

SUBSTANCE ABUSE PROGRAMS AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions of the Utah Code regarding the Utah Substance Abuse Advisory Council.

Highlighted Provisions:

This bill:

- ▶ changes the name of the Utah Substance Abuse Advisory Council to the Utah Substance Use and Mental Health Advisory Council;
- ▶ modifies the membership of the Utah Substance Use and Mental Health Advisory Council;
- ▶ changes the title of the Drug Offender Reform Act to the Drug-Related Offenses Reform Act;
- ▶ expands the application of the Drug-Related Offenses Reform Act beyond persons convicted of a felony to any convicted offenders determined to be eligible under the implementation plan developed by the Utah Substance Use and Mental Health Advisory Council; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **32B-2-210**, as enacted by Laws of Utah 2012, Chapter 365
- 31 **32B-2-402**, as last amended by Laws of Utah 2014, Chapter 119
- 32 **53-1-119**, as last amended by Laws of Utah 2014, Chapter 163
- 33 **63M-7-301**, as last amended by Laws of Utah 2012, Chapter 212
- 34 **63M-7-302**, as last amended by Laws of Utah 2014, Chapter 387
- 35 **63M-7-303**, as last amended by Laws of Utah 2014, Chapter 120
- 36 **63M-7-305**, as last amended by Laws of Utah 2011, Chapter 51
- 37 **77-18-1.1**, as last amended by Laws of Utah 2011, Chapters 342 and 366



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

40 Section 1. Section **32B-2-210** is amended to read:

41 **32B-2-210. Alcoholic Beverage Control Advisory Board.**

42 (1) There is created within the department an advisory board known as the "Alcoholic
43 Beverage Control Advisory Board."

44 (2) The advisory board shall consist of 12 members as follows:

45 (a) the following voting members appointed by the commission, a representative of:

- 46 (i) a full-service restaurant licensee;
- 47 (ii) a limited-service restaurant licensee;
- 48 (iii) a beer-only restaurant licensee;
- 49 (iv) a social club licensee;
- 50 (v) a fraternal club licensee;
- 51 (vi) a dining club licensee;
- 52 (vii) a wholesaler licensee;
- 53 (viii) an on-premise banquet licensee;
- 54 (ix) an on-premise beer retailer licensee; and
- 55 (x) a reception center licensee;

56 (b) the chair of the Utah Substance ~~Abuse~~ Use and Mental Health Advisory Council,
57 or the chair's designee, who serves as a voting member; and

58 (c) the chair of the commission or the chair's designee from the members of the

59 commission, who shall serve as a nonvoting member.

60 (3) (a) Except as required by Subsection (3)(b), as terms of current voting members of
61 the advisory board expire, the commission shall appoint each new member or reappointed
62 member to a four-year term beginning July 1 and ending June 30.

63 (b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the
64 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
65 voting advisory board members are staggered so that approximately half of the advisory board
66 is appointed every two years.

67 (c) No two members of the board may be employed by the same company or nonprofit
68 organization.

69 (4) (a) When a vacancy occurs in the membership for any reason, the commission shall
70 appoint a replacement for the unexpired term.

71 (b) The commission shall terminate the term of a voting advisory board member who
72 ceases to be representative as designated by the member's original appointment.

73 (5) The advisory board shall meet no more than quarterly as called by the chair for the
74 purpose of advising the commission and the department, with discussion limited to
75 administrative rules made under this title.

76 (6) The chair of the commission or the chair's designee shall serve as the chair of the
77 advisory board and call the necessary meetings.

78 (7) (a) Six members of the board constitute a quorum of the board.

79 (b) An action of the majority when a quorum is present is the action of the board.

80 (8) The department shall provide staff support to the advisory board.

81 (9) A member may not receive compensation or benefits for the member's service, but
82 may receive per diem and travel expenses in accordance with:

83 (a) Section 63A-3-106;

84 (b) Section 63A-3-107; and

85 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
86 63A-3-107.

87 Section 2. Section 32B-2-402 is amended to read:

88 **32B-2-402. Definitions -- Calculations.**

89 (1) As used in this part:

90 (a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and
91 Treatment Restricted Account created in Section [32B-2-403](#).

92 (b) "Advisory council" means the Utah Substance ~~[Abuse]~~ Use and Mental Health
93 Advisory Council created in Section [63M-7-301](#).

94 (c) "Alcohol-related offense" means:

95 (i) a violation of:

96 (A) Section [41-6a-502](#); or

97 (B) an ordinance that complies with the requirements of:

98 (I) Subsection [41-6a-510](#)(1); or

99 (II) Section [76-5-207](#); or

100 (ii) an offense involving the illegal:

101 (A) sale of an alcoholic product;

102 (B) consumption of an alcoholic product;

103 (C) distribution of an alcoholic product;

104 (D) transportation of an alcoholic product; or

105 (E) possession of an alcoholic product.

106 (d) "Annual conviction time period" means the time period that:

107 (i) begins on July 1 and ends on June 30; and

108 (ii) immediately precedes the fiscal year for which an appropriation under this part is
109 made.

110 (e) "Municipality" means:

111 (i) a city; or

112 (ii) a town.

113 (f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah
114 Administrative Rulemaking Act, by the Division of Substance Abuse and Mental Health within
115 the Department of Human Services.

116 (ii) In defining the term "prevention," the Division of Substance Abuse and Mental
117 Health shall:

118 (A) include only evidence-based or evidence-informed programs; and

119 (B) provide for coordination with local substance abuse authorities designated to
120 provide substance abuse services in accordance with Section [17-43-201](#).

121 (2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located
122 within the limits of a municipality or county:

123 (a) is the number determined by the department to be so located;

124 (b) includes the aggregate number of premises of the following:

125 (i) a state store;

126 (ii) a package agency; and

127 (iii) a retail licensee; and

128 (c) for a county, consists only of the number located within an unincorporated area of
129 the county.

130 (3) The department shall determine:

131 (a) a population figure according to the most current population estimate prepared by
132 the Utah Population Estimates Committee;

133 (b) a county's population for the 25% distribution to municipalities and counties under
134 Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated
135 areas of the county; and

136 (c) a county's population for the 25% distribution to counties under Subsection
137 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of
138 a municipality.

139 (4) (a) A conviction occurs in the municipality or county that actually prosecutes the
140 offense to judgment.

141 (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in
142 the municipality or county that, except for the guilty plea, would have prosecuted the offense.

143 Section 3. Section 53-1-119 is amended to read:

144 **53-1-119. Tracking effects of abuse of alcoholic products.**

145 (1) There is created a committee within the department known as the "Alcohol Abuse
146 Tracking Committee" that consists of:

147 (a) the commissioner, or the commissioner's designee;

148 (b) the executive director of the Department of Health, or the executive director's
149 designee;

150 (c) the executive director of the Department of Human Services, or the executive
151 director's designee;

152 (d) the director of the Department of Alcoholic Beverage Control, or the director's
153 designee;

154 (e) the executive director of the Department of Workforce Services, or the executive
155 director's designee;

156 (f) the chair of the Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council,
157 or the chair's designee;

158 (g) the state court administrator or the state court administrator's designee; and

159 (h) the executive director of the Department of Technology Services, or the executive
160 director's designee.

161 (2) The commissioner, or the commissioner's designee, shall chair the committee.

162 (3) (a) Four members of the committee constitute a quorum.

163 (b) A vote of the majority of the committee members present when a quorum is present
164 is an action of the committee.

165 (4) The committee shall meet at the call of the chair, except that the chair shall call a
166 meeting at least twice a year:

167 (a) with one meeting held before April 1 of each year to develop the report required
168 under Subsection (7); and

169 (b) with one meeting to review and finalize the report before it is issued July 1.

170 (5) The committee may adopt additional procedures or requirements for:

171 (a) voting, when there is a tie of the committee members;

172 (b) how meetings are to be called; and

173 (c) the frequency of meetings.

174 (6) The committee shall establish a process to collect for each calendar year the
175 following information:

176 (a) the number of individuals statewide who are convicted of, plead guilty to, plead no
177 contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a
178 violation related to underage drinking of alcohol;

179 (b) the number of individuals statewide who are convicted of, plead guilty to, plead no
180 contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a
181 violation related to driving under the influence of alcohol;

182 (c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act,

183 related to over-serving or over-consumption of an alcoholic product;

184 (d) the cost of social services provided by the state related to abuse of alcohol,
185 including services provided by the Division of Child and Family Services within the
186 Department of Human Services;

187 (e) where the alcoholic products are obtained that results in the violations or costs
188 described in Subsections (6)(a) through (d); and

189 (f) any information the committee determines can be collected and relates to the abuse
190 of alcoholic products.

191 (7) Beginning July 1, 2014, the committee shall report the information collected under
192 Subsection (6) annually to the governor and the Legislature by no later than the July 1
193 immediately following the calendar year for which the information is collected.

194 Section 4. Section **63M-7-301** is amended to read:

195 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**

196 (1) (a) As used in this part, "council" means the Utah Substance [~~Abuse~~] Use and
197 Mental Health Advisory Council created in this section.

198 (b) There is created within the governor's office the Utah Substance [~~Abuse~~] Use and
199 Mental Health Advisory Council.

200 (2) The council shall be comprised of the following voting members:

201 (a) the attorney general or the attorney general's designee;

202 (b) [~~a county commissioner designated~~] an elected county official appointed by the
203 Utah Association of Counties;

204 (c) the commissioner of public safety or the commissioner's designee;

205 (d) the director of the Division of Substance Abuse and Mental Health or the director's
206 designee;

207 (e) the state superintendent of public instruction or the superintendent's designee;

208 (f) the executive director of the Department of Health or the executive director's
209 designee;

210 (g) the executive director of the Commission on Criminal and Juvenile Justice or the
211 executive director's designee;

212 [~~(h) the governor or the governor's designee;~~]

213 [(†)] (h) the executive director of the Department of Corrections or the executive

214 director's designee;

215 ~~[(j)]~~ (i) the director of the Division of Juvenile Justice Services or the director's
216 designee;

217 ~~[(k) the executive director of the private nonprofit Utah Domestic Violence Council or
218 the executive director's designee;]~~

219 (j) the director of the Division of Child and Family Services or the director's designee;

220 (k) the chair of the Board of Pardons and Parole or the chair's designee;

221 (l) the director of the Office of Multicultural Affairs or the director's designee;

222 ~~[(H)]~~ (m) the director of the Division of Indian Affairs or the director's designee;

223 ~~[(m)]~~ (n) the state court administrator or the state court administrator's designee;

224 (o) a district court judge who presides over a drug court and who is appointed by the
225 chief justice of the Utah Supreme Court;

226 (p) a district court judge who presides over a mental health court and who is appointed
227 by the chief justice of the Utah Supreme Court;

228 (q) a juvenile court judge who presides over a drug court and who is appointed by the
229 chief justice of the Utah Supreme Court;

230 (r) a prosecutor appointed by the Statewide Association of Prosecutors;

231 (s) the chair or co-chair of each committee established by the council;

232 ~~[(m)]~~ (t) the following members ~~[designated]~~ appointed to serve four-year terms:

233 (i) a member of the House of Representatives ~~[designated]~~ appointed by the speaker of
234 the House of Representatives;

235 (ii) a member of the Senate ~~[designated]~~ appointed by the president of the Senate; and

236 (iii) a representative ~~[designated]~~ appointed by the Utah League of Cities and Towns;

237 ~~[(O)]~~ (u) the following members appointed by the governor to serve four-year terms:

238 ~~[(i) a representative of the Utah National Guard;]~~

239 ~~[(ii)]~~ (i) one resident of the state who has been personally affected by ~~[alcohol or other
240 drug abuse]~~ a substance use or mental health disorder; and

241 ~~[(iii)]~~ (ii) one citizen representative; and

242 ~~[(P)]~~ (v) in addition to the voting members described in Subsections (2)(a) through
243 ~~[(O)]~~ (u), the following voting members ~~[may be]~~ appointed by a majority of the members
244 described in Subsections (2)(a) through ~~[(O)]~~ (u) to serve four-year terms:

245 ~~[(i) a person knowledgeable in criminal justice issues;]~~
 246 ~~[(ii) a person knowledgeable in substance abuse treatment issues;]~~
 247 ~~[(iii) a person knowledgeable in substance abuse prevention issues; and]~~
 248 ~~[(iv) a person knowledgeable in judiciary issues; and]~~
 249 ~~[(q) in addition to the voting members described in Subsections (2)(a) through (p), one~~
 250 ~~or more chairs or co-chairs of a committee established by the council under Subsection~~
 251 ~~63M-7-302(5) may be appointed as a voting member by a majority of the members described in~~
 252 ~~Subsections (2)(a) through (p).]~~

253 (i) one resident of the state who represents a statewide advocacy organization for
 254 recovery from substance use disorders;
 255 (ii) one resident of the state who represents a statewide advocacy organization for
 256 recovery from mental illness;
 257 (iii) one resident of the state who represents prevention professionals;
 258 (iv) one resident of the state who represents treatment professionals;
 259 (v) one resident of the state who represents the physical health care field;
 260 (vi) one resident of the state who is a criminal defense attorney;
 261 (vii) one resident of the state who is a military servicemember or military veteran under
 262 Section 53B-8-102; and

263 (viii) one resident of the state who represents local law enforcement agencies.
 264 (3) A person other than a person described in Subsection (2) may not be appointed as a
 265 voting member of the council.

266 Section 5. Section 63M-7-302 is amended to read:

267 **63M-7-302. Chair -- Vacancies -- Quorum -- Expenses.**

268 (1) The Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council shall
 269 annually select one of its members to serve as chair and one of its members to serve as vice
 270 chair.

271 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
 272 appointed for the unexpired term in the same manner as the position was originally filled.

273 (3) A majority of the members of the council constitutes a quorum.

274 (4) (a) A member who is not a legislator may not receive compensation or benefits for
 275 the member's service, but may receive per diem and travel expenses as allowed in:

276 (i) Section 63A-3-106;
277 (ii) Section 63A-3-107; and
278 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and
279 63A-3-107.

280 (b) Compensation and expenses of a member who is a legislator are governed by
281 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

282 (5) The council may establish committees as needed to assist in accomplishing its
283 duties under Section 63M-7-303.

284 Section 6. Section 63M-7-303 is amended to read:

285 **63M-7-303. Duties of council.**

286 (1) The Utah Substance [~~Abuse~~] Use and Mental Health Advisory Council shall:

287 (a) provide leadership and generate unity for Utah's ongoing efforts to [~~combat~~
288 ~~substance abuse~~] reduce and eliminate the impact of substance use and mental health disorders
289 in Utah through a comprehensive and evidence-based prevention, treatment, and justice
290 strategy;

291 (b) recommend and coordinate the creation, dissemination, and implementation of [a]
292 statewide [~~substance abuse policy~~] policies to address substance use and mental health
293 disorders;

294 (c) facilitate planning for a balanced continuum of substance [~~abuse~~] use and mental
295 health disorder prevention, treatment, and justice services;

296 (d) promote collaboration and mutually beneficial public and private partnerships;

297 (e) coordinate recommendations made by any committee created under Section
298 63M-7-302;

299 (f) analyze and provide an objective assessment of all proposed legislation concerning
300 [~~alcohol and other drug~~] substance use, mental health, and related issues;

301 (g) coordinate the implementation of Section 77-18-1.1 and related provisions in
302 Subsections 77-18-1(5)(b)(iii) and (iv), as provided in Section 63M-7-305; and

303 (h) comply with Section 32B-2-306.

304 (2) The council shall meet quarterly or more frequently as determined necessary by the
305 chair.

306 (3) The council shall report its recommendations annually to the commission,

307 governor, the Legislature, and the Judicial Council.

308 Section 7. Section **63M-7-305** is amended to read:

309 **63M-7-305. Drug-Related Offenses Reform Act -- Coordination.**

310 (1) As used in this section:

311 (a) "Council" means the Utah Substance [~~Abuse~~] Use and Mental Health Advisory
312 Council.

313 (b) "Drug [~~Offender~~]-Related Offenses Reform Act" and "act" mean the screening,
314 assessment, substance [~~abuse~~] use disorder treatment, and supervision provided to convicted
315 [~~offenders~~] persons under Subsection 77-18-1.1(2) to:

316 (i) determine [~~offenders~~] a person's specific substance [~~abuse~~] use disorder treatment
317 needs as early as possible in the judicial process;

318 (ii) expand treatment resources for [~~offenders~~] persons in the community;

319 (iii) integrate a person's treatment [~~of offenders~~] with supervision by the Department of
320 Corrections; and

321 (iv) reduce the incidence of substance [~~abuse~~] use disorders and related criminal
322 conduct.

323 (c) "Substance abuse authority" has the same meaning as in Section 17-43-201.

324 (2) The council shall provide ongoing oversight of the implementation, functions, and
325 evaluation of the Drug [~~Offender~~]-Related Offenses Reform Act.

326 (3) The council shall develop an implementation plan for the Drug [~~Offender~~]-Related
327 Offenses Reform Act. The plan shall:

328 (a) identify local substance abuse authority areas where the act will be implemented, in
329 cooperation with the Division of Substance Abuse and Mental Health, the Department of
330 Corrections, and the local substance abuse authorities;

331 (b) include guidelines for local substance abuse authorities and the Utah Department of
332 Corrections on how funds appropriated under the act should be used, including eligibility
333 requirements for convicted persons who participate in services funded by the act, that are
334 consistent with the recommendations of the Commission on Criminal and Juvenile Justice for
335 reducing recidivism; and

336 (c) require that treatment plans under the act are appropriate for [~~criminal offenders~~]
337 persons involved in the criminal justice system.

338 ~~[(d) include guidelines on the membership of local planning groups;]~~

339 ~~[(e) include guidelines on the membership of the Department of Corrections' planning~~
340 ~~group under Subsection (5); and (f) provide guidelines for the Commission on Criminal and~~
341 ~~Juvenile Justice to conduct an evaluation of the implementation, impact, and results of the act.]~~

342 ~~[(4) (a) Each local substance abuse authority designated under Subsection (3) to~~
343 ~~implement the act shall establish a local planning group and shall submit a plan to the council~~
344 ~~detailing how the authority proposes to use the act funds. The uses shall be in accordance with~~
345 ~~the guidelines established by the council under Subsection (3).]~~

346 ~~[(b) Upon approval of the plan by the council, the Division of Substance Abuse and~~
347 ~~Mental Health shall allocate the funds.]~~

348 ~~[(c) Local substance abuse authorities shall annually, on or before October 1, submit to~~
349 ~~the Division of Substance Abuse and Mental Health and to the council reports detailing use of~~
350 ~~the funds and the impact and results of the use of the funds during the prior fiscal year ending~~
351 ~~June 30.]~~

352 ~~[(5) (a) The Department of Corrections shall establish a planning group and shall~~
353 ~~submit a plan to the council detailing how the department proposes to use the act funds. The~~
354 ~~uses shall be in accordance with the guidelines established by the council under Subsection~~
355 ~~(3).]~~

356 ~~[(b) The Department of Corrections shall annually, before October 1, submit to the~~
357 ~~council a report detailing use of the funds and the impact and results of the use of the funds~~
358 ~~during the prior fiscal year ending June 30.]~~

359 ~~[(6) The council shall monitor the progress and evaluation of the act and shall provide~~
360 ~~a written report on the implementation, impact, and results of the act to the Law Enforcement~~
361 ~~and Criminal Justice and the Health and Human Services legislative interim committees~~
362 ~~annually before November 1.]~~

363 Section 8. Section **77-18-1.1** is amended to read:

364 **77-18-1.1. Screening, assessment, and treatment.**

365 (1) As used in this section:

366 (a) "Assessment" has the same meaning as in Section [41-6a-501](#).

367 (b) "Convicted" means:

368 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental

369 illness, or no contest; and

370 (ii) conviction of any crime or offense.

371 (c) "Screening" has the same meaning as in Section [41-6a-501](#).

372 (d) "Substance ~~[abuse]~~ use disorder treatment" means treatment obtained through a
373 substance ~~[abuse]~~ use disorder program that is licensed by the Office of Licensing within the
374 Department of Human Services.

375 (2) On or after July 1, 2009, the courts of the judicial districts where the Drug
376 ~~[Offender]-Related Offenses Reform Act~~ under Section [63M-7-305](#) is implemented shall, in
377 coordination with the local substance abuse authority regarding available resources, order
378 ~~[offenders convicted of a felony]~~ convicted persons determined to be eligible in accordance
379 with the implementation plan developed by the Utah Substance Use and Mental Health
380 Advisory Council under Section [63M-7-305](#) to:

381 (a) participate in a screening prior to sentencing;

382 (b) participate in an assessment prior to sentencing if the screening indicates an
383 assessment to be appropriate; and

384 (c) participate in substance ~~[abuse]~~ use disorder treatment if:

385 (i) the assessment indicates treatment to be appropriate;

386 (ii) the court finds treatment to be appropriate for the ~~[offender]~~ convicted person; and

387 (iii) the court finds the ~~[offender]~~ convicted person to be an appropriate candidate for
388 community-based supervision.

389 (3) The findings from any screening and any assessment conducted under this section
390 shall be part of the presentence investigation report submitted to the court before sentencing of
391 the ~~[offender]~~ convicted person.

392 (4) Money appropriated by the Legislature to assist in the funding of the screening,
393 assessment, substance ~~[abuse]~~ use disorder treatment, and supervision provided under this
394 section is not subject to any requirement regarding matching funds from a state or local
395 governmental entity.