

1 **REPEAL OF SUBSTANCE ABUSE DONATION FUND**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: Melvin R. Brown

7 **LONG TITLE**

8 **General Description:**

9 This bill repeals a provision providing for an interest-bearing expendable special
10 revenue fund to be used by the Division of Substance Abuse and Mental Health.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ repeals a provision providing for an interest-bearing expendable special revenue
14 fund to be used by the Division of Substance Abuse and Mental Health.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **62A-15-103**, as last amended by Laws of Utah 2013, Chapters 17, 167, and 400

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

24 Section 1. Section **62A-15-103** is amended to read:

25 **62A-15-103. Division -- Creation -- Responsibilities.**

26 (1) There is created the Division of Substance Abuse and Mental Health within the
27 department, under the administration and general supervision of the executive director. The
28 division is the substance abuse authority and the mental health authority for this state.

29 (2) The division shall:

- 30 (a) (i) educate the general public regarding the nature and consequences of substance
31 abuse by promoting school and community-based prevention programs;
- 32 (ii) render support and assistance to public schools through approved school-based
33 substance abuse education programs aimed at prevention of substance abuse;
- 34 (iii) promote or establish programs for the prevention of substance abuse within the
35 community setting through community-based prevention programs;
- 36 (iv) cooperate and assist other organizations and private treatment centers for substance
37 abusers, by providing them with essential materials for furthering programs of prevention and
38 rehabilitation of actual and potential substance abusers;
- 39 (v) promote integrated programs that address an individual's substance abuse, mental
40 health, and physical healthcare needs;
- 41 (vi) evaluate the effectiveness of programs described in Subsection (2);
- 42 (vii) consider the impact of the programs described in Subsection (2) on:
- 43 (A) emergency department utilization;
- 44 (B) jail and prison populations;
- 45 (C) the homeless population; and
- 46 (D) the child welfare system; and
- 47 (viii) promote or establish programs for education and certification of instructors to
48 educate persons convicted of driving under the influence of alcohol or drugs or driving with
49 any measurable controlled substance in the body;
- 50 (b) (i) collect and disseminate information pertaining to mental health;
- 51 (ii) provide direction over the state hospital including approval of its budget,
52 administrative policy, and coordination of services with local service plans;
- 53 (iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative
54 Rulemaking Act, to educate families concerning mental illness and promote family
55 involvement, when appropriate, and with patient consent, in the treatment program of a family
56 member; and
- 57 (iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative

58 Rulemaking Act, to direct that all individuals receiving services through local mental health
59 authorities or the Utah State Hospital be informed about and, if desired, provided assistance in
60 completion of a declaration for mental health treatment in accordance with Section

61 [62A-15-1002](#);

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

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

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

69 (iv) promote or conduct research on substance abuse and mental health issues, and
70 submit to the governor and the Legislature recommendations for changes in policy and
71 legislation;

72 (v) receive, distribute, and provide direction over public funds for substance abuse and
73 mental health services;

74 (vi) monitor and evaluate programs provided by local substance abuse authorities and
75 local mental health authorities;

76 (vii) examine expenditures of any local, state, and federal funds;

77 (viii) monitor the expenditure of public funds by:

78 (A) local substance abuse authorities;

79 (B) local mental health authorities; and

80 (C) in counties where they exist, the private contract provider that has an annual or
81 otherwise ongoing contract to provide comprehensive substance abuse or mental health

82 programs or services for the local substance abuse authority or local mental health authorities;

83 (ix) contract with local substance abuse authorities and local mental health authorities
84 to provide a comprehensive continuum of services in accordance with division policy, contract
85 provisions, and the local plan;

86 (x) contract with private and public entities for special statewide or nonclinical services
87 according to division rules;

88 (xi) review and approve each local substance abuse authority's plan and each local
89 mental health authority's plan in order to ensure:

90 (A) a statewide comprehensive continuum of substance abuse services;

91 (B) a statewide comprehensive continuum of mental health services;

92 (C) services result in improved overall health and functioning; and

93 (D) appropriate expenditure of public funds;

94 (xii) review and make recommendations regarding each local substance abuse
95 authority's contract with its provider of substance abuse programs and services and each local
96 mental health authority's contract with its provider of mental health programs and services to
97 ensure compliance with state and federal law and policy;

98 (xiii) monitor and ensure compliance with division rules and contract requirements;
99 and

100 (xiv) withhold funds from local substance abuse authorities, local mental health
101 authorities, and public and private providers for contract noncompliance, failure to comply
102 with division directives regarding the use of public funds, or for misuse of public funds or
103 money;

104 (d) assure that the requirements of this part are met and applied uniformly by local
105 substance abuse authorities and local mental health authorities across the state;

106 (e) require each local substance abuse authority and each local mental health authority
107 to submit its plan to the division by May 1 of each year; and

108 (f) conduct an annual program audit and review of each local substance abuse authority
109 in the state and its contract provider and each local mental health authority in the state and its
110 contract provider, including:

111 (i) a review and determination regarding whether:

112 (A) public funds allocated to local substance abuse authorities and local mental health
113 authorities are consistent with services rendered and outcomes reported by them or their

114 contract providers; and

115 (B) each local substance abuse authority and each local mental health authority is
116 exercising sufficient oversight and control over public funds allocated for substance abuse and
117 mental health programs and services; and

118 (ii) items determined by the division to be necessary and appropriate.

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

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

126 (4) Before reissuing or renewing a contract with any local substance abuse authority or
127 local mental health authority, the division shall review and determine whether the local
128 substance abuse authority or local mental health authority is complying with its oversight and
129 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
130 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
131 liability described in Section 17-43-303 and to the responsibility and liability described in
132 Section 17-43-203.

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

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

140 ~~[(b) Those donations, gifts, devises, or bequests shall be used by the division in~~
141 ~~performing its powers and duties. Any money so obtained shall be considered private funds~~

142 ~~and shall be deposited into an interest-bearing expendable special revenue fund to be used by~~
143 ~~the division for substance abuse or mental health services. The state treasurer may invest the~~
144 ~~fund and all interest shall remain with the fund.]~~

145 (7) The division shall annually review with each local substance abuse authority and
146 each local mental health authority the authority's statutory and contract responsibilities
147 regarding:

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

151 (8) The Legislature may refuse to appropriate funds to the division upon the division's
152 failure to comply with the provisions of this part.

153 (9) If a local substance abuse authority contacts the division under Subsection
154 [17-43-201](#)(9) for assistance in providing treatment services to a pregnant woman or pregnant
155 minor, the division shall:

- 156 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
157 capacity to provide the treatment services; or
- 158 (b) otherwise ensure that treatment services are made available to the pregnant woman
159 or pregnant minor.