

1 **COUNTY MENTAL HEALTH AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gene Davis**

5

LONG TITLE

6 **General Description:**

7 This bill amends provisions related to the Local Mental Health and Local Substance
8 Abuse Authority.
9

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ adds a representative of the legislative body of each participating county to the
13 advisory council; and
14 ▶ requires the county legislative body to approve the funding and service delivery plan
15 for the local authority.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **17-43-201**, as renumbered and amended by Chapter 22 and last amended by Chapter
23 262, Laws of Utah 2003

24 **17-43-301**, as renumbered and amended by Chapter 22 and last amended by Chapters
25 195 and 262, Laws of Utah 2003

26 **17-43-309**, as renumbered and amended by Chapter 22, Laws of Utah 2003
27



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

29 Section 1. Section **17-43-201** is amended to read:

30 **17-43-201. Local substance abuse authorities -- Responsibilities.**

31 (1) (a) (i) In each county operating under a county executive-council form of
32 government under Section 17-52-504, the county ~~§ [executive]~~ **LEGISLATIVE BODY §** is the local
32a substance abuse

33 authority ~~§~~ **PROVIDED HOWEVER THAT ANY CONTRACT FOR PLAN SERVICES SHALL BE**
33a **ADMINISTERED BY THE COUNTY EXECUTIVE §** .

34 (ii) In each county operating under a council-manager form of government under
35 Section 17-52-505, the county manager is the local substance abuse authority.

36 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the
37 county legislative body is the local substance abuse authority.

38 (b) Within legislative appropriations and county matching funds required by this
39 section, and under the policy direction of the board and the administrative direction of the
40 division, each local substance abuse authority shall:

41 (i) develop substance abuse prevention and treatment services plans; and

42 (ii) provide substance abuse services to residents of the county.

43 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
44 Cooperation Act, two or more counties may join to provide substance abuse prevention and
45 treatment services.

46 (b) The legislative bodies of counties joining to provide services may establish
47 acceptable ways of apportioning the cost of substance abuse services.

48 (c) Each agreement for joint substance abuse services shall:

49 (i) (A) designate the treasurer of one of the participating counties or another person as
50 the treasurer for the combined substance abuse authorities and as the custodian of moneys
51 available for the joint services; and

52 (B) provide that the designated treasurer, or other disbursing officer authorized by the
53 treasurer, may make payments from the moneys for the joint services upon audit of the
54 appropriate auditing officer or officers representing the participating counties;

55 (ii) provide for the appointment of an independent auditor or a county auditor of one of
56 the participating counties as the designated auditing officer for the combined substance abuse
57 authorities;

58 (iii) (A) provide for the appointment of the county or district attorney of one of the

59 participating counties as the designated legal officer for the combined substance abuse
60 authorities; and

61 (B) authorize the designated legal officer to request and receive the assistance of the
62 county or district attorneys of the other participating counties in defending or prosecuting
63 actions within their counties relating to the combined substance abuse authorities; and

64 (iv) provide for the adoption of management, clinical, financial, procurement,
65 personnel, and administrative policies as already established by one of the participating
66 counties or as approved by the legislative body of each participating county or interlocal board.

67 (d) An agreement for joint substance abuse services may provide for joint operation of
68 services and facilities or for operation of services and facilities under contract by one
69 participating local substance abuse authority for other participating local substance abuse
70 authorities.

71 (3) (a) Each local substance abuse authority is accountable to the department, the
72 Department of Health, and the state with regard to the use of state and federal funds received
73 from those departments for substance abuse services, regardless of whether the services are
74 provided by a private contract provider.

75 (b) Each local substance abuse authority shall comply, and require compliance by its
76 contract provider, with all directives issued by the department and the Department of Health
77 regarding the use and expenditure of state and federal funds received from those departments
78 for the purpose of providing substance abuse programs and services. The department and
79 Department of Health shall ensure that those directives are not duplicative or conflicting, and
80 shall consult and coordinate with local substance abuse authorities with regard to programs and
81 services.

82 (4) Each local substance abuse authority shall:

83 (a) review and evaluate substance abuse prevention and treatment needs and services,
84 including substance abuse needs and services for individuals incarcerated in a county jail or
85 other county correctional facility;

86 (b) annually prepare and submit to the division a plan approved by the county
87 legislative body for funding and service delivery that includes:

88 (i) provisions for services, either directly by the substance abuse authority or by
89 contract, for adults, youth, and children, including those incarcerated in a county jail or other

90 county correctional facility; and

91 (ii) primary prevention, targeted prevention, early intervention, and treatment services;

92 (c) establish and maintain, either directly or by contract, programs licensed under Title

93 62A, Chapter 2, Licensure of Programs and Facilities;

94 (d) appoint directly or by contract a full or part time director for substance abuse

95 programs, and prescribe the director's duties;

96 (e) provide input and comment on new and revised policies established by the board;

97 (f) establish and require contract providers to establish administrative, clinical,

98 procurement, personnel, financial, and management policies regarding substance abuse services

99 and facilities, in accordance with the policies of the board, and state and federal law;

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

101 (h) annually contract with the division to provide substance abuse programs and

102 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and

103 Mental Health Act;

104 (i) comply with all applicable state and federal statutes, policies, audit requirements,

105 contract requirements, and any directives resulting from those audits and contract requirements;

106 (j) promote or establish programs for the prevention of substance abuse within the

107 community setting through community-based prevention programs;

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

109 services described in the plan;

110 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal

111 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts

112 Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and

113 Other Local Entities;

114 (m) for persons convicted of driving under the influence in violation of Subsection

115 41-6-44(2) or Section 41-6-44.6, conduct the following as defined in Section 41-6-44:

116 (i) a screening and assessment;

117 (ii) an educational series; and

118 (iii) substance abuse treatment; and

119 (n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to

120 supplement the cost of providing the services described in Subsection (4)(m).

121 (5) Before disbursing any public funds, each local substance abuse authority shall
 122 require that each entity that receives any public funds from the local substance abuse authority
 123 agrees in writing that:

124 (a) the entity's financial records and other records relevant to the entity's performance
 125 of the services provided to the local substance abuse authority, except patient identifying
 126 information, shall be subject to examination by:

127 (i) the division;

128 (ii) the local substance abuse authority director;

129 (iii) (A) the county treasurer and county or district attorney; or

130 (B) if two or more counties jointly provide substance abuse services under an
 131 agreement under Subsection (2), the designated treasurer and the designated legal officer;

132 (iv) the county legislative body; and

133 (v) in a county with a county executive that is separate from the county legislative
 134 body, the county executive;

135 (b) the county auditor may examine and audit the entity's financial and other records
 136 relevant to the entity's performance of the services provided to the local substance abuse
 137 authority; and

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

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

143 (7) (a) As used in this section, "public funds" means the same as that term is defined in
 144 Section 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 2. Section **17-43-301** is amended to read:

149 **17-43-301. Local mental health authorities -- Responsibilities.**

150 (1) (a) (i) In each county operating under a county executive-council form of
 151 government under Section 17-52-504, the county ~~§ [executive]~~ **LEGISLATIVE BODY §** is the local
 mental health authority **§ , PROVIDED HOWEVER THAT ANY CONTRACT FOR PLAN SERVICES**
SHALL BE ADMINISTERED BY THE COUNTY EXECUTIVE § .

152 (ii) In each county operating under a council-manager form of government under
153 Section 17-52-505, the county manager is the local mental health authority.

154 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the
155 county legislative body is the local mental health authority.

156 (b) Within legislative appropriations and county matching funds required by this
157 section, under the policy direction of the board and the administrative direction of the division,
158 each local mental health authority shall provide mental health services to persons within the
159 county.

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

163 (b) The legislative bodies of counties joining to provide services may establish
164 acceptable ways of apportioning the cost of mental health services.

165 (c) Each agreement for joint mental health services shall:

166 (i) (A) designate the treasurer of one of the participating counties or another person as
167 the treasurer for the combined mental health authorities and as the custodian of moneys
168 available for the joint services; and

169 (B) provide that the designated treasurer, or other disbursing officer authorized by the
170 treasurer, may make payments from the moneys available for the joint services upon audit of
171 the appropriate auditing officer or officers representing the participating counties;

172 (ii) provide for the appointment of an independent auditor or a county auditor of one of
173 the participating counties as the designated auditing officer for the combined mental health
174 authorities;

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

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

181 (iv) provide for the adoption of management, clinical, financial, procurement,
182 personnel, and administrative policies as already established by one of the participating

183 counties or as approved by the legislative body of each participating county or interlocal board.

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

185 (i) joint operation of services and facilities or for operation of services and facilities
186 under contract by one participating local mental health authority for other participating local
187 mental health authorities; and

188 (ii) allocation of appointments of members of the mental health advisory council
189 between or among participating counties.

190 (3) (a) Each local mental health authority is accountable to the department, the
191 Department of Health, and the state with regard to the use of state and federal funds received
192 from those departments for mental health services, regardless of whether the services are
193 provided by a private contract provider.

194 (b) Each local mental health authority shall comply, and require compliance by its
195 contract provider, with all directives issued by the department and the Department of Health
196 regarding the use and expenditure of state and federal funds received from those departments
197 for the purpose of providing mental health programs and services. The department and
198 Department of Health shall ensure that those directives are not duplicative or conflicting, and
199 shall consult and coordinate with local mental health authorities with regard to programs and
200 services.

201 (4) (a) Each local mental health authority shall:

202 (i) review and evaluate mental health needs and services, including mental health needs
203 and services for persons incarcerated in a county jail or other county correctional facility;

204 (ii) as provided in Subsection (4)(b), annually prepare and submit to the division a
205 plan approved by the county legislative body for mental health funding and service delivery,
206 either directly by the local mental health authority or by contract;

207 (iii) establish and maintain, either directly or by contract, programs licensed under Title
208 62A, Chapter 2, Licensure of Programs and Facilities;

209 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
210 programs and prescribe the director's duties;

211 (v) provide input and comment on new and revised policies established by the board;

212 (vi) establish and require contract providers to establish administrative, clinical,
213 personnel, financial, procurement, and management policies regarding mental health services

214 and facilities, in accordance with the policies of the board and state and federal law;
215 (vii) establish mechanisms allowing for direct citizen input;
216 (viii) annually contract with the division to provide mental health programs and
217 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and
218 Mental Health Act;
219 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
220 contract requirements, and any directives resulting from those audits and contract requirements;
221 (x) provide funding equal to at least 20% of the state funds that it receives to fund
222 services described in the plan;
223 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
224 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts
225 Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and
226 Other Local Entities; and
227 (xii) take and retain physical custody of minors committed to the physical custody of
228 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,
229 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.
230 (b) Each plan under Subsection (4)(a)(ii) shall include services for adults, youth, and
231 children, which may include:
232 (i) inpatient care and services;
233 (ii) residential care and services;
234 (iii) outpatient care and services;
235 (iv) 24-hour crisis care and services;
236 (v) psychotropic medication management;
237 (vi) psychosocial rehabilitation, including vocational training and skills development;
238 (vii) case management;
239 (viii) community supports, including in-home services, housing, family support
240 services, and respite services;
241 (ix) consultation and education services, including case consultation, collaboration
242 with other county service agencies, public education, and public information; and
243 (x) services to persons incarcerated in a county jail or other county correctional facility.
244 (5) Before disbursing any public funds, each local mental health authority shall require

245 that each entity that receives any public funds from a local mental health authority agrees in
246 writing that:

247 (a) the entity's financial records and other records relevant to the entity's performance
248 of the services provided to the mental health authority, except patient identifying information,
249 shall be subject to examination by:

250 (i) the division;

251 (ii) the local mental health authority director;

252 (iii) (A) the county treasurer and county or district attorney; or

253 (B) if two or more counties jointly provide mental health services under an agreement
254 under Subsection (2), the designated treasurer and the designated legal officer;

255 (iv) the county legislative body; and

256 (v) in a county with a county executive that is separate from the county legislative
257 body, the county executive;

258 (b) the county auditor may examine and audit the entity's financial and other records
259 relevant to the entity's performance of the services provided to the local mental health
260 authority; and

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

262 (6) A local mental health authority may receive property, grants, gifts, supplies,
263 materials, contributions, and any benefit derived therefrom, for mental health services. If those
264 gifts are conditioned upon their use for a specified service or program, they shall be so used.

265 (7) (a) As used in this section, "public funds" means the same as that term is defined in
266 Section 17-43-303.

267 (b) Nothing in this section limits or prohibits an organization exempt under Section
268 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any
269 financial arrangement that is otherwise lawful for that organization.

270 Section 3. Section **17-43-309** is amended to read:

271 **17-43-309. Local mental health advisory councils -- Powers and responsibilities.**

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

274 (2) Mental health advisory council members shall be appointed by their respective
275 county legislative bodies. Initially one-fourth of the members shall be appointed for one year,

276 one-fourth for two years, one-fourth for three years, and one-fourth for four years. After the
277 initial appointment, the term of each member shall be for four years. Vacancies shall be filled
278 in the same manner as for unexpired terms. Council members may be removed for cause.

279 (3) Each mental health advisory council shall be responsible and advisory to local
280 mental health authorities in planning, organizing, and operating community mental health
281 programs.

282 (4) Council members shall be selected from persons representative of interested groups
283 in the community, including, if possible:

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

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

287 (c) one or more members of voluntary health, welfare, or mental health associations or
288 agencies; ~~and~~

289 (d) a member of the legislative body of each participating county; and

290 ~~(e)~~ (e) at least one person licensed in this state to practice medicine and surgery in all
291 their branches and engaged in the private practice of medicine.

292 (5) Council members may be reimbursed for actual and necessary expenses incurred in
293 the performance of official duties, from funds made available to local mental health authorities.

294 (6) Each mental health advisory council shall be an agent of the local mental health
295 authority, and is subject to laws and requirements relating to the local mental health authority.

Legislative Review Note
as of 1-28-04 6:41 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0155

County Mental Health Amendments

04-Feb-04

2:24 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst