

1 **UTAH SUBSTANCE USE AND MENTAL HEALTH ADVISORY**

2 **COUNCIL**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jerry W. Stevenson**

6 House Sponsor: Stewart E. Barlow

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses the Utah Substance Use and Mental Health Advisory Council.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ corrects references to the council;
- 14 ▶ adds a member to the council; and
- 15 ▶ makes technical corrections.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **32B-2-306**, as enacted by Laws of Utah 2012, Chapter 388

23 **32B-7-305**, as enacted by Laws of Utah 2010, Chapter 276 and last amended by
24 Coordination Clause, Laws of Utah 2010, Chapter 276

25 **62A-15-103**, as last amended by Laws of Utah 2016, Chapters 113 and 211

26 **63M-7-202**, as last amended by Laws of Utah 2010, Chapter 39

27 **63M-7-301**, as last amended by Laws of Utah 2016, Chapter 158

28
29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **32B-2-306** is amended to read:

31 **32B-2-306. Underage drinking prevention media and education campaign.**

32 (1) As used in this section:

33 (a) "Advisory council" means the Utah Substance [~~Abuse~~] Use and Mental Health
34 Advisory Council created in Section **63M-7-301**.

35 (b) "Restricted account" means the Underage Drinking Prevention Media and
36 Education Campaign Restricted Account created in this section.

37 (2) (a) There is created a restricted account within the General Fund known as the
38 "Underage Drinking Prevention Media and Education Campaign Restricted Account."

39 (b) The restricted account consists of:

40 (i) deposits made under Subsection (3); and

41 (ii) interest earned on the restricted account.

42 (3) The department shall deposit 0.6% of the total gross revenue from sales of liquor
43 with the state treasurer, as determined by the total gross revenue collected for the fiscal year
44 two years preceding the fiscal year for which the deposit is made, to be credited to the
45 restricted account and to be used by the department as provided in Subsection (5).

46 (4) The advisory council shall:

47 (a) provide ongoing oversight of a media and education campaign funded under this
48 section;

49 (b) create an underage drinking prevention workgroup consistent with guidelines
50 proposed by the advisory council related to the membership and duties of the underage
51 drinking prevention workgroup;

52 (c) create guidelines for how money appropriated for a media and education campaign
53 can be used;

54 (d) include in the guidelines established pursuant to this Subsection (4) that a media
55 and education campaign funded under this section is carefully researched and developed, and
56 appropriate for target groups; and

57 (e) approve plans submitted by the department in accordance with Subsection (5).

58 (5) (a) Subject to appropriation from the Legislature, the department shall expend
59 money from the restricted account to direct and fund one or more media and education
60 campaigns designed to reduce underage drinking in cooperation with the advisory council.

61 (b) The department shall:

62 (i) in cooperation with the underage drinking prevention workgroup created under
63 Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of
64 the money appropriated under this section;

65 (ii) upon approval of the plan by the advisory council, conduct the media and education
66 campaign in accordance with the guidelines made by the advisory council; and

67 (iii) submit to the advisory council annually by no later than October 1, a written report
68 detailing the use of the money for the media and education campaigns conducted under this
69 Subsection (5) and the impact and results of the use of the money during the prior fiscal year
70 ending June 30.

71 Section 2. Section **32B-7-305** is amended to read:

72 **32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.**

73 (1) A local authority that pursuant to this part adjudicates an administrative penalty for
74 a violation of a law involving the sale of an alcoholic product to a minor, shall:

75 (a) maintain a record of an adjudicated violation until the record is expunged under
76 Subsection (3);

77 (b) include in the record described in Subsection (1)(a):

78 (i) the name of the individual who commits the violation;

79 (ii) the name of the off-premise beer retailer for whom the individual is a staff member
80 at the time of the violation; and

81 (iii) the date of the adjudication of the violation; and

82 (c) provide the information described in Subsection (1)(b) to the Highway Safety
83 Office of the Department of Public Safety within 30 days of the date on which a violation is
84 adjudicated.

85 (2) (a) The Highway Safety Office shall develop and operate a system to collect,

86 analyze, maintain, track, and disseminate the violation history information received under
87 Subsection (1).

88 (b) The Highway Safety Office shall make the system described in Subsection (2)(a)
89 available to:

90 (i) assist a local authority in assessing administrative penalties under Section
91 [32B-7-303](#); and

92 (ii) inform an off-premise beer retailer of an individual who has an administrative
93 violation history under Section [32B-7-303](#).

94 (c) The Highway Safety Office shall maintain a record of violation history information
95 received pursuant to Subsection (1) until the record is expunged under Subsection (3).

96 (3) (a) A local authority and the Highway Safety Office shall expunge from the records
97 maintained an administrative penalty imposed under Section [32B-7-303](#) for purposes of
98 determining future administrative penalties under Section [32B-7-303](#) if the individual has not
99 been found in violation of any law involving the sale of an alcoholic product to a minor for a
100 period of 36 consecutive months from the day on which the individual is last adjudicated as
101 violating a law involving the sale of an alcoholic product to a minor.

102 (b) A local authority shall expunge from the records maintained by the local authority
103 an administrative penalty imposed under Section [32B-7-303](#) against an off-premise beer
104 retailer for purposes of determining future administrative penalties under Section [32B-7-303](#) if
105 the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in
106 violation of any law involving the sale of an alcoholic product to a minor for a period of 36
107 consecutive months from the day on which the off-premise beer retailer or staff of the
108 off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic
109 product to a minor.

110 (4) The Highway Safety Office shall administer a program to reimburse a municipal or
111 county law enforcement agency:

112 (a) for the actual costs of an alcohol-related compliance check investigation conducted
113 pursuant to Section [77-39-101](#) on the premises of an off-premise beer retailer;

114 (b) for administrative costs associated with reporting the compliance check
115 investigation described in Subsection (4)(a);

116 (c) if the municipal or county law enforcement agency completes and submits to the
117 Highway Safety Office a report within 90 days of the compliance check investigation described
118 in Subsection (4)(a) in a format required by the Highway Safety Office; and

119 (d) in the order that the municipal or county law enforcement agency submits the report
120 required by Subsection (4)(c) until the amount allocated by the Highway Safety Office to
121 reimburse a municipal or county law enforcement agency is spent.

122 (5) The Highway Safety Office shall report to the Utah Substance [~~Abuse~~] Use and
123 Mental Health Advisory Council by no later than October 1 following a fiscal year on the
124 following funded during the prior fiscal year:

125 (a) compliance check investigations reimbursed under Subsection (4); and

126 (b) the collection, analysis, maintenance, tracking, and dissemination of violation
127 history information described in Subsection (2).

128 Section 3. Section **62A-15-103** is amended to read:

129 **62A-15-103. Division -- Creation -- Responsibilities.**

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

133 (2) The division shall:

134 (a) (i) educate the general public regarding the nature and consequences of substance
135 abuse by promoting school and community-based prevention programs;

136 (ii) render support and assistance to public schools through approved school-based
137 substance abuse education programs aimed at prevention of substance abuse;

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

140 (iv) cooperate with and assist treatment centers, recovery residences, and other
141 organizations that provide services to individuals recovering from a substance abuse disorder,

- 142 by identifying and disseminating information about effective practices and programs;
- 143 (v) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative
144 Rulemaking Act, to develop, in collaboration with public and private programs, minimum
145 standards for public and private providers of substance abuse and mental health programs
146 licensed by the Department of Human Services under Title 62A, Chapter 2, Licensure of
147 Programs and Facilities;
- 148 (vi) promote integrated programs that address an individual's substance abuse, mental
149 health, physical health, and criminal risk factors;
- 150 (vii) establish and promote an evidence-based continuum of screening, assessment,
151 prevention, treatment, and recovery support services in the community for individuals with
152 substance abuse and mental illness that addresses criminal risk factors;
- 153 (viii) evaluate the effectiveness of programs described in this Subsection (2);
- 154 (ix) consider the impact of the programs described in this Subsection (2) on:
- 155 (A) emergency department utilization;
- 156 (B) jail and prison populations;
- 157 (C) the homeless population; and
- 158 (D) the child welfare system; and
- 159 (x) promote or establish programs for education and certification of instructors to
160 educate persons convicted of driving under the influence of alcohol or drugs or driving with
161 any measurable controlled substance in the body;
- 162 (b) (i) collect and disseminate information pertaining to mental health;
- 163 (ii) provide direction over the state hospital including approval of its budget,
164 administrative policy, and coordination of services with local service plans;
- 165 (iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative
166 Rulemaking Act, to educate families concerning mental illness and promote family
167 involvement, when appropriate, and with patient consent, in the treatment program of a family
168 member; and
- 169 (iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative

170 Rulemaking Act, to direct that all individuals receiving services through local mental health
171 authorities or the Utah State Hospital be informed about and, if desired, provided assistance in
172 completion of a declaration for mental health treatment in accordance with Section
173 [62A-15-1002](#);

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

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

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

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

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

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

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

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

190 (A) local substance abuse authorities;

191 (B) local mental health authorities; and

192 (C) in counties where they exist, the private contract provider that has an annual or
193 otherwise ongoing contract to provide comprehensive substance abuse or mental health
194 programs or services for the local substance abuse authority or local mental health authorities;

195 (ix) contract with local substance abuse authorities and local mental health authorities
196 to provide a comprehensive continuum of services that include community-based services for
197 individuals involved in the criminal justice system, in accordance with division policy, contract

198 provisions, and the local plan;

199 (x) contract with private and public entities for special statewide or nonclinical
200 services, or services for individuals involved in the criminal justice system, according to
201 division rules;

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

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

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

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

207 (D) a statewide comprehensive continuum of community-based services designed to
208 reduce criminal risk factors for individuals who are determined to have substance abuse or
209 mental illness conditions or both, and who are involved in the criminal justice system;

210 (E) compliance, where appropriate, with the certification requirements in Subsection
211 (2)(i); and

212 (F) appropriate expenditure of public funds;

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

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

218 and

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

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

225 (e) require each local substance abuse authority and each local mental health authority

226 to submit its plan to the division by May 1 of each year;

227 (f) conduct an annual program audit and review of each local substance abuse authority

228 in the state and its contract provider and each local mental health authority in the state and its

229 contract provider, including:

230 (i) a review and determination regarding whether:

231 (A) public funds allocated to local substance abuse authorities and local mental health

232 authorities are consistent with services rendered and outcomes reported by them or their

233 contract providers; and

234 (B) each local substance abuse authority and each local mental health authority is

235 exercising sufficient oversight and control over public funds allocated for substance abuse and

236 mental health programs and services; and

237 (ii) items determined by the division to be necessary and appropriate; and

238 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,

239 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

240 (h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative

241 Rulemaking Act, minimum standards and requirements for the provision of substance abuse

242 and mental health treatment to individuals who are required to participate in treatment by the

243 court or the Board of Pardons and Parole, or who are incarcerated, including:

244 (i) collaboration with the Department of Corrections[;] and the Utah Substance [~~Abuse~~]

245 Use and Mental Health Advisory Council to develop and coordinate the standards, including

246 standards for county and state programs serving individuals convicted of class A and class B

247 misdemeanors;

248 (ii) determining that the standards ensure available treatment includes the most current

249 practices and procedures demonstrated by recognized scientific research to reduce recidivism,

250 including focus on the individual's criminal risk factors; and

251 (iii) requiring that all public and private treatment programs meet the standards

252 established under this Subsection (2)(h) in order to receive public funds allocated to the

253 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice

254 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

255 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
256 Rulemaking Act, the requirements and procedures for the certification of licensed public and
257 private providers who provide, as part of their practice, substance abuse and mental health
258 treatment to individuals involved in the criminal justice system, including:

259 (i) collaboration with the Department of Corrections, the Utah Substance ~~[Abuse]~~ Use
260 and Mental Health Advisory Council, and the Utah Association of Counties to develop,
261 coordinate, and implement the certification process;

262 (ii) basing the certification process on the standards developed under Subsection (2)(h)
263 for the treatment of individuals involved in the criminal justice system; and

264 (iii) the requirement that all public and private providers of treatment to individuals
265 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
266 shall renew the certification every two years, in order to qualify for funds allocated to the
267 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
268 on or after July 1, 2016;

269 (j) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
270 provide recommendations to the Legislature regarding:

271 (i) pretrial services and the resources needed for the reduced recidivism efforts;

272 (ii) county jail and county behavioral health early-assessment resources needed for
273 offenders convicted of a class A or class B misdemeanor; and

274 (iii) the replacement of federal dollars associated with drug interdiction law
275 enforcement task forces that are reduced;

276 (k) (i) establish performance goals and outcome measurements for all treatment
277 programs for which minimum standards are established under Subsection (2)(h), including
278 recidivism data and data regarding cost savings associated with recidivism reduction and the
279 reduction in the number of inmates, that are obtained in collaboration with the Administrative
280 Office of the Courts and the Department of Corrections; and

281 (ii) collect data to track and determine whether the goals and measurements are being

282 attained and make this information available to the public;

283 (l) in its discretion, use the data to make decisions regarding the use of funds allocated
284 to the division, the Administrative Office of the Courts, and the Department of Corrections to
285 provide treatment for which standards are established under Subsection (2)(h); and

286 (m) annually, on or before August 31, submit the data collected under Subsection (2)(j)
287 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
288 based on the data and provide the report to the legislative Judiciary Interim Committee, the
289 Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice
290 Interim Committee, and the related appropriations subcommittees.

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

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

298 (4) Before reissuing or renewing a contract with any local substance abuse authority or
299 local mental health authority, the division shall review and determine whether the local
300 substance abuse authority or local mental health authority is complying with its oversight and
301 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
302 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
303 liability described in Section 17-43-303 and to the responsibility and liability described in
304 Section 17-43-203.

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

309 (6) The division may accept in the name of and on behalf of the state donations, gifts,

310 devises, or bequests of real or personal property or services to be used as specified by the
311 donor.

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

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

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

320 (9) If a local substance abuse authority contacts the division under Subsection
321 [17-43-201](#) (10) for assistance in providing treatment services to a pregnant woman or pregnant
322 minor, the division shall:

- 323 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
324 capacity to provide the treatment services; or
- 325 (b) otherwise ensure that treatment services are made available to the pregnant woman
326 or pregnant minor.

327 Section 4. Section **63M-7-202** is amended to read:

328 **63M-7-202. Composition -- Appointments -- Ex officio members -- Terms --**
329 **United States Attorney as nonvoting member.**

330 (1) The commission on criminal and juvenile justice shall be composed of 21 voting
331 members as follows:

- 332 (a) the chief justice of the supreme court, as the presiding officer of the judicial
333 council, or a judge designated by the chief justice;
- 334 (b) the state court administrator;
- 335 (c) the executive director of the Department of Corrections;
- 336 (d) the director of the Division of Juvenile Justice Services;
- 337 (e) the commissioner of the Department of Public Safety;

- 338 (f) the attorney general;
- 339 (g) the president of the chiefs of police association or a chief of police designated by
340 the association's president;
- 341 (h) the president of the sheriffs' association or a sheriff designated by the association's
342 president;
- 343 (i) the chair of the Board of Pardons and Parole or a member designated by the chair;
- 344 (j) the chair of the Utah Sentencing Commission;
- 345 (k) the chair of the Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council;
- 346 (l) the chair of the Utah Board of Juvenile Justice;
- 347 (m) the chair of the Utah Council on Victims of Crime or the chair's designee;
- 348 (n) the director of the Division of Substance Abuse and Mental Health; and
- 349 (o) the following members designated to serve four-year terms:
- 350 (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the
351 Judicial Council;
- 352 (ii) a representative of the statewide association of public attorneys designated by the
353 association's officers;
- 354 (iii) one member of the House of Representatives who is appointed by the speaker of
355 the House of Representatives; and
- 356 (iv) one member of the Senate who is appointed by the president of the Senate.
- 357 (2) The governor shall appoint the remaining three members to four-year staggered
358 terms as follows:
- 359 (a) one criminal defense attorney appointed from a list of three nominees submitted by
360 the Utah State Bar Association;
- 361 (b) one representative of public education; and
- 362 (c) one citizen representative.
- 363 (3) In addition to the members designated under Subsections (1) and (2), the United
364 States Attorney for the district of Utah may serve as a nonvoting member.
- 365 (4) In appointing the members under Subsection (2), the governor shall take into

366 account the geographical makeup of the commission.

367 Section 5. Section **63M-7-301** is amended to read:

368 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**

369 (1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health
370 Advisory Council created in this section.

371 (b) There is created within the governor's office the Utah Substance Use and Mental
372 Health Advisory Council.

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

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

375 (b) an elected county official appointed by the Utah Association of Counties;

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

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

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

380 (f) the executive director of the Department of Health or the executive director's
381 designee;

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

384 (h) the executive director of the Department of Corrections or the executive director's
385 designee;

386 (i) the director of the Division of Juvenile Justice Services or the director's designee;

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

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

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

390 (m) the director of the Division of Indian Affairs or the director's designee;

391 (n) the state court administrator or the state court administrator's designee;

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

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

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

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

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

400 (t) the following members appointed to serve four-year terms:

401 (i) a member of the House of Representatives appointed by the speaker of the House of
402 Representatives;

403 (ii) a member of the Senate appointed by the president of the Senate; and

404 (iii) a representative appointed by the Utah League of Cities and Towns;

405 (u) the following members appointed by the governor to serve four-year terms:

406 (i) one resident of the state who has been personally affected by a substance use or
407 mental health disorder; and

408 (ii) one citizen representative; and

409 (v) in addition to the voting members described in Subsections (2)(a) through (u), the
410 following voting members appointed by a majority of the members described in Subsections
411 (2)(a) through (u) to serve four-year terms:

412 (i) one resident of the state who represents a statewide advocacy organization for
413 recovery from substance use disorders;

414 (ii) one resident of the state who represents a statewide advocacy organization for
415 recovery from mental illness;

416 (iii) one resident of the state who represents prevention professionals;

417 (iv) one resident of the state who represents treatment professionals;

418 (v) one resident of the state who represents the physical health care field;

419 (vi) one resident of the state who is a criminal defense attorney;

420 (vii) one resident of the state who is a military servicemember or military veteran under
421 Section [53B-8-102](#); [and]

422 (viii) one resident of the state who represents local law enforcement agencies[-]; and

423 (ix) one representative of private service providers that serve youth with substance use
424 disorders or mental health disorders.

425 (3) A person other than a person described in Subsection (2) may not be appointed as a
426 voting member of the council.