responsive to
372 disabled individuals;

373 (d) review the DDDS budget to ensure that it is adequate to effectively evaluate disability
374 claims and to meet the needs of persons with disabilities who have claims pending with DDDS;
375 and

376 (e) review and recommend changes to policies and practices of allied state and federal
377 agencies, health care providers, and private community organizations.

378 (11) The council shall annually report to the board, the governor, and the Legislative
379 Education [~~and Health and Human Services~~] Interim [~~Committees~~] Committee regarding its
380 activities.

381 (12) (a) To assist the council in its duties, DDDS shall provide the necessary staff
382 assistance to enable the council to make timely and effective recommendations.

383 (b) Staff assistance may include:

384 (i) distributing meeting agendas;

385 (ii) advising the chairpersons of the council regarding relevant items for council
386 discussion; and

387 (iii) providing reports, documents, budgets, memorandums, statutes, and regulations
388 regarding the management of DDDS.

389 (c) Staff assistance shall include maintaining minutes.

390 Section 11. Section **62A-8-110.1** is amended to read:

391 **62A-8-110.1. Responsibilities of the Division of Substance Abuse.**

392 (1) It is the responsibility of the division to assure that the requirements of this part are met
393 and applied uniformly by local substance abuse authorities across the state.

394 (2) Since it is the division's responsibility to contract with, review, approve, and oversee
395 local substance abuse authority plans, and to withhold funds from local substance abuse authorities
396 and public and private providers for contract noncompliance or misuse of public funds, the
397 division shall:

398 (a) require each local substance abuse authority to submit its plan to the division by May
399 1 of each year;

400 (b) conduct an annual program audit and review of each local substance abuse authority
401 in the state, and its contract provider; and

402 (c) provide a written report to the [~~Health and Human Services Interim Committee~~]
403 executive director of the department on July 1[, 1999, and] of each year [~~thereafter, and provide~~
404 ~~an oral report to that committee, as requested. That report~~], which report shall provide information
405 regarding:

406 (i) the annual audit and review;

407 (ii) the financial expenditures of each local substance abuse authority and its contract
408 provider;

409 (iii) the status of each local authority's and its contract provider's compliance with its plan,
410 state statutes, and with the provisions of the contract awarded; and

411 (iv) whether audit guidelines established pursuant to Section 62A-8-110.5 and Subsection
412 67-3-1(2)(o) provide the division with sufficient criteria and assurances of appropriate
413 expenditures of public funds.

414 (3) The annual audit and review described in Subsection (2)(b) shall, in addition to items
415 determined by the division to be necessary and appropriate, include a review and determination
416 regarding whether public funds allocated to local substance abuse authorities are consistent with
417 services rendered and outcomes reported by it or its contract provider, and whether each local
418 substance abuse authority is exercising sufficient oversight and control over public funds allocated
419 for substance abuse programs and services.

420 (4) The Legislature may refuse to appropriate funds to the division upon the division's
421 failure to comply with the provisions of this part.

422 Section 12. Section **62A-13-110** is amended to read:

423 **62A-13-110. Reporting.**

424 Annually on or before August 1, the committee shall submit a written report of its activities
425 under this chapter to the executive director of the department [~~and to the Health and Human~~
426 ~~Services Interim Committee of the Legislature~~]. The report shall include:

427 (1) the number and type of grant and scholarship recipients;

428 (2) the total amount of each grant and scholarship;

429 (3) the site at which each grant recipient is practicing;

430 (4) the site at which each scholarship recipient is practicing;

431 (5) the number of applications filed under this chapter within the preceding year; and
432 (6) the amount of administrative expenses incurred by the committee and by the
433 department to provide staff support during the preceding year in carrying out the provisions of this
434 chapter.

435 Section 13. Section **63-25a-203** is amended to read:

436 **63-25a-203. Duties of council.**

437 (1) The Utah Substance Abuse and Anti-Violence Coordinating Council shall:

438 (a) provide leadership and generate unity for Utah's ongoing efforts to combat substance
439 abuse and community violence;

440 (b) recommend and coordinate the creation, dissemination, and implementation of a
441 statewide substance abuse and anti-violence policy;

442 (c) facilitate planning for a balanced continuum of substance abuse and community
443 violence prevention, treatment, and justice services;

444 (d) promote collaboration and mutually beneficial public and private partnerships;

445 (e) coordinate recommendations made by the committees under Section 63-25a-206; and

446 (f) analyze and provide an objective assessment of all proposed legislation concerning
447 alcohol and other drug issues and community violence issues.

448 (2) The council shall meet quarterly or more frequently as determined necessary by the
449 chair.

450 (3) The council shall report its recommendations annually to the commission, governor,
451 [~~Legislature,~~] and judicial council.

452 Section 14. Section **63-75-7** is amended to read:

453 **63-75-7. Evaluation of programs -- Report to legislative interim committee.**

454 (1) At the end of each fiscal year, a final report shall be submitted to the council
455 summarizing the outcome of each project under this chapter.

456 (2) (a) The council may conduct an independent evaluation of any or all of the projects to
457 assess the status of services provided and identified outcomes.

458 (b) The council shall prepare and deliver a report on the program to the Legislature's
459 Education[~~, Health and Human Services,~~] and Judiciary Interim Committees prior to each annual
460 general session.

461 (c) The report shall include a recommendation by the council as to whether the program

462 should be terminated, continued, or expanded.

463 Section 15. Section **76-7-305.5** is amended to read:

464 **76-7-305.5. Requirements for printed materials and informational video -- Annual**
465 **report of Department of Health.**

466 (1) In order to insure that a woman's consent to an abortion is truly an informed consent,
467 the Department of Health shall publish printed materials and produce an informational video in
468 accordance with the requirements of this section. The department and each local health department
469 shall make those materials and a viewing of the video available at no cost to any person. The
470 printed material and the informational video shall be comprehensible and contain all of the
471 following:

472 (a) geographically indexed materials informing the woman of public and private services
473 and agencies available to assist her, financially and otherwise, through pregnancy, at childbirth,
474 and while the child is dependent, including services and supports available under Section
475 35A-3-308. Those materials shall contain a description of available adoption services, including
476 a comprehensive list of the names, addresses, and telephone numbers of public and private
477 agencies and private attorneys whose practice includes adoption, and explanations of possible
478 available financial aid during the adoption process. The information regarding adoption services
479 shall include the fact that private adoption is legal, and that the law permits adoptive parents to pay
480 the costs of prenatal care, childbirth, and neonatal care. The printed information and video shall
481 present adoption as a preferred and positive choice and alternative to abortion. The department
482 may, at its option, include printed materials that describe the availability of a toll-free 24-hour
483 telephone number that may be called in order to obtain, orally, the list and description of services,
484 agencies, and adoption attorneys in the locality of the caller;

485 (b) truthful and nonmisleading descriptions of the probable anatomical and physiological
486 characteristics of the unborn child at two-week gestational increments from fertilization to full
487 term, accompanied by pictures or video segments representing the development of an unborn child
488 at those gestational increments. The descriptions shall include information about brain and heart
489 function and the presence of external members and internal organs during the applicable stages of
490 development. Any pictures used shall contain the dimensions of the fetus and shall be realistic and
491 appropriate for that woman's stage of pregnancy. The materials shall be designed to convey
492 accurate scientific information about an unborn child at the various gestational ages, and to convey

493 the state's preference for childbirth over abortion;

494 (c) truthful, nonmisleading descriptions of abortion procedures used in current medical
495 practice at the various stages of growth of the unborn child, the medical risks commonly associated
496 with each procedure, including those related to subsequent childbearing, the consequences of each
497 procedure to the fetus at various stages of fetal development, the possible detrimental
498 psychological effects of abortion, and the medical risks associated with carrying a child to term;

499 (d) any relevant information on the possibility of an unborn child's survival at the
500 two-week gestational increments described in Subsection (1)(b);

501 (e) information on the availability of medical assistance benefits for prenatal care,
502 childbirth, and neonatal care;

503 (f) a statement conveying that it is unlawful for any person to coerce a woman to undergo
504 an abortion;

505 (g) a statement conveying that any physician who performs an abortion without obtaining
506 the woman's informed consent or without according her a private medical consultation in
507 accordance with the requirements of this section, may be liable to her for damages in a civil action
508 at law;

509 (h) a statement conveying that the state of Utah prefers childbirth over abortion; and

510 (i) information regarding the legal responsibility of the father to assist in child support,
511 even in instances where he has agreed to pay for an abortion, including a description of the services
512 available through the Office of Recovery Services, within the Department of Human Services, to
513 establish and collect that support.

514 (2) (a) The materials described in Subsection (1) shall be produced and printed in a way
515 that conveys the state's preference for childbirth over abortion.

516 (b) The printed material described in Subsection (1) shall be printed in a typeface large
517 enough to be clearly legible.

518 (3) Every facility in which abortions are performed shall immediately provide the printed
519 informed consent materials and a viewing of or a copy of the informational video described in
520 Subsection (1) to any patient or potential patient prior to the performance of an abortion, unless
521 the patient's attending or referring physician certifies in writing that he reasonably believes that
522 provision of the materials or video to that patient would result in a severely adverse effect on her
523 physical or mental health.

524 (4) The Department of Health shall produce a standardized videotape that may be used
525 statewide, containing all of the information described in Subsection (1), in accordance with the
526 requirements of that subsection and Subsection (2). In preparing the video, the department may
527 summarize and make reference to the printed comprehensive list of geographically indexed names
528 and services described in Subsection (1)(a). The videotape shall, in addition to the information
529 described in Subsection (1), show an ultrasound of the heart beat of an unborn child at three weeks
530 gestational age, at six to eight weeks gestational age, and each month thereafter, until 14 weeks
531 gestational age. That information shall be presented in a truthful, nonmisleading manner designed
532 to convey accurate scientific information, the state's preference for childbirth over abortion, and
533 the positive aspects of adoption.

534 (5) The Department of Health and local health departments shall provide ultrasounds in
535 accordance with the provisions of Subsection 76-7-305(1)(b), at no expense to the pregnant
536 woman.

537 (6) The Department of Health shall compile and report the following information annually,
538 preserving physician and patient anonymity:

539 (a) the total amount of informed consent material described in Subsection (1) that was
540 distributed;

541 (b) the number of women who obtained abortions in this state without receiving those
542 materials;

543 (c) the number of statements signed by attending physicians certifying to his opinion
544 regarding adverse effects on the patient under Subsection (3); and

545 (d) any other information pertaining to protecting the informed consent of women seeking
546 abortions.

547 ~~[(7) The Department of Health shall annually report to the Health and Human Services~~
548 ~~Interim Committee regarding the information described in Subsection (6), and provide a copy of~~
549 ~~the printed materials and the videotape produced in accordance with this section to that~~
550 ~~committee.]~~

551 Section 16. Section **78-3a-911** is amended to read:

552 **78-3a-911. Office of Guardian Ad Litem Director.**

553 (1) There is hereby created the Office of Guardian Ad Litem Director under the direct
554 supervision of the Judicial Council in accordance with Subsection 78-3-21(13).

555 (2) (a) The Judicial Council shall appoint one person to serve full time as the guardian ad
556 litem director for the state.

557 (b) The director shall be an attorney licensed to practice law in this state and selected on
558 the basis of:

559 (i) professional ability;

560 (ii) experience in abuse, neglect, and dependency proceedings;

561 (iii) familiarity with the role, purpose, and function of guardians ad litem in both juvenile
562 and district courts; and

563 (iv) ability to develop training curricula and reliable methods for data collection and
564 evaluation.

565 (c) The director shall be trained in the United States Department of Justice National Court
566 Appointed Special Advocate program prior to or immediately after his appointment.

567 (3) The guardian ad litem director shall:

568 (a) establish policy and procedure for the management of a statewide guardian ad litem
569 program;

570 (b) manage the guardian ad litem program to assure that minors receive qualified guardian
571 ad litem services in abuse, neglect, and dependency proceedings in accordance with state and
572 federal law and policy;

573 (c) develop standards for contracts of employment and contracts with independent
574 contractors, and employ or contract with attorneys licensed to practice law in this state, to act as
575 attorney guardians ad litem in accordance with Section 78-3a-912;

576 (d) develop and provide training programs for attorney guardians ad litem and volunteers
577 in accordance with the United States Department of Justice National Court Appointed Special
578 Advocates Association standards;

579 (e) update and develop the guardian ad litem manual, combining elements of the National
580 Court Appointed Special Advocates Association manual with specific information about the law
581 and policy of this state;

582 (f) develop and provide a library of materials for the continuing education of attorney
583 guardians ad litem and volunteers;

584 (g) educate court personnel regarding the role and function of guardians ad litem;

585 (h) develop needs assessment strategies, perform needs assessment surveys, and ensure

586 that guardian ad litem training programs correspond with actual and perceived needs for training;

587 (i) design and implement evaluation tools based on specific objectives targeted in the
588 needs assessments described in Subsection (3)(h);

589 (j) prepare and submit an annual report to the Judicial Council and the [~~Health and Human~~
590 ~~Services Interim Committee~~] Child Welfare Legislative Oversight Panel regarding the
591 development, policy, and management of the statewide guardian ad litem program, and the training
592 and evaluation of attorney guardians ad litem and volunteers;

593 (k) hire, train, and supervise investigators; and

594 (l) administer the program of private guardians ad litem established by Section 78-7-45.

595 (4) A contract of employment or independent contract described under Subsection (3)(c)
596 shall provide that attorney guardians ad litem in the second, third, and fourth judicial districts
597 devote their full time and attention to the role of attorney guardian ad litem, having no clients other
598 than the children whose interest they represent within the guardian ad litem program.

599 Section 17. Section **78-3g-102** is amended to read:

600 **78-3g-102. Foster Care Citizen Review Board Steering Committee -- Membership**
601 **-- Chair -- Compensation -- Duties.**

602 (1) There is created within state government the Foster Care Citizen Review Board
603 Steering Committee composed of the following members:

604 (a) a member of the Board of Child and Family Services, within the Department of Human
605 Services, appointed by the chair of that board;

606 (b) the director of the division, or his designee;

607 (c) a juvenile court judge, appointed by the presiding officer of the Judicial Council;

608 (d) a juvenile court administrator, appointed by the administrator of the courts;

609 (e) a representative of the Utah Foster Parents Association, appointed by the president of
610 that organization;

611 (f) a representative of a statewide advocacy organization for children, appointed by the
612 chair of the committee;

613 (g) a representative of an agency or organization that provides services to children who
614 have been adjudicated to be under the jurisdiction of the juvenile court, appointed by the chair of
615 the committee;

616 (h) the guardian ad litem director, appointed pursuant to Section 78-3a-911, or the

617 director's designee;

618 (i) the director or chief of the child protection unit within the Office of the Attorney
619 General, or his designee;

620 (j) one person from each region who is a member of a board, appointed by the chair of the
621 committee; and

622 (k) a private citizen, appointed by the chair of the committee.

623 (2) The persons described in Subsection (1) shall annually elect a chair of the committee
624 from among themselves.

625 (3) A majority of the members of the committee constitutes a quorum. The action of the
626 majority of a quorum represents the action of the committee.

627 (4) (a) Members of the committee who are not government employees shall receive no
628 compensation or benefits for their services, but may receive per diem and expenses incurred in the
629 performance of the member's official duties at the rates established by the Division of Finance
630 under Sections 63A-3-106 and 63A-3-107.

631 (b) State government officer and employee members who do not receive salary, per diem,
632 or expenses from their agency for their service may receive per diem and expenses incurred in the
633 performance of their official duties from the board at the rates established by the Division of
634 Finance under Sections 63A-3-106 and 63A-3-107.

635 (c) Local government members who do not receive salary, per diem, or expenses from the
636 entity that they represent for their service may receive per diem and expenses incurred in the
637 performance of their official duties at the rates established by the Division of Finance under
638 Sections 63A-3-106 and 63A-3-107.

639 (d) Members of the committee may decline to receive per diem and expenses for their
640 services.

641 (5) The committee shall:

642 (a) within appropriations from the Legislature, appoint members of boards in each juvenile
643 court district;

644 (b) supervise the recruitment, training, and retention of board members;

645 (c) supervise and evaluate the boards;

646 (d) establish and approve policies for the boards; and

647 (e) submit a report detailing the results of the boards to the ~~Legislative Health and Human~~

648 Services] Child Welfare Legislative Oversight Panel and Judiciary Interim [Committees]
649 Committee and the Board of Juvenile Court Judges, on or before December 31 of each year.

650 (6) (a) The Department of Human Services shall provide fiscal management services,
651 including payroll and accounting services, to the committee.

652 (b) Within appropriations from the Legislature, the committee may hire professional and
653 clerical staff as it considers necessary and appropriate.

654 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
655 committee may make rules necessary for:

656 (a) recruitment, appointment, and training of board members;

657 (b) supervision and evaluation of boards; and

658 (c) establishment of policy for boards.

659 (8) The committee may receive gifts, grants, devises, and donations. If the donor
660 designates a specific purpose or use for the gift, grant, devise, or donation, it shall be used solely
661 for that purpose. Undesignated gifts, grants, devises, and donations shall be used for foster care
662 citizen review boards in accordance with the requirements and provisions of this chapter.

663 Section 18. **Repealer.**

664 This act repeals:

665 Section **26-18-401, Medicaid waiver.**

Legislative Review Note
as of 7-19-01 9:48 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Health and Human Services Interim Committee recommended this bill.