

1 **SYSTEM OF CARE FOR MINORS IN STATE CUSTODY**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dean Sanpei**

5 Senate Sponsor: Allen M. Christensen

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies Title 17, Chapter 43, Local Human Services Act, and Title 62A, Utah
10 Human Services Code, by promoting a system of care for a minor with or at risk for
11 complex emotional and behavioral needs.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines system of care;
- 15 ▶ requires the executive director of the Department of Human Services to establish a
16 system of care for minors with or at risk for complex emotional and behavioral
17 needs; and
- 18 ▶ requires local substance abuse and mental health authorities to cooperate with the
19 Department of Human Services in promoting the system of care model.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **17-43-201**, as last amended by Laws of Utah 2013, Chapter 17

27 **17-43-301**, as last amended by Laws of Utah 2013, Chapter 17

28 **62A-1-104**, as last amended by Laws of Utah 1990, Chapter 183

29 **62A-1-111**, as last amended by Laws of Utah 2012, Chapters 212 and 316

30

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

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

33 **17-43-201. Local substance abuse authorities -- Responsibilities.**

34 (1) (a) (i) In each county operating under a county executive-council form of
35 government under Section [17-52-504](#), the county legislative body is the local substance abuse
36 authority, provided however that any contract for plan services shall be administered by the
37 county executive.

38 (ii) In each county operating under a council-manager form of government under
39 Section [17-52-505](#), the county manager is the local substance abuse authority.

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

42 (b) Within legislative appropriations and county matching funds required by this
43 section, and under the direction of the division, each local substance abuse authority shall:

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

45 (ii) provide substance abuse services to residents of the county; and

46 (iii) cooperate with efforts of the Division of Substance Abuse and Mental Health to
47 promote integrated programs that address an individual's substance abuse, mental health, and
48 physical healthcare needs, as described in Section [62A-15-103](#).

49 (c) Within legislative appropriations and county matching funds required by this
50 section, each local substance abuse authority shall cooperate with the efforts of the Department
51 of Human Services to promote a system of care, as defined in Section [62A-1-104](#), for minors
52 with or at risk for complex emotional and behavioral needs, as described in Section [62A-1-111](#).

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

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

58 (c) Each agreement for joint substance abuse services shall:
59 (i) (A) designate the treasurer of one of the participating counties or another person as
60 the treasurer for the combined substance abuse authorities and as the custodian of money
61 available for the joint services; and
62 (B) provide that the designated treasurer, or other disbursing officer authorized by the
63 treasurer, may make payments from the money for the joint services upon audit of the
64 appropriate auditing officer or officers representing the participating counties;
65 (ii) provide for the appointment of an independent auditor or a county auditor of one of
66 the participating counties as the designated auditing officer for the combined substance abuse
67 authorities;
68 (iii) (A) provide for the appointment of the county or district attorney of one of the
69 participating counties as the designated legal officer for the combined substance abuse
70 authorities; and
71 (B) authorize the designated legal officer to request and receive the assistance of the
72 county or district attorneys of the other participating counties in defending or prosecuting
73 actions within their counties relating to the combined substance abuse authorities; and
74 (iv) provide for the adoption of management, clinical, financial, procurement,
75 personnel, and administrative policies as already established by one of the participating
76 counties or as approved by the legislative body of each participating county or interlocal board.
77 (d) An agreement for joint substance abuse services may provide for joint operation of
78 services and facilities or for operation of services and facilities under contract by one
79 participating local substance abuse authority for other participating local substance abuse
80 authorities.
81 (3) (a) Each local substance abuse authority is accountable to the department, the
82 Department of Health, and the state with regard to the use of state and federal funds received
83 from those departments for substance abuse services, regardless of whether the services are
84 provided by a private contract provider.
85 (b) Each local substance abuse authority shall comply, and require compliance by its

86 contract provider, with all directives issued by the department and the Department of Health
87 regarding the use and expenditure of state and federal funds received from those departments
88 for the purpose of providing substance abuse programs and services. The department and
89 Department of Health shall ensure that those directives are not duplicative or conflicting, and
90 shall consult and coordinate with local substance abuse authorities with regard to programs and
91 services.

92 (4) Each local substance abuse authority shall:

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

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

98 (i) provisions for services, either directly by the substance abuse authority or by
99 contract, for adults, youth, and children, including those incarcerated in a county jail or other
100 county correctional facility; and

101 (ii) primary prevention, 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 the director's duties;

106 (e) provide input and comment on new and revised rules established by the division;

107 (f) establish and require contract providers to establish administrative, clinical,
108 procurement, personnel, financial, and management policies regarding substance abuse services
109 and facilities, in accordance with the rules of the division, and state and federal law;

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

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

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

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

118 (k) provide funding equal to at least 20% of the state funds that it receives to fund
119 services described in the plan;

120 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
121 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
122 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
123 Other Local Entities Act;

124 (m) for persons convicted of driving under the influence in violation of Section
125 [41-6a-502](#) or [41-6a-517](#), conduct the following as defined in Section [41-6a-501](#):

126 (i) a screening;

127 (ii) an assessment;

128 (iii) an educational series; and

129 (iv) substance abuse treatment; and

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

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

135 (a) the entity's financial records and other records relevant to the entity's performance
136 of the services provided to the local substance abuse authority shall be subject to examination
137 by:

138 (i) the division;

139 (ii) the local substance abuse authority director;

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

141 (B) if two or more counties jointly provide substance abuse services under an

142 agreement under Subsection (2), the designated treasurer and the designated legal officer;

143 (iv) the county legislative body; and

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

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

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

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

154 (7) (a) As used in this section, "public funds" means the same as that term is defined in
155 Section [17-43-203](#).

156 (b) Public funds received for the provision of services pursuant to the local substance
157 abuse plan may not be used for any other purpose except those authorized in the contract
158 between the local substance abuse authority and the provider for the provision of plan services.

159 (8) Subject to the requirements of the federal Substance Abuse Prevention and
160 Treatment Block Grant, Public Law 102-321, a local substance abuse authority shall ensure
161 that all substance abuse treatment programs that receive public funds:

162 (a) accept and provide priority for admission to a pregnant woman or a pregnant minor;
163 and

164 (b) if admission of a pregnant woman or a pregnant minor is not possible within 24
165 hours of the time that a request for admission is made, provide a comprehensive referral for
166 interim services that:

167 (i) are accessible to the pregnant woman or pregnant minor;

168 (ii) are best suited to provide services to the pregnant woman or pregnant minor;

169 (iii) may include:

- 170 (A) counseling;
- 171 (B) case management; or
- 172 (C) a support group; and
- 173 (iv) shall include a referral for:
 - 174 (A) prenatal care; and
 - 175 (B) counseling on the effects of alcohol and drug use during pregnancy.

176 (9) If a substance abuse treatment program described in Subsection (8) is not able to
177 accept and admit a pregnant woman or pregnant minor under Subsection (8) within 48 hours of
178 the time that request for admission is made, the local substance abuse authority shall contact
179 the Division of Substance Abuse and Mental Health for assistance in providing services to the
180 pregnant woman or pregnant minor.

181 Section 2. Section **17-43-301** is amended to read:

182 **17-43-301. Local mental health authorities -- Responsibilities.**

183 (1) (a) (i) In each county operating under a county executive-council form of
184 government under Section 17-52-504, the county legislative body is the local mental health
185 authority, provided however that any contract for plan services shall be administered by the
186 county executive.

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

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

191 (b) Within legislative appropriations and county matching funds required by this
192 section, under the direction of the division, each local mental health authority shall:

- 193 (i) provide mental health services to persons within the county; and
- 194 (ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to
195 promote integrated programs that address an individual's substance abuse, mental health, and
196 physical healthcare needs, as described in Section 62A-15-103.

197 (c) Within legislative appropriations and county matching funds required by this

198 section, each local mental health authority shall cooperate with the efforts of the Department of
199 Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with
200 or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

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

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

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

207 (i) (A) designate the treasurer of one of the participating counties or another person as
208 the treasurer for the combined mental health authorities and as the custodian of money
209 available for the joint services; and

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

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

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

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

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

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

226 (i) joint operation of services and facilities or for operation of services and facilities
227 under contract by one participating local mental health authority for other participating local
228 mental health authorities; and

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

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

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

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

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

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

248 (iii) establish and maintain, either directly or by contract, programs licensed under Title
249 62A, Chapter 2, Licensure of Programs and Facilities;

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

252 (v) provide input and comment on new and revised rules established by the division;

253 (vi) establish and require contract providers to establish administrative, clinical,

254 personnel, financial, procurement, and management policies regarding mental health services
255 and facilities, in accordance with the rules of the division, and state and federal law;

256 (vii) establish mechanisms allowing for direct citizen input;

257 (viii) annually contract with the division to provide mental health programs and
258 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and
259 Mental Health Act;

260 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
261 contract requirements, and any directives resulting from those audits and contract requirements;

262 (x) provide funding equal to at least 20% of the state funds that it receives to fund
263 services described in the plan;

264 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
265 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
266 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
267 Other Local Entities Act; and

268 (xii) take and retain physical custody of minors committed to the physical custody of
269 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,
270 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

271 (b) Each plan under Subsection (4)(a)(ii) shall include services for adults, youth, and
272 children, which shall include:

273 (i) inpatient care and services;

274 (ii) residential care and services;

275 (iii) outpatient care and services;

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

277 (v) psychotropic medication management;

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

279 (vii) case management;

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

282 (ix) consultation and education services, including case consultation, collaboration
283 with other county service agencies, public education, and public information; and

284 (x) services to persons incarcerated in a county jail or other county correctional facility.

285 (5) Before disbursing any public funds, each local mental health authority shall require
286 that each entity that receives any public funds from a local mental health authority agrees in
287 writing that:

288 (a) the entity's financial records and other records relevant to the entity's performance
289 of the services provided to the mental health authority shall be subject to examination by:

290 (i) the division;

291 (ii) the local mental health authority director;

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

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

295 (iv) the county legislative body; and

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

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

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

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

305 (7) (a) As used in this section, "public funds" means the same as that term is defined in
306 Section [17-43-303](#).

307 (b) Public funds received for the provision of services pursuant to the local mental
308 health plan may not be used for any other purpose except those authorized in the contract
309 between the local mental health authority and the provider for the provision of plan services.

310 Section 3. Section **62A-1-104** is amended to read:

311 **62A-1-104. Definitions.**

312 (1) As used in this title:

313 (a) "Concurrence of the board" means agreement by a majority of the members of a
314 board.

315 (b) "Department" means the Department of Human Services established in Section
316 [62A-1-102](#).

317 (c) "Executive director" means the executive director of the department, appointed
318 pursuant to Section [62A-1-108](#).

319 (d) "System of care" means a broad, flexible array of services and supports for minors
320 with or at risk for complex emotional and behavioral needs that:

321 (i) is community based;

322 (ii) integrates service planning, service coordination, and management across state and
323 local entities;

324 (iii) includes individualized, person-centered planning;

325 (iv) builds meaningful partnerships with families and children; and

326 (v) provides supportive management and policy infrastructure that is organized into a
327 coordinated network.

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

330 Section 4. Section **62A-1-111** is amended to read:

331 **62A-1-111. Department authority.**

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

334 (1) adopt rules, not inconsistent with law, as the department may consider necessary or
335 desirable for providing social services to the people of this state;

336 (2) establish and manage client trust accounts in the department's institutions and
337 community programs, at the request of the client or the client's legal guardian or representative,

338 or in accordance with federal law;

339 (3) purchase, as authorized or required by law, services that the department is
340 responsible to provide for legally eligible persons;

341 (4) conduct adjudicative proceedings for clients and providers in accordance with the
342 procedures of Title 63G, Chapter 4, Administrative Procedures Act;

343 (5) establish eligibility standards for its programs, not inconsistent with state or federal
344 law or regulations;

345 (6) take necessary steps, including legal action, to recover money or the monetary value
346 of services provided to a recipient who was not eligible;

347 (7) set and collect fees for its services;

348 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
349 or limited by law;

350 (9) acquire, manage, and dispose of any real or personal property needed or owned by
351 the department, not inconsistent with state law;

352 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
353 the proceeds thereof, may be credited to the program designated by the donor, and may be used
354 for the purposes requested by the donor, as long as the request conforms to state and federal
355 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
356 under guidelines established by the state treasurer;

357 (11) accept and employ volunteer labor or services; the department is authorized to
358 reimburse volunteers for necessary expenses, when the department considers that
359 reimbursement to be appropriate;

360 (12) carry out the responsibility assigned in the Workforce Services Plan by the State
361 Council on Workforce Services;

362 (13) carry out the responsibility assigned by Section [35A-8-602](#) with respect to
363 coordination of services for the homeless;

364 (14) carry out the responsibility assigned by Section [62A-5a-105](#) with respect to
365 coordination of services for students with a disability;

366 (15) provide training and educational opportunities for its staff;
367 (16) collect child support payments and any other money due to the department;
368 (17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents
369 whose child lives out of the home in a department licensed or certified setting;
370 (18) establish policy and procedures, within appropriations authorized by the
371 Legislature, in cases where the department is given custody of a minor by the juvenile court
372 pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not
373 competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall
374 include:

- 375 (a) designation of interagency teams for each juvenile court district in the state;
- 376 (b) delineation of assessment criteria and procedures;
- 377 (c) minimum requirements, and timeframes, for the development and implementation
378 of a collaborative service plan for each minor placed in department custody; and
- 379 (d) provisions for submittal of the plan and periodic progress reports to the court;

380 (19) carry out the responsibilities assigned to it by statute;

381 (20) examine and audit the expenditures of any public funds provided to local
382 substance abuse authorities, local mental health authorities, local area agencies on aging, and
383 any person, agency, or organization that contracts with or receives funds from those authorities
384 or agencies. Those local authorities, area agencies, and any person or entity that contracts with
385 or receives funds from those authorities or area agencies, shall provide the department with any
386 information the department considers necessary. The department is further authorized to issue
387 directives resulting from any examination or audit to local authorities, area agencies, and
388 persons or entities that contract with or receive funds from those authorities with regard to any
389 public funds. If the department determines that it is necessary to withhold funds from a local
390 mental health authority or local substance abuse authority based on failure to comply with state
391 or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of
392 services. For purposes of this Subsection (20) "public funds" means the same as that term is
393 defined in Section 62A-15-102; [and]

394 (21) pursuant to Subsection [62A-2-106\(1\)\(d\)](#), accredit one or more agencies and
395 persons to provide intercountry adoption services[.]; and

396 (22) within appropriations authorized by the Legislature, promote and develop a
397 system of care, as defined in Section [62A-1-104](#), within the department and with contractors
398 that provide services to the department or any of the department's divisions.