

1 **LOCAL HUMAN SERVICES AUTHORITIES**

2 **AMENDMENTS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Scott K. Jenkins**

6 **This act modifies provisions relating to local substance abuse authorities and local mental**
7 **health authorities. The act renumbers those provisions and makes technical changes. § The**
7a **act contains a coordination clause. §**

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

9 AMENDS:

10 **62A-2-101**, as last amended by Chapter 300, Laws of Utah 2002

11 **62A-15-103**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
12 Special Session

13 **62A-15-105**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
14 Special Session

15 **62A-15-111**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
16 Special Session

17 **62A-15-202**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
18 Special Session

19 **62A-15-602**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
20 Special Session

21 **63A-9-701**, as last amended by Chapter 254, Laws of Utah 1998

22 ENACTS:

23 **17-43-101**, Utah Code Annotated 1953

24 **17-43-102**, Utah Code Annotated 1953

25 RENUMBERS AND AMENDS:

26 **17-43-201**, (Renumbered from 17A-3-701, as last amended by Chapter 8, Laws of Utah
27 2002, Fifth Special Session)



28 **17-43-202**, (Renumbered from 17A-3-702, as last amended by Chapter 181 and
29 renumbered and amended by Chapter 186, Laws of Utah 1990)

30 **17-43-203**, (Renumbered from 17A-3-703, as enacted by Chapter 106, Laws of Utah
31 1999)

32 **17-43-301**, (Renumbered from 17A-3-602, as last amended by Chapter 8, Laws of Utah
33 2002, Fifth Special Session)

34 **17-43-302**, (Renumbered from 17A-3-603, as enacted by Chapter 181, Laws of Utah
35 1990)

36 **17-43-303**, (Renumbered from 17A-3-603.5, as enacted by Chapter 106, Laws of Utah
37 1999)

38 **17-43-304**, (Renumbered from 17A-3-606, as last amended by Chapter 8, Laws of Utah
39 2002, Fifth Special Session)

40 **17-43-305**, (Renumbered from 17A-3-607, as last amended by Chapter 181 and
41 renumbered and amended by Chapter 186, Laws of Utah 1990)

42 **17-43-306**, (Renumbered from 17A-3-610, as last amended by Chapter 181 and
43 renumbered and amended by Chapter 186, Laws of Utah 1990)

44 **17-43-307**, (Renumbered from 17A-3-611, as renumbered and amended by Chapter
45 186, Laws of Utah 1990)

46 **17-43-308**, (Renumbered from 17A-3-601, as renumbered and amended by Chapter
47 186, Laws of Utah 1990)

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

49 Section 1. Section **17-43-101** is enacted to read:

50 **CHAPTER 43. LOCAL HUMAN SERVICES ACT**

51 **Part 1. General Provisions**

52 **17-43-101. Title.**

53 This chapter is known as the "Local Human Services Act."

54 Section 2. Section **17-43-102** is enacted to read:

55 **17-43-102. Definitions.**

56 As used in this chapter:

57 (1) "Board" means the Board of Substance Abuse and Mental Health created within the
58 Department of Human Services in Section 62A-1-105.

90 (b) ~~[A]~~ Each local substance abuse authority shall comply, and require compliance by
91 its contract provider, with all directives issued by the ~~[Department of Human Services]~~
92 department and the Department of Health regarding the use and expenditure of state and federal
93 funds received from those departments for the purpose of providing substance abuse programs
94 and services. The ~~[Department of Human Services]~~ department and Department of Health
95 shall ensure that those directives are not duplicative or conflicting, and shall consult and
96 coordinate with local substance abuse authorities with regard to programs and services.

97 (4) ~~[Local]~~ Each local substance abuse ~~[authorities]~~ authority shall:

98 (a) review and evaluate substance abuse prevention and treatment needs and services;

99 (b) annually prepare and submit ~~[a plan]~~ to the division for funding and service
100 delivery~~[- the plan shall include, but is not limited to,]~~ that includes primary prevention,
101 targeted prevention, early intervention, and treatment services;

102 (c) establish and maintain, either directly or by contract, programs licensed under Title
103 62A, Chapter 2, Licensure of Programs and Facilities;

104 (d) appoint directly or by contract a full or part time director for substance abuse
105 programs, and prescribe ~~[his]~~ the director's duties;

106 (e) provide input and comment on new and revised policies established by the ~~[state~~
107 ~~Board of Substance Abuse and Mental Health]~~ board;

108 (f) establish and require contract providers to establish administrative, clinical,
109 personnel, financial, and management policies regarding substance abuse services and
110 facilities, in accordance with the policies of the ~~[state Board of Substance Abuse and Mental~~
111 ~~Health]~~ board, and state and federal law;

112 (g) establish mechanisms allowing for direct citizen input;

113 (h) annually contract with the ~~[Division of Substance Abuse and Mental Health]~~
114 division to provide substance abuse programs and services in accordance with the provisions of
115 Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

116 (i) comply with all applicable state and federal statutes, policies, audit requirements,
117 contract requirements, and any directives resulting from those audits and contract requirements;

118 (j) promote or establish programs for the prevention of substance abuse within the
119 community setting through community-based prevention programs;

120 (k) provide funding equal to at least 20% of the state funds that it receives to fund

121 services described in the plan;

122 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
123 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts
124 Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and
125 Other Local Entities;

126 (m) for persons convicted of driving under the influence in violation of Subsection
127 41-6-44(2) or Section 41-6-44.6, conduct the following as defined in Section 41-6-44:

128 (i) a screening and assessment;

129 (ii) an educational series; and

130 (iii) substance abuse treatment; and

131 (n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to
132 supplement the cost of providing the services described in Subsection (4)(m).

133 (5) Before disbursing any public funds, each local substance abuse [~~authorities~~]
134 authority shall require that all entities that receive any public funds from [~~a~~] the local substance
135 abuse authority agree in writing that:

136 (a) the division may examine the entity's financial records;

137 (b) the county auditor may examine and audit the entity's financial records; and

138 (c) the entity will comply with the provisions of Subsection (3)(b).

139 (6) [~~Local~~] A local substance abuse [~~authorities~~] authority may receive property, grants,
140 gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse
141 services. If those gifts are conditioned upon their use for a specified service or program, they
142 shall be so used.

143 (7) (a) [~~For purposes of~~] As used in this section "public funds" means the same as that
144 term is defined in Section [~~17A-3-703~~] 17-43-203.

145 (b) Nothing in this section limits or prohibits an organization exempt under Section
146 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
147 financial arrangement that is otherwise lawful for that organization.

148 Section 4. Section **17-43-202**, which is renumbered from Section 17A-3-702 is
149 renumbered and amended to read:

150 [~~17A-3-702~~]. **17-43-202. Local substance abuse authorities --**

151 **Requirements prior to distributing public funds.**

152 (1) ~~[The]~~ Each local substance abuse authority shall award all public funds~~[-, by~~
153 ~~complying]~~ in compliance with:

154 (a) the requirements of Title 63, Chapter 56, Utah Procurement Code~~[-];~~ or ~~[by~~
155 ~~complying with]~~

156 (b) a county procurement ordinance that requires similar procurement practices.

157 (2) If all initial bids on the project are rejected, the authority shall publish a new
158 invitation to bid. If no satisfactory bid is received by the authority when the bids received from
159 the second invitation are opened, the authority may execute a contract without requiring
160 competitive bidding.

161 ~~[(3) (a) For purposes of this subsection, "governmental entity" means any political~~
162 ~~subdivision or institution of higher education of the state.]~~

163 ~~[(b) The]~~ (3) A local substance abuse authority need not comply with the procurement
164 provisions of this section when it disburses public funds to ~~[other governmental entities]~~
165 another political subdivision of the state or an institution of higher education of the state.

166 (4) ~~[Contracts]~~ Each contract awarded by a local substance abuse authority shall be for
167 a fixed amount and limited period. ~~[Contracts]~~ A contract may be modified due to changes in
168 available funding for the same contract purpose without competition.

169 Section 5. Section **17-43-203**, which is renumbered from Section 17A-3-703 is
170 renumbered and amended to read:

171 ~~[17A-3-703].~~ **17-43-203. Definition of "public funds" -- Responsibility for**
172 **oversight of public funds -- Substance abuse programs and services.**

173 (1) As used in this section, "public funds":

174 (a) means:

175 (i) federal ~~[monies]~~ money received from the ~~[Department of Human Services]~~
176 department or the Department of Health~~[-];~~ and

177 (ii) state ~~[monies]~~ money appropriated by the Legislature to the ~~[Department of Human~~
178 ~~Services]~~ department, the Department of Health, a county governing body, or a local substance
179 abuse authority for the purposes of providing substance abuse programs or services~~[- "Public~~
180 ~~funds"];~~ and

181 (b) includes ~~[those]~~ that federal and state ~~[monies that have]~~ money:

182 (i) even after the money has been transferred by a local substance abuse authority to a

183 private provider under an annual or otherwise ongoing contract to provide comprehensive
184 substance abuse programs or services for the local substance abuse authority[~~Those monies~~
185 ~~maintain the nature of "public funds"; and~~

186 (ii) while in the possession of the private [~~entity that has an annual or otherwise~~
187 ~~ongoing contract with a local substance abuse authority to provide comprehensive substance~~
188 ~~abuse programs or services for the local substance abuse authority]~~ provider.

189 (2) Each local substance abuse authority is responsible for oversight of all public funds
190 received by it, to determine that those public funds are utilized in accordance with federal and
191 state law, the rules and policies of the [~~Department of Human Services]~~ department and the
192 Department of Health, and the provisions of any contract between the local substance abuse
193 authority and the [~~Department of Human Services]~~ department, the Department of Health, or a
194 private provider. That oversight includes requiring that neither the contract provider, as
195 described in Subsection (1), nor any of its employees:

196 (a) violate any applicable federal or state criminal law;

197 (b) knowingly violate, on more than one occasion, any applicable rule or policy of the
198 [~~Department of Human Services]~~ department or Department of Health, or any provision of
199 contract between the local substance abuse authority and the [~~Department of Human Services]~~
200 department, the Department of Health, or the private provider;

201 (c) knowingly keep any false account or make any false entry or erasure in any account
202 of or relating to the public funds;

203 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating
204 to public funds;

205 (e) fail to ensure competent oversight for lawful disbursement of public funds;

206 (f) appropriate public funds for an unlawful use or for a use that is not in compliance
207 with contract provisions; or

208 (g) knowingly or intentionally use public funds unlawfully or in violation of a
209 governmental contract provision, or in violation of state policy.

210 (3) Nothing in this section limits or prohibits an organization exempt under Section
211 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
212 financial arrangement that is otherwise lawful for that organization.

213 (4) [~~A~~] Each local substance abuse authority that [~~knew~~] knows or reasonably should

214 ~~[have known]~~ know of any of the circumstances described in Subsection (2), and that fails or
 215 refuses to take timely corrective action in good faith shall, in addition to any other penalties
 216 provided by law, be required to make full and complete repayment to the state of all public
 217 funds improperly used or expended.

218 (5) Any public funds required to be repaid to the state by a local substance abuse
 219 authority ~~[pursuant to]~~ under Subsection (4), based upon the actions or failure of the contract
 220 provider, may be recovered by the local substance abuse authority from its contract provider, in
 221 addition to the local substance abuse authority's costs and attorney's fees.

222 Section 6. Section **17-43-301**, which is renumbered from Section 17A-3-602 is
 223 renumbered and amended to read:

224 **Part 3. Local Mental Health Authorities**

225 ~~[17A-3-602].~~ **17-43-301. Local mental health authorities --**

226 **Responsibilities.**

227 (1) ~~[All]~~ Each county legislative ~~[bodies in this state are]~~ body is a local mental health
 228 ~~[authorities]~~ authority. Within legislative appropriations and county matching funds required
 229 by this section, under the policy direction of the ~~[state Board of Substance Abuse and Mental~~
 230 ~~Health]~~ board and the administrative direction of the ~~[Division of Substance Abuse and Mental~~
 231 ~~Health within the Department of Human Services,]~~ division, each local mental health
 232 ~~[authorities]~~ authority shall provide mental health services to persons within ~~[their respective~~
 233 ~~counties]~~ the county.

234 (2) (a) Two or more counties may join to provide mental health prevention and
 235 treatment services.

236 ~~[(2)]~~ (b) The legislative bodies of counties joining to provide services may establish
 237 acceptable ways of apportioning the cost of mental health services. ~~[Any]~~

238 (c) An agreement for joint mental health services may:

239 (i) designate the treasurer of one of the participating counties as the custodian of
 240 moneys available for those joint services~~[-and];~~

241 (ii) provide that the designated treasurer, or other disbursing officer, may make
 242 payments from those moneys for such purposes upon audit of the appropriate auditing officer
 243 or officers representing the participating counties~~[-The agreement may]; and~~

244 (iii) provide for:

245 ~~[(a)]~~ (A) joint operation of services and facilities or for operation of services and
 246 facilities under contract by one participating local mental health authority for other
 247 participating local mental health authorities; and

248 ~~[(b)]~~ (B) allocation of appointments of members of the mental health advisory council
 249 between or among participating counties.

250 (3) (a) ~~[AH]~~ Each county legislative ~~[bodies]~~ body, as a local mental health ~~[authorities;~~
 251 ~~are]~~ authority, is accountable to the ~~[Department of Human Services]~~ department, the
 252 Department of Health, and the state with regard to the use of state and federal funds received
 253 from those departments for mental health services, regardless of whether the services are
 254 provided by a private contract provider.

255 (b) ~~[A]~~ Each local mental health authority shall comply, and require compliance by its
 256 contract provider, with all directives issued by the ~~[Department of Human Services]~~ department
 257 and the Department of Health regarding the use and expenditure of state and federal funds
 258 received from those departments for the purpose of providing mental health programs and
 259 services. The ~~[Department of Human Services]~~ department and Department of Health shall
 260 ensure that those directives are not duplicative or conflicting, and shall consult and coordinate
 261 with local mental health authorities with regard to programs and services.

262 (4) ~~[Local]~~ Each local mental health ~~[authorities]~~ authority shall:

263 (a) review and evaluate mental health needs and services;

264 (b) annually prepare and submit to the division a plan for mental health funding and
 265 service delivery~~[- The plan shall include]~~ that includes services for adults, youth, and children,
 266 including~~[- but not limited to, the following]:~~

267 (i) inpatient care and services;

268 (ii) residential care and services;

269 (iii) outpatient care and services;

270 (iv) 24-hour crisis care and services;

271 (v) psychotropic medication management;

272 (vi) psychosocial rehabilitation including vocational training and skills development;

273 (vii) case management;

274 (viii) community supports including in-home services, housing, family support
 275 services, and respite services; and

- 276 (ix) consultation and education services, including [~~but not limited to,~~] case
277 consultation, collaboration with other service agencies, public education, and public
278 information;
- 279 (c) establish and maintain, either directly or by contract, programs licensed under Title
280 62A, Chapter 2, Licensure of Programs and Facilities;
- 281 (d) appoint, directly or by contract, a full-time or part-time director for mental health
282 programs and prescribe [~~his~~] the director's duties;
- 283 (e) provide input and comment on new and revised policies established by the [~~state~~
284 ~~Board of Substance Abuse and Mental Health~~] board;
- 285 (f) establish and require contract providers to establish administrative, clinical,
286 personnel, financial, and management policies regarding mental health services and facilities,
287 in accordance with the policies of the [~~state Board of Substance Abuse and Mental Health~~]
288 board and state and federal law;
- 289 (g) establish mechanisms allowing for direct citizen input;
- 290 (h) annually contract with the [~~Division of Substance Abuse and Mental Health~~]
291 division to provide mental health programs and services in accordance with the provisions of
292 Title 62A, Chapter 15, Substance Abuse and Mental Health Act;
- 293 (i) comply with all applicable state and federal statutes, policies, audit requirements,
294 contract requirements, and any directives resulting from those audits and contract requirements;
- 295 (j) provide funding equal to at least 20% of the state funds that it receives to fund
296 services described in the plan; and
- 297 (k) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
298 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts
299 Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and
300 Other Local Entities.
- 301 (5) Before disbursing any public funds, each local mental health [~~authorities~~] authority
302 shall require that all entities that receive any public funds from a local mental health authority
303 agree in writing that:
- 304 (a) the division may examine the entity's financial records;
- 305 (b) the county auditor may examine and audit the entity's financial records; and
- 306 (c) the entity will comply with the provisions of Subsection (3)(b).

307 (6) ~~[Local]~~ A local mental health ~~[authorities]~~ authority may receive property, grants,
 308 gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health
 309 services. If those gifts are conditioned upon their use for a specified service or program, they
 310 shall be so used.

311 (7) (a) For purposes of this section "public funds" means the same as that term is
 312 defined in Section ~~[17A-3-603.5]~~ 17-43-303.

313 (b) Nothing in this section limits or prohibits an organization exempt under Section
 314 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
 315 financial arrangement that is otherwise lawful for that organization.

316 Section 7. Section **17-43-302**, which is renumbered from Section 17A-3-603 is
 317 renumbered and amended to read:

318 ~~[17A-3-603]~~. **17-43-302. Local mental health authorities -- Requirements**
 319 **prior to distributing public funds.**

320 (1) ~~[The]~~ Each local mental health authority shall award all public funds by complying
 321 with the requirements of Title 63, Chapter 56, Utah Procurement Code, or by complying with a
 322 county procurement ordinance which requires similar procurement practices.

323 (2) If all initial bids on the project are rejected, the authority shall publish a new
 324 invitation to bid in the manner specified in this ~~[subsection]~~ section. If no satisfactory bid is
 325 received by the authority when the bids received from the second invitation are opened, the
 326 authority may execute a contract without requiring competitive bidding.

327 ~~[(3)(a) For purposes of this subsection, "governmental entity" means any political~~
 328 ~~subdivision or institution of higher education of the state.]~~

329 ~~[(b)]~~ (3) The local mental health authority need not comply with the procurement
 330 provisions of this section when it disburses public funds to ~~[other governmental entities]~~
 331 another political subdivision of the state or an institution of higher education of the state.

332 (4) ~~[Contracts]~~ Each contract awarded by a local mental health authority shall be for a
 333 fixed amount and limited period. ~~[Contracts]~~ A contract may be modified due to changes in
 334 available funding for the same contract purpose without competition.

335 Section 8. Section **17-43-303**, which is renumbered from Section 17A-3-603.5 is
 336 renumbered and amended to read:

337 ~~[17A-3-603.5]~~. **17-43-303. Definition of "public funds" -- Responsibility for**

338 **oversight of public funds -- Mental health programs and services.**

339 (1) As used in this section, "public funds":

340 (a) means:

341 (i) federal [~~monies~~] money received from the [~~Department of Human Services~~]342 department or the Department of Health[;]; and343 (ii) state [~~monies~~] money appropriated by the Legislature to the [~~Department of Human~~344 ~~Services~~] department, the Department of Health, a county governing body, or a local mental345 health authority for the purposes of providing mental health programs or services[. "~~Public~~346 ~~funds~~"; and347 (b) includes [~~those~~] that federal and state [~~monies that have~~] money:348 (i) even after the money has been transferred by a local mental health authority to a

349 private provider under an annual or otherwise ongoing contract to provide comprehensive

350 mental health programs or services for the local mental health authority[. "~~Those monies~~351 ~~maintain the nature of "public funds"~~"; and352 (ii) while in the possession of the private [~~entity that has an annual or otherwise~~353 ~~ongoing contract with a local mental health authority to provide comprehensive mental health~~354 ~~programs or services for the local mental health authority~~] provider.

355 (2) Each local mental health authority is responsible for oversight of all public funds

356 received by it, to determine that those public funds are utilized in accordance with federal and

357 state law, the rules and policies of the [~~Department of Human Services~~] department and the

358 Department of Health, and the provisions of any contract between the local mental health

359 authority and the [~~Department of Human Services~~] department, the Department of Health, or a

360 private provider. That oversight includes requiring that neither the contract provider, as

361 described in Subsection (1), nor any of its employees:

362 (a) violate any applicable federal or state criminal law;

363 (b) knowingly violate, on more than one occasion, any applicable rule or policy of the

364 [~~Department of Human Services~~] department or Department of Health, or any provision of365 contract between the local mental health authority and the [~~Department of Human Services~~]366 department, the Department of Health, or the private provider;

367 (c) knowingly keep any false account or make any false entry or erasure in any account

368 of or relating to the public funds;

369 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating
370 to public funds;

371 (e) fail to ensure competent oversight for lawful disbursement of public funds;

372 (f) appropriate public funds for an unlawful use or for a use that is not in compliance
373 with contract provisions; or

374 (g) knowingly or intentionally use public funds unlawfully or in violation of a
375 governmental contract provision, or in violation of state policy.

376 (3) Nothing in this section limits or prohibits an organization exempt under Section
377 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
378 financial arrangement that is otherwise lawful for that organization.

379 (4) A local mental health authority that knew or reasonably should have known of any
380 of the circumstances described in Subsection (2), and that fails or refuses to take timely
381 corrective action in good faith shall, in addition to any other penalties provided by law, be
382 required to make full and complete repayment to the state of all public funds improperly used
383 or expended.

384 (5) Any public funds required to be repaid to the state by a local mental health
385 authority pursuant to Subsection (4), based upon the actions or failure of the contract provider,
386 may be recovered by the local mental health authority from its contract provider, in addition to
387 the local mental health authority's costs and attorney's fees.

388 Section 9. Section **17-43-304**, which is renumbered from Section 17A-3-606 is
389 renumbered and amended to read:

390 ~~[17A-3-606].~~ **17-43-304. Contracts for mental health services provided by**
391 **local mental health authorities.**

392 ~~[Where]~~ If a local mental health authority has established a plan to provide services
393 authorized by this part, and those services meet standards fixed by rules of the board, the local
394 mental health authority may enter into a contract with the ~~[Division of Substance Abuse and~~
395 ~~Mental Health]~~ division for those services to be furnished by that local mental health authority
396 for an agreed compensation to be paid by the division.

397 Section 10. Section **17-43-305**, which is renumbered from Section 17A-3-607 is
398 renumbered and amended to read:

399 ~~[17A-3-607].~~ **17-43-305. Responsibility for cost of services provided by**

400 **local mental health authority.**

401 ~~[Whenever]~~ If a local mental health authority, through its designated provider, provides
 402 any service described in Subsection ~~[17A-3-602]~~ 17-43-301(3)(b) to a person who resides
 403 within the jurisdiction of another local mental health authority, the local mental health
 404 authority in whose jurisdiction the person resides is responsible for the cost of that service if its
 405 designated provider has authorized the provision of that service.

406 Section 11. Section **17-43-306**, which is renumbered from Section 17A-3-610 is
 407 renumbered and amended to read:

408 ~~[17A-3-610].~~ **17-43-306. Authority to receive funds.**

409 ~~[Local]~~ A local mental health ~~[authorities,]~~ authority and ~~[entities]~~ an entity that
 410 ~~[contract]~~ contracts with ~~[those authorities]~~ a local mental health authority to provide mental
 411 health services, may receive funds made available by federal, state, or local health, mental
 412 health, education, welfare, or other agencies.

413 Section 12. Section **17-43-307**, which is renumbered from Section 17A-3-611 is
 414 renumbered and amended to read:

415 ~~[17A-3-611].~~ **17-43-307. Specified treatments prohibited -- Criminal**
 416 **penalties.**

417 (1) It is a misdemeanor to give shock treatment, lobotomy, or surgery to anyone
 418 without the written consent of ~~[his]~~ the person's next of kin or legal guardian. Services
 419 provided under this part are governed by ~~[the]~~ Title 58, Chapter 67, Utah Medical Practice Act.

420 (2) It is a felony to give psychiatric treatment, nonvocational mental health counseling,
 421 case-finding testing, psychoanalysis, drugs, shock treatment, lobotomy, or surgery to any
 422 individual for the purpose of changing his concept of, belief about, or faith in God.

423 Section 13. Section **17-43-308**, which is renumbered from Section 17A-3-601 is
 424 renumbered and amended to read:

425 ~~[17A-3-601].~~ **17-43-308. Local mental health advisory councils -- Powers**
 426 **and responsibilities.**

427 ~~[Local mental health advisory councils may be established throughout the state. Their~~
 428 ~~composition, purposes, duties, powers, and reimbursement shall be as follows:]~~

429 ~~[(1) they may be established in each county, either separately or in conjunction with~~
 430 ~~other counties;]~~

431 (1) A county legislative body may, separately or in conjunction with one or more other
 432 counties, establish a local mental health advisory council.

433 (2) Mental health advisory council members shall be appointed by their respective
 434 county ~~[commissions]~~ legislative bodies. Initially one-fourth of the members shall be
 435 appointed for one year, one-fourth for two years, one-fourth for three years, and one-fourth for
 436 four years. After the initial appointment, the term of each member shall be for four years.
 437 Vacancies shall be filled in the same manner as for unexpired terms. Council members may be
 438 removed for cause[;].

439 (3) ~~[they]~~ Each mental health advisory council shall be responsible and advisory to
 440 local mental health authorities in planning, organizing, and operating community mental health
 441 programs[;].

442 (4) Council members shall be selected from persons representative of interested groups
 443 in the community, including, ~~[where]~~ if possible[;].

444 (a) an officer or employee of the school district within the city or county;

445 (b) one or more persons familiar with problems in mental health, as these are involved
 446 in proceedings in criminal, domestic, or juvenile courts;

447 (c) one or more members of voluntary health, welfare, or mental health associations or
 448 agencies; and

449 (d) at least one person licensed in this state to practice medicine and surgery in all their
 450 branches and engaged in the private practice of medicine[;].

451 (5) Council members may be reimbursed for actual and necessary expenses incurred in
 452 the performance of official duties, from funds made available to local mental health
 453 authorities~~[; and]~~.

454 ~~[councils]~~ Each mental health advisory council shall be ~~[agencies]~~ an agent of the
 455 local mental health ~~[authorities]~~ authority, and ~~[are]~~ is subject to laws and requirements relating
 456 to ~~[those authorities]~~ the local mental health authority.

457 Section 14. Section **62A-2-101** is amended to read:

458 **62A-2-101. Definitions.**

459 As used in this chapter:

460 (1) "Adult day care" means continuous care and supervision for three or more adults
 461 for at least four but less than 24 hours a day, that meets the needs of functionally impaired

462 adults through a comprehensive program that provides a variety of health, social, recreational,
463 and related support services in a protective setting.

464 (2) "Child" means a person under 18 years of age.

465 (3) "Child placing" means receiving, accepting, or providing custody or care for any
466 child under 18 years of age, temporarily or permanently, for the purpose of:

467 (a) finding a person to adopt the child;

468 (b) placing the child temporarily or permanently in a home for adoption; or

469 (c) foster home placement.

470 (4) "Client" means an individual who receives or has received services from a human
471 services licensee under this chapter.

472 (5) "Day treatment" means specialized treatment for less than 24 hours a day for four or
473 more persons who are unrelated to the owner or provider and who have emotional,
474 psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical
475 dependencies. Day treatment is provided in lieu of, or in coordination with, a more restrictive
476 residential or inpatient environment or service.

477 (6) "Department" means the Department of Human Services.

478 (7) "Direct access" means that an individual has, or likely will have, contact with or
479 access to a child or vulnerable adult that provides the individual with an opportunity for
480 personal communication or touch.

481 (8) "Director" means the director of the Office of Licensing.

482 (9) "Domestic violence treatment program" means a nonresidential program designed
483 to provide psychological treatment and educational services to perpetrators and victims of
484 domestic violence.

485 (10) "Elder adult" means a person 65 years of age or older.

486 (11) "Executive director" means the executive director of the department.

487 (12) "Human services licensee" or "licensee" means a youth program, resource family
488 home, or a facility or program, licensed by the department, that provides care, secure treatment,
489 inpatient treatment, residential treatment, residential support, adult day care, day treatment,
490 outpatient treatment, domestic violence treatment, child placing services, or social
491 detoxification.

492 (13) "Licensing board" means the Human Services Licensing Board.

493 (14) "Minor" has the same meaning as "child."

494 (15) "Office" means the Office of Licensing within the Department of Human Services.

495 (16) "Outpatient treatment" means individual, family, or group therapy or counseling
496 designed to improve and enhance social or psychological functioning for those whose physical
497 and emotional status allows them to continue functioning in their usual living environment.

498 (17) (a) "Person associated with the licensee" means an owner, director, member of the
499 governing body, employee, provider of care, or volunteer of a human services licensee or of an
500 applicant to become a licensee.

501 (b) Notwithstanding Subsection (17)(a), "person associated with the licensee" does not
502 include an individual serving on either of the following bodies unless that individual has direct
503 access to children or vulnerable adults:

504 (i) a county governing body designated as a local mental health authority under Section
505 [~~17A-3-602~~] 17-43-301 or as a local substance abuse authority under Section [~~17A-3-701~~]
506 17-43-201; or

507 (ii) a board of an organization operating under a contract to provide comprehensive
508 mental health or substance abuse programs or services for the local mental health authority or
509 substance abuse authority.

510 (18) "Residential support" means arranging for or providing the necessities of life as a
511 protective service to individuals or families who are disabled or who are experiencing a
512 dislocation or emergency which prevents them from providing these services for themselves or
513 their families. Treatment is not a necessary component of residential support.

514 (19) "Residential treatment" means a 24-hour group living environment for four or
515 more individuals unrelated to the owner or provider that offers room or board and specialized
516 treatment, rehabilitation, or habilitation services for persons with emotional, psychological,
517 developmental, or behavioral dysfunctions, impairments, or chemical dependencies. In
518 residential treatment, individuals are assisted in acquiring the social and behavioral skills
519 necessary for living independently in the community.

520 (20) "Resource family home" means a home licensed to provide services to a child in
521 the custody of the state and includes a foster care home and a legal risk home.

522 (21) "Secure treatment" means 24-hour specialized residential treatment or care for
523 persons whose current functioning is such that they cannot live independently or in a less

524 restrictive environment. Secure treatment differs from residential treatment to the extent that it
525 requires intensive supervision, locked doors, and other security measures which are imposed on
526 residents with neither their consent nor control.

527 (22) "Social detoxification" means short-term residential services for persons who are
528 intoxicated, that are provided outside of a health care facility licensed under Title 26, Chapter
529 21, Health Care Facility Licensure and Inspection Act, and that include:

530 (a) room and board for persons who are unrelated to the owner or manager of the
531 facility;

532 (b) specialized rehabilitation to acquire sobriety; and

533 (c) aftercare services.

534 (23) "Unrelated persons" means persons other than parents, legal guardians,
535 grandparents, brothers, sisters, uncles, or aunts.

536 (24) "Vulnerable adult" means an elder adult or an adult who has a mental or physical
537 impairment that substantially affects the person's ability to:

538 (a) provide personal protection;

539 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

540 (c) obtain services necessary for health, safety, or welfare;

541 (d) carry out the activities of daily living;

542 (e) manage the adult's own resources; or

543 (f) comprehend the nature and consequences of remaining in a situation of abuse,
544 neglect, or exploitation.

545 (25) (a) "Youth program" means a nonresidential program, designed to provide
546 behavioral, substance abuse or mental health services to minors that:

547 (i) serves either adjudicated or nonadjudicated youth;

548 (ii) charges a fee for its services;

549 (iii) may or may not provide host homes or other arrangements for overnight
550 accommodation of the youth;

551 (iv) may or may not provide all or part of its services in the outdoors;

552 (v) may or may not limit or censor access to parents or guardians; and

553 (vi) prohibits or restricts a minor's ability to leave the program at any time of his own
554 free will.

555 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
556 Scouts, 4-H, and other such organizations.

557 Section 15. Section **62A-15-103** is amended to read:

558 **62A-15-103. Division -- Creation -- Responsibilities.**

559 (1) There is created the Division of Substance Abuse and Mental Health within the
560 department, under the administration and general supervision of the executive director, and,
561 with regard to its programs, under the policy direction of the board. The division is the
562 substance abuse authority and the mental health authority for this state.

563 (2) The division shall:

564 (a) (i) educate the general public regarding the nature and consequences of substance
565 abuse by promoting school and community-based prevention programs;

566 (ii) render support and assistance to public schools through approved school-based
567 substance abuse education programs aimed at prevention of substance abuse;

568 (iii) promote or establish programs for the prevention of substance abuse within the
569 community setting through community-based prevention programs;

570 (iv) cooperate and assist other organizations and private treatment centers for substance
571 abusers, by providing them with essential materials for furthering programs of prevention and
572 rehabilitation of actual and potential substance abusers; and

573 (v) promote or establish programs for education and certification of instructors to
574 educate persons convicted of driving under the influence of alcohol or drugs or driving with
575 any measurable controlled substance in the body;

576 (b) (i) collect and disseminate information pertaining to mental health; and

577 (ii) provide direction over the state hospital including approval of its budget,
578 administrative policy, and coordination of services with local service plans; and

579 (c) (i) consult and coordinate with local substance abuse authorities and local mental
580 health authorities regarding programs and services;

581 (ii) provide consultation and other assistance to public and private agencies and groups
582 working on substance abuse and mental health issues;

583 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
584 medical and social agencies, public health authorities, law enforcement agencies, education and
585 research organizations, and other related groups;

- 586 (iv) promote or conduct research on substance abuse and mental health issues, and
- 587 submit to the governor and the Legislature recommendations for changes in policy and
- 588 legislation;
- 589 (v) receive, distribute, and provide direction over public funds for substance abuse and
- 590 mental health services;
- 591 (vi) monitor and evaluate programs provided by local substance abuse authorities and
- 592 local mental health authorities;
- 593 (vii) examine expenditures of any local, state, and federal funds;
- 594 (viii) monitor the expenditure of public funds by:
- 595 (A) local substance abuse authorities;
- 596 (B) local mental health authorities; and
- 597 (C) in counties where they exist, the private contract provider that has an annual or
- 598 otherwise ongoing contract to provide comprehensive substance abuse or mental health
- 599 programs or services for the local substance abuse authority or local mental health authorities;
- 600 (ix) contract with local substance abuse authorities and local mental health authorities
- 601 to provide a comprehensive continuum of services in accordance with board and division
- 602 policy, contract provisions, and the local plan;
- 603 (x) contract with private and public entities for special statewide or nonclinical services
- 604 according to board and division policy;
- 605 (xi) review and approve each local substance abuse authority's plan and each local
- 606 mental health authority's plan in order to ensure:
- 607 (A) a statewide comprehensive continuum of substance abuse services;
- 608 (B) a statewide comprehensive continuum of mental health services; and
- 609 (C) appropriate expenditure of public funds;
- 610 (xii) review and make recommendations regarding each local substance abuse
- 611 authority's contract with its provider of substance abuse programs and services and each local
- 612 mental health authority's contract with its provider of mental health programs and services to
- 613 ensure compliance with state and federal law and policy;
- 614 (xiii) monitor and ensure compliance with board and division policy and contract
- 615 requirements; and
- 616 (xiv) withhold funds from local substance abuse authorities, local mental health

617 authorities, and public and private providers for contract noncompliance, failure to comply
618 with division directives regarding the use of public funds, or for misuse of public funds or
619 monies.

620 (3) (a) The division may refuse to contract with and may pursue its legal remedies
621 against any local substance abuse authority or local mental health authority that fails, or has
622 failed, to expend public funds in accordance with state law, division policy, contract
623 provisions, or directives issued in accordance with state law.

624 (b) The division may withhold funds from a local substance abuse authority or local
625 mental health authority if the authority's contract with its provider of substance abuse or mental
626 health programs or services fails to comply with state and federal law or policy.

627 (4) Before reissuing or renewing a contract with any local substance abuse authority or
628 local mental health authority, the division shall review and determine whether the local
629 substance abuse authority or local mental health authority is complying with its oversight and
630 management responsibilities described in Sections [~~17A-3-601, 17A-3-603.5, 17A-3-701 and~~
631 ~~17A-3-703~~] 17-43-201, 17-43-203, 17-43-303, and 17-43-308. Nothing in this Subsection (4)
632 may be used as a defense to the responsibility and liability described in Section [~~17A-3-603.5~~]
633 17-43-303 and to the responsibility and liability described in Section [~~17A-3-703~~] 17-43-203.

634 (5) In carrying out its duties and responsibilities, the division may not duplicate
635 treatment or educational facilities that exist in other divisions or departments of the state, but
636 shall work in conjunction with those divisions and departments in rendering the treatment or
637 educational services that those divisions and departments are competent and able to provide.

638 (6) (a) The division may accept in the name of and on behalf of the state donations,
639 gifts, devises, or bequests of real or personal property or services to be used as specified by the
640 donor.

641 (b) Those donations, gifts, devises, or bequests shall be used by the division in
642 performing its powers and duties. Any money so obtained shall be considered private
643 nonlapsing funds and shall be deposited into an interest-bearing restricted special revenue fund
644 to be used by the division for substance abuse or mental health services. The state treasurer
645 may invest the fund and all interest shall remain with the fund.

646 (7) The division shall annually review with each local substance abuse authority and
647 each local mental health authority the authority's statutory and contract responsibilities

648 regarding:

- 649 (a) the use of public funds;
650 (b) oversight responsibilities regarding public funds; and
651 (c) governance of substance abuse and mental health programs and services.

652 Section 16. Section **62A-15-105** is amended to read:

653 **62A-15-105. Authority and responsibilities of board.**

654 The board is the policymaking body for the division and for programs funded with state
655 and federal moneys under Sections [~~17A-3-602, 17A-3-606, 17A-3-701~~] 17-43-201,
656 17-43-301, 17-43-304, and 62A-15-110. The board shall:

- 657 (1) in establishing policy, seek input from local substance abuse authorities, local
658 mental health authorities, consumers, providers, advocates, division staff, and other interested
659 parties as determined by the board;
- 660 (2) establish, by rule, minimum standards for local substance abuse authorities and local
661 mental health authorities;
- 662 (3) establish, by rule, procedures for developing its policies which ensure that local
663 substance abuse authorities and local mental health authorities are given opportunity to
664 comment and provide input on any new policy of the board or proposed changes in existing
665 policy of the board;
- 666 (4) provide a mechanism for review of its existing policy, and for consideration of
667 policy changes that are proposed by local substance abuse authorities or local mental health
668 authorities;
- 669 (5) develop program policies, standards, rules, and fee schedules for the division; and
670 (6) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
671 make rules approving the form and content of substance abuse treatment, educational series,
672 and screening and assessment that are described in Section 41-6-44.

673 Section 17. Section **62A-15-111** is amended to read:

674 **62A-15-111. Responsibility for cost of services provided by local substance abuse**
675 **or mental health authority.**

676 Whenever a local substance abuse authority or local mental health authority, through its
677 designated provider, provides any service described in Section [~~17A-3-602~~] 17-43-301 or
678 Subsection [~~17A-3-701~~] 17-43-201(3) to a person who resides within the jurisdiction of

679 another local authority, the local authority in whose jurisdiction the person resides is
680 responsible for the cost of that service if its designated provider has authorized the provision of
681 that service.

682 Section 18. Section **62A-15-202** is amended to read:

683 **62A-15-202. Definitions.**

684 As used in this part:

685 (1) "Juvenile substance abuse offender" means any juvenile found to come within the
686 provisions of Section 78-3a-104 for a drug or alcohol related offense, as designated by the
687 Board of Juvenile Court Judges.

688 (2) "Local substance abuse authority" means a county legislative body designated to
689 provide substance abuse services in accordance with Section [~~17A-3-701~~] 17-43-201.

690 (3) "Teen substance abuse school" means any school established by the local substance
691 abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an
692 educational, interpersonal, skill-building experience for juvenile substance abuse offenders and
693 their parents or legal guardians.

694 Section 19. Section **62A-15-602** is amended to read:

695 **62A-15-602. Definitions.**

696 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of
697 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah
698 Forensic Mental Health Facility, and Part 10, Declaration for Mental Health Treatment:

699 (1) "Adult" means a person 18 years of age or older.

700 (2) "Commitment to the custody of a local mental health authority" means that an adult
701 is committed to the custody of the local mental health authority that governs the mental health
702 catchment area in which the proposed patient resides or is found.

703 (3) "Designated examiner" means a licensed physician, preferably a psychiatrist,
704 designated by the division as specially qualified by training or experience in the diagnosis of
705 mental or related illness or another licensed mental health professional designated by the
706 division as specially qualified by training and at least five years' continual experience in the
707 treatment of mental or related illness. At least one designated examiner in any case shall be a
708 licensed physician. No person who is the applicant, or who signs the certification, under
709 Section 62A-15-631 may be a designated examiner in the same case.

710 (4) "Designee" means a physician who has responsibility for medical functions
711 including admission and discharge, an employee of a local mental health authority, or an
712 employee of an agency that has contracted with a local mental health authority to provide
713 mental health services under Section [~~17A-3-606~~] 17-43-304.

714 (5) "Institution" means a hospital, or a health facility licensed under the provisions of
715 Section 26-21-9.

716 (6) "Licensed physician" means an individual licensed under the laws of this state to
717 practice medicine, or a medical officer of the United States government while in this state in
718 the performance of official duties.

719 (7) "Local comprehensive community mental health center" means an agency or
720 organization that provides treatment and services to residents of a designated geographic area,
721 operated by or under contract with a local mental health authority, in compliance with state
722 standards for local comprehensive community mental health centers.

723 (8) "Mental illness" means a psychiatric disorder as defined by the current edition of
724 the Diagnostic and Statistical Manual of Mental Disorders published by the American
725 Psychiatric Association which substantially impairs a person's mental, emotional, behavioral,
726 or related functioning.

727 (9) "Mental health facility" means the Utah State Hospital or other facility that
728 provides mental health services under contract with the division, a local mental health
729 authority, or organization that contracts with a local mental health authority.

730 (10) "Mental health officer" means an individual who is designated by a local mental
731 health authority as qualified by training and experience in the recognition and identification of
732 mental illness, to interact with and transport persons to any mental health facility.

733 (11) "Patient" means an individual who has been temporarily placed in the custody of a
734 local mental health authority, or who has been committed to a local mental health authority
735 either voluntarily or by court order.

736 (12) "Treatment" means psychotherapy, medication, including the administration of
737 psychotropic medication, and other medical treatments that are generally accepted medical and
738 psychosocial interventions for the purpose of restoring the patient to an optimal level of
739 functioning in the least restrictive environment.

740 Section 20. Section **63A-9-701** is amended to read:

741 **63A-9-701. Subscription to motor pool by certain local government entities.**742 (1) The following local government entities may subscribe to the central motor pool
743 service provided by the division subject to the conditions established in Subsection (2):744 (a) local health departments as defined in Title 26A, Chapter 1, Part 1, Local Health
745 Department Act;746 (b) local substance abuse authorities as defined in Section [~~17A-3-701~~] 17-43-201;747 (c) local area agencies, as authorized by Section 62A-3-104, or their subcontractors
748 who are local governmental or public entities; and749 (d) local mental health authorities as defined in Section [~~17A-3-602~~] 17-43-301.750 (2) The local government entities outlined in Subsection (1) may subscribe to the
751 central motor pool service provided by the division only if:752 (a) the director of the local government entity determines it will result in substantial
753 cost savings or increased efficiency to the local government entity; and

754 (b) the central motor pool has sufficient vehicles available.

754a **§ Section 10. Coordination clause.**754b **IF THIS BILL AND H.B. 165, REVISOR'S STATUTE, BOTH PASS, IT IS THE INTENT OF THE**754c **LEGISLATURE THAT THE AMENDMENTS IN THIS BILL TO SECTION 17-43-304, AS RENUMBERED**754d **FROM SECTION 17A-3-606, SUPERCEDE THE AMENDMENTS TO SECTION 17A-3-606 IN H.B. 165. §****Legislative Review Note**

as of 12-11-02 5:39 PM

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

Office of Legislative Research and General Counsel**Interim Committee Note**

as of 12-12-02 4:12 PM

The Health and Human Services Interim Committee recommended this bill.

Mixed Membership Committee Note

as of 12-12-02 4:12 PM

The Funding of State and County Health and Human Services Task Force recommended this bill.

Membership:	8 legislators	2 non-legislators	
Legislative Vote:	7 voting for	0 voting against	1 absent

Fiscal Note
Bill Number SB0024

Local Human Services Authorities Amendments

06-Jan-03

4:12 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fisal impact.

Office of the Legislative Fiscal Analyst