

**CONTROLLED SUBSTANCE REPORTING**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Raymond P. Ward**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill amends the Utah Health Code, the Utah Controlled Substances Act, and the Controlled Substance Database Act.

**Highlighted Provisions:**

This bill:

- ▶ amends the requirement for a general acute hospital to report to the Division of Occupational and Professional Licensing admissions for poisoning or overdose involving a prescribed controlled substance;
- ▶ requires courts to report to the division certain violations of the Utah Controlled Substances Act;
- ▶ amends the purposes of the division's controlled substance database;
- ▶ requires the division to enter into the database information it receives in reports by hospitals concerning persons admitted for poisoning involving a prescribed controlled substance; and
- ▶ requires the division to enter into the database information it receives in reports by courts concerning persons convicted for:
  - driving under the influence of a prescribed controlled substance that renders the person incapable of safely operating a vehicle;
  - driving while impaired, in whole or in part, by a prescribed controlled substance; or



28 • certain violations of the Utah Controlled Substances Act.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 ~~H→ [None]~~ **This bill coordinates with H.B. 149, Reporting Death Involving Controlled**  
 32a **Substance Amendments, by providing substantive amendments.** ←H

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **26-21-26**, as enacted by Laws of Utah 2010, Chapter 290

36 **58-37-8**, as last amended by Laws of Utah 2015, Chapters 165 and 412

37 **58-37f-201**, as enacted by Laws of Utah 2010, Chapter 287

38 **58-37f-702**, as enacted by Laws of Utah 2010, Chapter 290 and renumbered and  
 39 amended by Coordination Clause, Laws of Utah 2010, Chapter 290

40 **58-37f-703**, as enacted by Laws of Utah 2010, Chapter 109 and renumbered and  
 41 amended by Coordination Clause, Laws of Utah 2010, Chapter 109

42 ENACTS:

43 **58-37f-704**, Utah Code Annotated 1953

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

46 Section 1. Section **26-21-26** is amended to read:

47 **26-21-26. General acute hospital to report prescribed controlled substance**  
 48 **poisoning or overdose.**

49 (1) ~~H→ [Beginning on July 1, 2012, if]~~ **If** ←H a person who is 12 years of age or older  
 49a is admitted to

50 a general acute hospital for poisoning or overdose involving a prescribed controlled substance,  
 51 the general acute hospital shall, within three business days after the day on which the person is  
 52 admitted, send a written report to the Division of Occupational and Professional Licensing,  
 53 created in Section **58-1-103**, that includes:

54 (a) the patient's name and date of birth;

55 (b) each drug or other substance found in the person's system that may have  
 56 contributed to the poisoning or overdose, if known; [~~and~~]

57 (c) the name of each person who the general acute hospital has reason to believe may  
 58 have prescribed a controlled substance described in Subsection (1)(b) to the person, if

59 known[-]; and

60 (d) the name of the hospital and the date of admission.

61 (2) Nothing in this section may be construed as creating a new cause of action.

62 Section 2. Section **58-37-8** is amended to read:

63 **58-37-8. Prohibited acts -- Penalties.**

64 (1) Prohibited acts A -- Penalties and reporting:

65 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and  
66 intentionally:

67 (i) produce, manufacture, or dispense, or to possess with intent to produce,  
68 manufacture, or dispense, a controlled or counterfeit substance;

69 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or  
70 arrange to distribute a controlled or counterfeit substance;

71 (iii) possess a controlled or counterfeit substance with intent to distribute; or

72 (iv) engage in a continuing criminal enterprise where:

73 (A) the person participates, directs, or engages in conduct [~~which~~] that results in any  
74 violation of any provision of Title 58, Chapters 37, Utah Controlled Substances Act, 37a, Utah  
75 Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled  
76 Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

77 (B) the violation is a part of a continuing series of two or more violations of Title 58,  
78 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,  
79 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,  
80 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or  
81 more persons with respect to whom the person occupies a position of organizer, supervisor, or  
82 any other position of management.

83 (b) Any person convicted of violating Subsection (1)(a) with respect to:

84 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled  
85 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second  
86 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or  
87 subsequent conviction is guilty of a first degree felony;

88 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or  
89 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and

90 upon a second or subsequent conviction is guilty of a second degree felony; or

91 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a  
92 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree  
93 felony.

94 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)  
95 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier  
96 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his  
97 person or in his immediate possession during the commission or in furtherance of the offense,  
98 the court shall additionally sentence the person convicted for a term of one year to run  
99 consecutively and not concurrently; and the court may additionally sentence the person  
100 convicted for an indeterminate term not to exceed five years to run consecutively and not  
101 concurrently.

102 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
103 felony punishable by imprisonment for an indeterminate term of not less than seven years and  
104 which may be for life. Imposition or execution of the sentence may not be suspended, and the  
105 person is not eligible for probation.

106 (e) ~~Ĥ→ [Each month, the name, the case number, and, if known, the date of birth of each~~  
107 ~~person convicted during the preceding month of violating Subsection (2)(a) shall be reported~~  
108 ~~by the court in which the conviction was made]~~ **The Administrative Office of the Courts shall**  
108a **report** ~~←Ĥ~~ to the Division of Occupational and  
109 Professional Licensing ~~Ĥ→~~ **the name, case number, date of conviction, and if known,**  
109a **the date of birth of each person convicted of violating Subsection (2)(a)** ~~←Ĥ~~ .

110 (2) Prohibited acts B -- Penalties and reporting:

111 (a) It is unlawful:

112 (i) for any person knowingly and intentionally to possess or use a controlled substance  
113 analog or a controlled substance, unless it was obtained under a valid prescription or order,  
114 directly from a practitioner while acting in the course of the person's professional practice, or as  
115 otherwise authorized by this chapter;

116 (ii) for any owner, tenant, licensee, or person in control of any building, room,  
117 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to  
118 be occupied by persons unlawfully possessing, using, or distributing controlled substances in  
119 any of those locations; or

120 (iii) for any person knowingly and intentionally to possess an altered or forged

121 prescription or written order for a controlled substance.

122 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

123 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

124 or

125 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty  
126 of a class A misdemeanor on a first or second conviction, and on a third or subsequent  
127 conviction is guilty of a third degree felony.

128 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
129 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater  
130 penalty than provided in this Subsection (2).

131 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled  
132 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section  
133 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the  
134 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the  
135 person is guilty of a third degree felony.

136 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior  
137 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or  
138 any public jail or other place of confinement shall be sentenced to a penalty one degree greater  
139 than provided in Subsection (2)(b), and if the conviction is with respect to controlled  
140 substances as listed in:

141 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
142 indeterminate term as provided by law, and:

143 (A) the court shall additionally sentence the person convicted to a term of one year to  
144 run consecutively and not concurrently; and

145 (B) the court may additionally sentence the person convicted for an indeterminate term  
146 not to exceed five years to run consecutively and not concurrently; and

147 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
148 indeterminate term as provided by law, and the court shall additionally sentence the person  
149 convicted to a term of six months to run consecutively and not concurrently.

150 (f) Any person convicted of violating Subsection (2)(a)(ii) or(iii) is:

151 (i) on a first conviction, guilty of a class B misdemeanor;

152 (ii) on a second conviction, guilty of a class A misdemeanor; and  
 153 (iii) on a third or subsequent conviction, guilty of a third degree felony.  
 154 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not  
 155 amounting to a violation of Section 76-5-207:

156 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's  
 157 body any measurable amount of a controlled substance; and

158 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,  
 159 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

160 (h) A person who violates Subsection (2)(g) by having in the person's body:

161 (i) a controlled substance classified under Schedule I, other than those described in  
 162 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second  
 163 degree felony;

164 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection  
 165 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third  
 166 degree felony; or

167 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class  
 168 A misdemeanor.

169 (i) A person is guilty of a separate offense for each victim suffering serious bodily  
 170 injury or death as a result of the person's negligent driving in violation of Subsection  
 171 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

172 (j) ~~Ĥ→ [Each month, the name, the case number, and, if known, the date of birth of each~~  
 173 ~~person convicted during the preceding month of violating Subsection (2)(a) shall be reported~~  
 174 ~~by the court in which the conviction was made]~~ **The Administrative Office of the Courts**  
 174a **shall report ←Ĥ to the Division of Occupational and**  
 175 **Professional Licensing Ĥ→ the name, case number, date of conviction, and if known, the date of**  
 175a **birth of each person convicted of violating Subsection (2)(a) ←Ĥ .**

176 (3) Prohibited acts C -- Penalties:

177 (a) It is unlawful for any person knowingly and intentionally:

178 (i) to use in the course of the manufacture or distribution of a controlled substance a  
 179 license number which is fictitious, revoked, suspended, or issued to another person or, for the  
 180 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a  
 181 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized  
 182 person;

183 (ii) to acquire or obtain possession of, to procure or attempt to procure the  
184 administration of, to obtain a prescription for, to prescribe or dispense to any person known to  
185 be attempting to acquire or obtain possession of, or to procure the administration of any  
186 controlled substance by misrepresentation or failure by the person to disclose receiving any  
187 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a  
188 prescription or written order for a controlled substance, or the use of a false name or address;

189 (iii) to make any false or forged prescription or written order for a controlled substance,  
190 or to utter the same, or to alter any prescription or written order issued or written under the  
191 terms of this chapter; or

192 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed  
193 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or  
194 device of another or any likeness of any of the foregoing upon any drug or container or labeling  
195 so as to render any drug a counterfeit controlled substance.

196 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A  
197 misdemeanor.

198 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third  
199 degree felony.

200 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

201 (4) Prohibited acts D -- Penalties:

202 (a) Notwithstanding other provisions of this section, a person not authorized under this  
203 chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or  
204 Section 58-37b-4 is upon conviction subject to the penalties and classifications under this  
205 Subsection (4) if the trier of fact finds the act is committed:

206 (i) in a public or private elementary or secondary school or on the grounds of any of  
207 those schools during the hours of 6 a.m. through 10 p.m.;

208 (ii) in a public or private vocational school or postsecondary institution or on the  
209 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

210 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or  
211 facility's hours of operation;

212 (iv) in a public park, amusement park, arcade, or recreation center when the public or  
213 amusement park, arcade, or recreation center is open to the public;

214 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

215 (vi) in or on the grounds of a library when the library is open to the public;

216 (vii) within any area that is within 100 feet of any structure, facility, or grounds

217 included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

218 (viii) in the presence of a person younger than 18 years of age, regardless of where the  
219 act occurs; or

220 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or  
221 distribution of a substance in violation of this section to an inmate or on the grounds of any  
222 correctional facility as defined in Section 76-8-311.3.

223 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony  
224 and shall be imprisoned for a term of not less than five years if the penalty that would  
225 otherwise have been established but for this Subsection (4) would have been a first degree  
226 felony.

227 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
228 not eligible for probation.

229 (c) If the classification that would otherwise have been established would have been  
230 less than a first degree felony but for this Subsection (4), a person convicted under this  
231 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that  
232 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

233 (d) (i) If the violation is of Subsection (4)(a)(ix):

234 (A) the person may be sentenced to imprisonment for an indeterminate term as  
235 provided by law, and the court shall additionally sentence the person convicted for a term of  
236 one year to run consecutively and not concurrently; and

237 (B) the court may additionally sentence the person convicted for an indeterminate term  
238 not to exceed five years to run consecutively and not concurrently; and

239 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with  
240 the mental state required for the commission of an offense, directly or indirectly solicits,  
241 requests, commands, coerces, encourages, or intentionally aids another person to commit a  
242 violation of Subsection (4)(a)(ix).

243 (e) It is not a defense to a prosecution under this Subsection (4) that the actor  
244 mistakenly believed the individual to be 18 years of age or older at the time of the offense or



245 was unaware of the individual's true age; nor that the actor mistakenly believed that the  
246 location where the act occurred was not as described in Subsection (4)(a) or was unaware that  
247 the location where the act occurred was as described in Subsection (4)(a).

248 (5) Any violation of this chapter for which no penalty is specified is a class B  
249 misdemeanor.

250 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
251 guilty or no contest to a violation or attempted violation of this section or a plea which is held  
252 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,  
253 even if the charge has been subsequently reduced or dismissed in accordance with the plea in  
254 abeyance agreement.

255 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a  
256 conviction that is:

257 (i) from a separate criminal episode than the current charge; and

258 (ii) from a conviction that is separate from any other conviction used to enhance the  
259 current charge.

260 (7) A person may be charged and sentenced for a violation of this section,  
261 notwithstanding a charge and sentence for a violation of any other section of this chapter.

262 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in  
263 lieu of, any civil or administrative penalty or sanction authorized by law.

264 (b) Where violation of this chapter violates a federal law or the law of another state,  
265 conviction or acquittal under federal law or the law of another state for the same act is a bar to  
266 prosecution in this state.

267 (9) In any prosecution for a violation of this chapter, evidence or proof which shows a  
268 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
269 substance or substances, is prima facie evidence that the person or persons did so with  
270 knowledge of the character of the substance or substances.

271 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
272 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or  
273 administering controlled substances or from causing the substances to be administered by an  
274 assistant or orderly under the veterinarian's direction and supervision.

275 (11) Civil or criminal liability may not be imposed under this section on:

276 (a) any person registered under this chapter who manufactures, distributes, or possesses  
277 an imitation controlled substance for use as a placebo or investigational new drug by a  
278 registered practitioner in the ordinary course of professional practice or research; or

279 (b) any law enforcement officer acting in the course and legitimate scope of the  
280 officer's employment.

281 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,  
282 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide  
283 traditional ceremonial purposes in connection with the practice of a traditional Indian religion  
284 as defined in Subsection 58-37-2(1)(w).

285 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
286 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,  
287 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in  
288 connection with the practice of a traditional Indian religion.

289 (c) (i) The defendant shall provide written notice of intent to claim an affirmative  
290 defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to  
291 trial.

292 (ii) The notice shall include the specific claims of the affirmative defense.

293 (iii) The court may waive the notice requirement in the interest of justice for good  
294 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

295 (d) The defendant shall establish the affirmative defense under this Subsection (12) by  
296 a preponderance of the evidence. If the defense is established, it is a complete defense to the  
297 charges.

298 (13) (a) It is an affirmative defense that the person produced, possessed, or  
299 administered a controlled substance listed in Section 58-37-4.2 if the person:

300 (i) was engaged in medical research; and

301 (ii) was a holder of a valid license to possess controlled substances under Section  
302 58-37-6.

303 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed  
304 a controlled substance listed in Section 58-37-4.2.

305 (14) It is an affirmative defense that the person possessed, in the person's body, a  
306 controlled substance listed in Section 58-37-4.2 if:

307 (a) the person was the subject of medical research conducted by a holder of a valid  
308 license to possess controlled substances under Section 58-37-6; and

309 (b) the substance was administered to the person by the medical researcher.

310 (15) The application of any increase in penalty under this section to a violation of  
311 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This  
312 Subsection (15) takes precedence over any conflicting provision of this section.

313 (16) (a) It is an affirmative defense to an allegation of the commission of an offense  
314 listed in Subsection (16)(b) that the person:

315 (i) reasonably believes that the person or another person is experiencing an overdose  
316 event due to the ingestion, injection, inhalation, or other introduction into the human body of a  
317 controlled substance or other substance;

318 (ii) reports in good faith the overdose event to a medical provider, an emergency  
319 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911  
320 emergency call system, or an emergency dispatch system, or the person is the subject of a  
321 report made under this Subsection (16);

322 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the  
323 actual location of the overdose event that facilitates responding to the person experiencing the  
324 overdose event;

325 (iv) remains at the location of the person experiencing the overdose event until a  
326 responding law enforcement officer or emergency medical service provider arrives, or remains  
327 at the medical care facility where the person experiencing an overdose event is located until a  
328 responding law enforcement officer arrives;

329 (v) cooperates with the responding medical provider, emergency medical service  
330 provider, and law enforcement officer, including providing information regarding the person  
331 experiencing the overdose event and any substances the person may have injected, inhaled, or  
332 otherwise introduced into the person's body; and

333 (vi) is alleged to have committed the offense in the same course of events from which  
334 the reported overdose arose.

335 (b) The offenses referred to in Subsection (16)(a) are:

336 (i) the possession or use of less than 16 ounces of marijuana;

337 (ii) the possession or use of a scheduled or listed controlled substance other than

338 marijuana; and

339 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,  
340 Imitation Controlled Substances Act.

341 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not  
342 include seeking medical assistance under this section during the course of a law enforcement  
343 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

344 (17) If any provision of this chapter, or the application of any provision to any person  
345 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the  
346 invalid provision or application.

347 (18) A legislative body of a political subdivision may not enact an ordinance that is  
348 less restrictive than any provision of this chapter.

349 (19) (a) If a minor who is under 18 years of age is found by a court to have violated this  
350 section and the violation is the minor's first violation of this section, the court may:

351 (i) order the minor to complete a screening as defined in Section 41-6a-501;

352 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the  
353 screening indicates an assessment to be appropriate; and

354 (iii) order the minor to complete an educational series as defined in Section 41-6a-501  
355 or substance abuse treatment as indicated by an assessment.

356 (b) If a minor who is under 18 years of age is found by a court to have violated this  
357 section and the violation is the minor's second or subsequent violation of this section, the court  
358 shall:

359 (i) order the minor to complete a screening as defined in Section 41-6a-501;

360 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the  
361 screening indicates an assessment to be appropriate; and

362 (iii) order the minor to complete an educational series as defined in Section 41-6a-501  
363 or substance abuse treatment as indicated by an assessment.

364 Section 3. Section 58-37f-201 is amended to read:

365 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

366 (1) There is created within the division a controlled substance database.

367 (2) The division shall administer and direct the functioning of the database in  
368 accordance with this chapter.

369 (3) The division may, under state procurement laws, contract with another state agency  
370 or a private entity to establish, operate, or maintain the database.

371 (4) The division shall, in collaboration with the board, determine whether to operate  
372 the database within the division or contract with another entity to operate the database, based  
373 on an analysis of costs and benefits.

374 (5) The purpose of the database is to contain:

375 (a) the data described in Section 58-37f-203 regarding every prescription for a  
376 controlled substance dispensed in the state to any individual other than an inpatient in a  
377 licensed health care facility[-];

378 (b) data reported to the division under Section 26-21-26 regarding poisoning or  
379 overdose;

380 (c) data reported to the division under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b)  
381 regarding convictions for driving under the influence of a prescribed controlled substance or  
382 impaired driving; and

383 (d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)(j)  
384 regarding certain violations of the Utah Controlled Substances Act.

385 (6) The division shall maintain the database in an electronic file or by other means  
386 established by the division to facilitate use of the database for identification of:

387 (a) prescribing practices and patterns of prescribing and dispensing controlled  
388 substances;

389 (b) practitioners prescribing controlled substances in an unprofessional or unlawful  
390 manner;

391 (c) individuals receiving prescriptions for controlled substances from licensed  
392 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet  
393 in quantities or with a frequency inconsistent with generally recognized standards of dosage for  
394 that controlled substance; [~~and~~]

395 (d) individuals presenting forged or otherwise false or altered prescriptions for  
396 controlled substances to a pharmacy[-];

397 (e) individuals admitted to a general acute hospital for poisoning or overdose involving  
398 a prescribed controlled substance; and

399 (f) individuals convicted for:

400 (i) driving under the influence of a prescribed controlled substance that renders the  
 401 individual incapable of safely operating a vehicle;

402 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

403 (iii) certain violations of the Utah Controlled Substances Act.

404 Section 4. Section **58-37f-702** is amended to read:

405 **58-37f-702. Entering prescribed controlled substance poisonings and overdoses**  
 406 **into the database and reporting them to practitioners.**

407 (1) ~~It~~ **→ [Beginning on July 1, 2012, if the division]** When the database ~~←It~~  
 407a receives a report from a general acute  
 408 hospital under Section [26-21-26](#), regarding admission to a general acute hospital for poisoning  
 409 or overdose involving a prescribed controlled substance, the division shall ~~It~~ **→ [immediately enter**  
 410 **into the database the information supplied in the report and]** ~~←It~~ , within three business days after  
 410a the  
 411 day on which the report is received:

412 (a) attempt to identify, through the database, each practitioner who may have  
 413 prescribed the controlled substance to the patient; and

414 (b) provide each practitioner identified under Subsection (1)(a) with:

415 (i) a copy of the report provided by the general acute hospital under Section [26-21-26](#);  
 416 and

417 (ii) the information obtained from the database that led the division to determine that  
 418 the practitioner receiving the information may have prescribed the controlled substance to the  
 419 person named in the report.

420 (2) It is the intent of the Legislature that the information provided under Subsection  
 421 (1)(b) is provided for the purpose of assisting the practitioner in:

422 (a) discussing with the patient issues relating to the poisoning or overdose;

423 (b) advising the patient of measures that may be taken to avoid a future poisoning or  
 424 overdose; and

425 (c) making decisions regarding future prescriptions written for the patient.

426 (3) Beginning on July 1, 2010, the division shall, in accordance with Section  
 427 [63J-1-504](#), increase the licensing fee described in Subsection [58-37-6\(1\)\(b\)](#) to pay the startup  
 428 and ongoing costs of the division for complying with the requirements of this section.

429 Section 5. Section **58-37f-703** is amended to read:

430 **58-37f-703. Entering certain convictions into the database and reporting them to**

431 **practitioners.**

432 (1) ~~Beginning on July 1, 2012, if~~ When ~~the~~ the division receives a report  
432a from a court under  
433 Subsection ~~41-6a-502(4) or 41-6a-502.5(5)(b)~~ relating to a conviction for driving under the  
434 influence of, or while impaired by, a prescribed controlled substance, the division shall:

435 (a) ~~Immediately~~ daily ~~enter into the database the information supplied~~  
435a in the report,

436 including the ~~month during~~ date on ~~which the person was convicted;~~

437 ~~(a)~~ (b) attempt to identify, through the database, each practitioner who may have  
438 prescribed the controlled substance to the convicted person; and

439 ~~(b)~~ (c) provide each practitioner identified under Subsection (1)~~(a)~~(b) with:

440 (i) a copy of the information provided by the court; and

441 (ii) the information obtained from the database that led the division to determine that  
442 the practitioner receiving the information may have prescribed the controlled substance to the  
443 convicted person.

444 (2) It is the intent of the Legislature that the information provided under Subsection  
445 (1)(b) is provided for the purpose of assisting the practitioner in:

446 (a) discussing the manner in which the controlled substance may impact the convicted  
447 person's driving;

448 (b) advising the convicted person on measures that may be taken to avoid adverse  
449 impacts of the controlled substance on future driving; and

450 (c) making decisions regarding future prescriptions written for the convicted person.

451 (3) Beginning on July 1, 2010, the division shall, in accordance with Section  
452 ~~63J-1-504~~, increase the licensing fee described in Subsection ~~58-37-6(1)(b)~~ to pay the startup  
453 and ongoing costs of the division for complying with the requirements of this section.

454 Section 6. Section ~~58-37f-704~~ is enacted to read:

455 **58-37f-704. Entering certain convictions into the database.**

456 Beginning ~~July~~ October ~~1, 2016, if the division receives a report from a court~~  
456a under Subsection

457 58-37-8(1)(e) or 58-37-8(2)(j), the division shall ~~Immediately~~ daily ~~enter into~~  
457a the database the

458 information supplied in the report.

458a ~~Section 7. Coordinating H.B. 114 with H.B. 149 --Superseding technical and substantive~~  
458b **amendments.**

458c **If this H.B. 114 and H.B. 149, both pass and become law, it is the intent of** ☪

458d **the Legislature that the amendments to Subsection 58-37f-702(1) in H.B. 149 supersede the**  
458e **amendments to Subsection 58-37f-702(1) in this bill when the Office of Legislative Research**  
458f **and General Counsel prepares the Utah Code database for publication.** ←<sup>^</sup>

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**