

HB0229S01 compared with HB0229

~~deleted text~~ shows text that was in HB0229 but was deleted in HB0229S01.

inserted text shows text that was not in HB0229 but was inserted into HB0229S01.

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Representative Edward H. Redd proposes the following substitute bill:

SYSTEM OF CARE DEVELOPMENT

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Edward H. Redd

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Department of Human Services' authority related to developing a system of care.

Highlighted Provisions:

This bill:

- ▶ amends a definition;
- ▶ clarifies the authority of the Department of Human Services related to developing a system of care for minors with complex emotional and behavioral needs; and
- ▶ modifies the components of a system of care; and
- ▶ authorizes the department to develop an information technology infrastructure to implement the system of care.

Money Appropriated in this Bill:

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None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-43-201, as last amended by Laws of Utah 2014, Chapter 213

17-43-301, as last amended by Laws of Utah 2014, Chapter 213

62A-1-104, as last amended by Laws of Utah 2014, Chapter 213

62A-1-111, as last amended by Laws of Utah 2014, Chapter 213

ENACTS:

62A-1-121, Utah Code Annotated 1953

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

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

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

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

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

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

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

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

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

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

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

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section, each local substance abuse authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with ~~[or at risk for]~~ complex emotional and behavioral needs, as described in Section ~~[62A-1-111]~~ 62A-1-121.

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

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

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

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

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

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

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

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

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

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

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authorities.

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

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

(4) Each local substance abuse authority shall:

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

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

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

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

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

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

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

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

(g) establish mechanisms allowing for direct citizen input;

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

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

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

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

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

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

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance abuse treatment; and

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

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

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

(i) the division;

(ii) the local substance abuse authority director;

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

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

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

(iv) the county legislative body; and

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

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

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

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

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

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

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

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

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

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

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

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

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(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

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

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

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

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

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

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

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

(i) provide mental health services to persons within the county; and

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

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with [~~or at risk for~~] complex emotional and behavioral needs, as described in Section [~~62A-1-111~~] 62A-1-121.

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

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treatment services.

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

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

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

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

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

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

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

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

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

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

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

(3) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are

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provided by a private contract provider.

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

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

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

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

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

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

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

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

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

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

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

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

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Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

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

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

- (i) inpatient care and services;
- (ii) residential care and services;
- (iii) outpatient care and services;
- (iv) 24-hour crisis care and services;
- (v) psychotropic medication management;
- (vi) psychosocial rehabilitation, including vocational training and skills development;
- (vii) case management;
- (viii) community supports, including in-home services, housing, family support services, and respite services;
- (ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and
- (x) services to persons incarcerated in a county jail or other county correctional facility.

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

- (a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:
 - (i) the division;
 - (ii) the local mental health authority director;
 - (iii) (A) the county treasurer and county or district attorney; or
(B) if two or more counties jointly provide mental health services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;
 - (iv) the county legislative body; and

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

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

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

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

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

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

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

62A-1-104. Definitions.

(1) As used in this title:

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

(b) "Department" means the Department of Human Services established in Section 62A-1-102.

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

(d) "System of care" means a broad, flexible array of services and supports, as described in Section 62A-1-121, for minors with ~~[or at risk for]~~ complex emotional and behavioral needs ~~[that: (i) is community based; (ii) integrates service planning, service coordination, and management across state and local entities; (iii) includes individualized, person-centered planning; (iv) builds meaningful partnerships with families and children; and (v) provides supportive management and policy infrastructure that is organized into a coordinated network.]~~ who are receiving services through the department or any of the department's divisions, offices, or institutions, or who are at risk of needing services through

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the department or any of the department's divisions, offices, or institutions.

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

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

62A-1-111. Department authority.

(1) The department may, in addition to all other authority and responsibility granted to it by law:

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

(2) (b) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

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

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

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

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

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

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

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

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

(11) (k) accept and employ volunteer labor or services; the department is authorized

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to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

~~[(12)]~~ [(1)] carry out the responsibility assigned in the Workforce Services Plan by the State Council on Workforce Services;

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

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

~~[(15)]~~ [(o)] provide training and educational opportunities for its staff;

~~[(16)]~~ [(p)] collect child support payments and any other money due to the department;

~~[(17)]~~ [(q)] apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

~~[(18)]~~ [(r)] establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall include:

~~[(a)]~~ [(i)] designation of interagency teams for each juvenile court district in the state;

~~[(b)]~~ [(ii)] delineation of assessment criteria and procedures;

~~[(c)]~~ [(iii)] minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

~~[(d)]~~ [(iv)] provisions for submittal of the plan and periodic progress reports to the court;

~~[(19)]~~ [(s)] carry out the responsibilities assigned to it by statute;

~~[(20)]~~ [(t)] examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and

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persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102; and

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

~~[(22) - {} within appropriations authorized by the Legislature,]~~

(2) The department shall promote and develop a system of care, as ~~[defined in Section 62A-1-104, within the department and with contractors that provide services to the department or any of the department's divisions]~~ described in Section 62A-1-121.

Section 5. Section **62A-1-121** is enacted to read:

62A-1-121. System of care.

(1) ~~{ Within appropriations authorized by the Legislature, the }~~ The department ~~{ may }~~ shall promote and develop a system of care within the department or any of the department's divisions, offices, or institutions.

(2) The system of care shall serve minors with complex emotional and behavioral needs who are receiving services through the department or any of the department's divisions, offices, or institutions, or who are at risk of needing services through the department or any of the department's divisions, offices, or institutions.

(3) The system of care shall incorporate a broad, flexible array of services and supports that:

(a) is home and community based;

(b) integrates service planning, service coordination, and management across state and local entities in a team-based approach;

(c) includes individualized, person-centered planning;

(d) builds meaningful partnerships with minors and minors' families; and

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

(4) The department may develop an information technology infrastructure to

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implement the system of care, including the following components:

- (a) sharing of information between minors' families and state and local entities involved in the care of the minors, in accordance with state and federal law;
- (b) documentation of care provided to minors and minors' families;
- (c) an electronic health record system that complies with federal privacy requirements, including the Health Insurance Portability and Accountability Act of 1996; and
- (d) design and develop a data collection system for purposes of data mining and extracting the aggregate data to make informed business decisions.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to accomplish the requirements described in Subsection (4).

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~