

**COUNTY OVERSIGHT OF LOCAL MENTAL  
HEALTH AUTHORITIES**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Carlene M. Walker**

**This act modifies provisions related to Special Districts. The act clarifies that counties may jointly provide mental health services through an interlocal agreement. The act provides for the designation of officers for combined mental health authorities and for the adoption of policies for the combined authorities. The act provides for a contract provider's accountability to the Department of Human Services and expands the records that a contract provider is required to make available for inspection and expands those who may inspect those records. The act expands mental health services to include those for incarcerated persons. The act modifies a local mental health authority's oversight responsibility over contract providers and their employees. The act provides a coordination clause.**

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

AMENDS:

**17A-3-602**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

**17A-3-603.5**, as enacted by Chapter 106, Laws of Utah 1999

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

Section 1. Section **17A-3-602** is amended to read:

**17A-3-602. Local mental health authorities -- Responsibilities.**

(1) ~~[AH] Each county legislative [bodies in this state are]~~ body is a local mental health ~~[authorities]~~ authority. Within legislative appropriations and county matching funds required by this section, under the policy direction of the ~~[state Board of Substance Abuse and Mental Health]~~ board and the administrative direction of the ~~[Division of Substance Abuse and Mental Health within the Department of Human Services;]~~ division, each local mental health



28 ~~[authorities]~~ authority shall provide mental health services to persons within ~~[their respective~~  
29 ~~counties]~~ the county. ~~[Two]~~

30 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
31 Cooperation Act, two or more counties may join to provide mental health prevention and  
32 treatment services.

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

35 (c) Each agreement for joint mental health services ~~[may]~~ shall:

36 (i) (A) designate the treasurer of one of the participating counties as the treasurer for  
37 the combined mental health authorities and as the custodian of moneys available for ~~[those]~~ the  
38 joint services; and

39 (B) provide that the designated treasurer, or other disbursing officer authorized by the  
40 treasurer, may make payments from ~~[those]~~ the moneys available for ~~[such purposes]~~ the joint  
41 services upon audit of the appropriate auditing officer or officers representing the participating  
42 counties~~[-The]~~;

43 (ii) provide for the appointment of a county auditor of one of the participating counties  
44 as the designated auditing officer for the combined mental health authorities;

45 (iii) (A) provide for the appointment of the county or district attorney of one of the  
46 participating counties as the designated legal officer for the combined mental health  
47 authorities; and

48 (B) authorize the designated legal officer to request and receive the assistance of the  
49 county or district attorneys of the other participating counties in defending or prosecuting  
50 actions within their counties relating to the combined mental health authorities; and

51 (iv) provide for the adoption of management, clinical, financial, procurement,  
52 personnel, and administrative policies as already established by one of the participating  
53 counties or as approved by the legislative body of each participating county.

54 (d) An agreement for joint mental health services may provide for:

55 ~~[(a)]~~ (i) joint operation of services and facilities or for operation of services and  
56 facilities under contract by one participating local mental health authority for other  
57 participating local mental health authorities; and

58 ~~[(b)]~~ (ii) allocation of appointments of members of the mental health advisory council

59 between or among participating counties.

60 (3) (a) ~~[A] Each~~ county legislative ~~[bodies]~~ body, as a local mental health ~~[authorities;~~  
61 ~~are]~~ authority § ~~[, and each contract provider to a local mental health authority,]~~ § is accountable to  
62 the ~~[Department of Human Services]~~ department, the Department of Health, and the state with  
63 regard to the use of state and federal funds received from those departments for mental health  
64 services, regardless of whether the services are provided by a private contract provider.

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

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

73 ~~[(a)]~~ (i) review and evaluate mental health needs and services, including mental health  
74 needs and services for persons incarcerated in a county jail or other county correctional facility;

75 ~~[(b)]~~ (ii) as provided in Subsection (4)(b), annually prepare and submit to the division  
76 a plan for mental health funding and service delivery~~[- The plan shall include services for~~  
77 ~~adults, youth, and children, including, but not limited to, the following:], either directly by the~~  
78 local mental health authority or by contract;

79 ~~[(i) inpatient care and services;]~~

80 ~~[(ii) residential care and services;]~~

81 ~~[(iii) outpatient care and services;]~~

82 ~~[(iv) 24-hour crisis care and services;]~~

83 ~~[(v) psychotropic medication management;]~~

84 ~~[(vi) psychosocial rehabilitation including vocational training and skills development;]~~

85 ~~[(vii) case management;]~~

86 ~~[(viii) community supports including in-home services, housing, family support~~  
87 ~~services, and respite services; and]~~

88 ~~[(ix) consultation and education services, including but not limited to, case~~  
89 ~~consultation, collaboration with other service agencies, public education, and public~~

90 information;]

91 ~~[(e)]~~ (iii) establish and maintain, either directly or by contract, programs licensed under  
92 Title 62A, Chapter 2, Licensure of Programs and Facilities;

93 ~~[(d)]~~ (iv) appoint, directly or by contract, a full-time or part-time director for mental  
94 health programs and prescribe ~~[his]~~ the director's duties;

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

97 ~~[(f)]~~ (vi) establish and require contract providers to establish administrative, clinical,  
98 personnel, financial, procurement, and management policies regarding mental health services  
99 and facilities, in accordance with the policies of the ~~[state Board of Substance Abuse and~~  
100 ~~Mental Health]~~ board and state and federal law;

101 ~~[(g)]~~ (vii) establish mechanisms allowing for direct citizen input;

102 ~~[(h)]~~ (viii) annually contract with the ~~[Division of Substance Abuse and Mental Health]~~  
103 division to provide mental health programs and services in accordance with the provisions of  
104 Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

105 ~~[(i)]~~ (ix) comply with all applicable state and federal statutes, policies, audit  
106 requirements, contract requirements, and any directives resulting from those audits and contract  
107 requirements;

108 ~~[(j)]~~ (x) provide funding equal to at least 20% of the state funds that it receives to fund  
109 services described in the plan; and

110 ~~[(k)]~~ (xi) comply with the requirements and procedures of Title 11, Chapter 13,  
111 Interlocal Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special  
112 Districts Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal  
113 Organizations and Other Local Entities.

114 (b) Each plan under Subsection (4)(a)(ii) shall include services for adults, youth, and  
115 children, including persons incarcerated in a county jail or other county correctional facility,  
116 including:

117 (i) inpatient care and services;

118 (ii) residential care and services;

119 (iii) outpatient care and services;

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

- 121 (v) psychotropic medication management;  
 122 (vi) psychosocial rehabilitation, including vocational training and skills development;  
 123 (vii) case management;  
 124 (viii) community supports, including in-home services, housing, family support  
 125 services, and respite services;  
 126 (ix) consultation and education services, including case consultation, collaboration  
 127 with other § COUNTY § service agencies, public education, and public information; and  
 128 (x) services to persons incarcerated in a county jail or other correctional facility.  
 129 (5) Before disbursing any public funds, each local mental health [~~authorities~~] authority  
 130 shall require that [~~all entities~~] each entity that [~~receive~~] receives any public funds from a local  
 131 mental health authority [~~agree~~] agrees in writing that:  
 132 (a) [~~the division may examine~~] the entity's financial records[;] and other records  
 133 relevant to the entity's performance of the services provided to the mental health authority shall  
 134 be subject to examination by:  
 135 (i) the division;  
 136 (ii) the local mental health authority director;  
 137 (iii) (A) the county treasurer and county or district attorney; or  
 138 (B) if two or more counties jointly provide mental health services under an agreement  
 139 under Subsection (2), the designated treasurer and the designated legal officer;  
 140 (iv) the county legislative body; and  
 141 (v) in a county with a county executive that is separate from the county legislative  
 142 body, the county executive;  
 143 (b) the county auditor may examine and audit the entity's financial and other records  
 144 relevant to the entity's performance of the services provided to the local mental health  
 145 authority; and  
 146 (c) the entity will comply with the provisions of Subsection (3)(b).  
 147 (6) [~~Local~~] A local mental health [~~authorities~~] authority may receive property, grants,  
 148 gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health  
 149 services. If those gifts are conditioned upon their use for a specified service or program, they  
 150 shall be so used.  
 151 (7) (a) For purposes of this section "public funds" means the same as that term is

152 defined in Section 17A-3-603.5.

153 (b) Nothing in this section limits or prohibits an organization exempt under Section  
154 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any  
155 financial arrangement that is otherwise lawful for that organization.

156 Section 2. Section **17A-3-603.5** is amended to read:

157 **17A-3-603.5. Definition of "public funds" -- Responsibility for oversight of public**  
158 **funds -- Mental health programs and services.**

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

160 (a) means:

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

163 (ii) state [~~monies~~] money appropriated by the Legislature to the [~~Department of Human~~  
164 ~~Services~~] department, the Department of Health, a county governing body, or a local mental  
165 health authority for the purposes of providing mental health programs or services[.—"Public  
166 funds"]; and

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

168 (i) even after the money has been transferred by a local mental health authority to a  
169 private provider under an annual or otherwise ongoing contract to provide comprehensive  
170 mental health programs or services for the local mental health authority[.—"Those monies  
171 maintain the nature of "public funds"]; and

172 (ii) while in the possession of the private [~~entity that has an annual or otherwise~~  
173 ~~ongoing contract with a local mental health authority to provide comprehensive mental health~~  
174 ~~programs or services for the local mental health authority]~~ provider.

175 (2) Each local mental health authority is responsible for oversight of all public funds  
176 received by it, to determine that those public funds are utilized in accordance with federal and  
177 state law, the rules and policies of the [~~Department of Human Services~~] department and the  
178 Department of Health, and the provisions of any contract between the local mental health  
179 authority and the [~~Department of Human Services~~] department, the Department of Health, or a  
180 private provider. That oversight includes requiring that neither the contract provider, as  
181 described in Subsection (1), nor any of its employees:

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

183 (b) knowingly violate~~[, on more than one occasion,]~~ any applicable rule or policy of the  
184 [~~Department of Human Services~~] department or Department of Health, or any provision of  
185 contract between the local mental health authority and the [~~Department of Human Services~~]  
186 department, the Department of Health, or the private provider;

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

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

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

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

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

196 (3) Nothing in this section limits or prohibits an organization exempt under Section  
197 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any  
198 financial arrangement that is otherwise lawful for that organization.

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

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

208 **Section 3. Coordination clause.**

209 If this bill and S.B. 24, Local Human Services Authorities Amendments, both pass, it is  
210 the intent of the Legislature that the amendments in this bill to Sections 17A-3-602 and  
211 17A-3-603.5 supercede the amendments in S.B. 24 to those sections, except that:

212 (1) those sections, as amended in this bill, shall be renumbered as provided in S.B. 24;  
213 and

214            (2) the reference to Section 17A-3-603.5 in Subsection 17A-3-602(7)(a) of this bill  
215   shall be changed to Section 17-43-303.

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**Legislative Review Note**  
**as of 2-17-03 9:38 AM**

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

**Office of Legislative Research and General Counsel**



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**Fiscal Note**  
**Bill Number SB0191**

**County Oversight of Local Mental Health Authorities**

*18-Feb-03*

*5:09 PM*

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**State Impact**

Statute provides that any increases in services provided by this bill shall be handled within legislative appropriations.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**