

## HB0199S01 compared with HB0199

~~{deleted text}~~ shows text that was in HB0199 but was deleted in HB0199S01.

Inserted text shows text that was not in HB0199 but was inserted into HB0199S01.

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Representative Kelly B. Miles proposes the following substitute bill:

### DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

#### AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kelly B. Miles**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill requires that the expenditure of state funds on substance use disorder or mental health treatment or programming be limited to evidence-based treatment or programming.

##### Highlighted Provisions:

This bill:

- ▶ amends and defines terms;
- ▶ requires the local substance abuse authorities and the mental health authorities to identify in their state plans which programs and treatments are evidence-based;
- ▶ establishes requirements for an evidence-based treatment program;

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- ~~{ } → requires the division, the local substance abuse authorities, and the local mental health authorities to incrementally increase the percentage of evidence-based treatment programming;~~
- requires that certain training be for the provision of evidence-based treatment programs;
- specifies the allocation of certain future appropriations through fiscal year 2025;
- + ▶ creates the Behavioral Health Care Outcome Improvement ~~{Advisory Board}~~ Task Force; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

17-43-102, as last amended by Laws of Utah 2009, Chapter 75

17-43-201, as last amended by Laws of Utah 2016, Chapter 113

~~{ } → 17-43-203, as last amended by Laws of Utah 2004, Chapter 80~~

+ 17-43-301, as last amended by Laws of Utah 2016, Chapter 113

~~{ } → 17-43-303, as last amended by Laws of Utah 2004, Chapter 80~~

+ 62A-15-102, as last amended by Laws of Utah 2015, Chapter 412

62A-15-103, as last amended by Laws of Utah 2017, Chapter 163

63I-1-262, as last amended by Laws of Utah 2017, Chapter 459

#### ENACTS:

62A-15-114, Utah Code Annotated 1953

~~{ } → 62A-15-115, Utah Code Annotated 1953~~

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

Section 1. Section 17-43-102 is amended to read:

**17-43-102. Definitions.**

As used in this chapter:

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

(2) "Division" means the Division of Substance Abuse and Mental Health created within the Department of Human Services in Section 62A-1-105.

(3) "Evidence-based" means that a treatment program:

(a) is based upon a written manual or protocol that specifies the nature of the services, the quality of the service, the target population, and the amount of service that constitutes the program; and

(b) is supported by scientific research that:

(i) demonstrated through two or more client samples of the target population that the program improves client outcome central to the purpose of the program; and

(ii) evaluated the effect of the program through randomized control trials or quasi-experimental studies.

(4) "Fidelity" means that a treatment program is provided as prescribed in a treatment manual or protocol by an individual who:

(a) has received training in the treatment program;

(b) receives ongoing, individualized feedback of the individual's provision of the treatment program by another individual who is trained in and who demonstrates proficiency in the treatment program; and

(c) is monitored through direct observation to:

(i) ensure that the treatment program is provided as prescribed in the program manual or protocol; and

(ii) identify the need for corrective action when the program manual or protocol requirements are not met.

Section 2. 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

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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~~{}~~ 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]~~ use disorder prevention and treatment services plans;

(ii) provide substance ~~[abuse]~~ use disorder 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]~~ use disorder, mental health, and physical health care needs, as described in Section 62A-15-103~~[-];~~ and

(iv) promote evidence-based treatment programming.

(c) Within ~~[legislative]~~ legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the ~~[Department of Human Services]~~ department 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.

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

(i) provide substance ~~[abuse]~~ use disorder prevention and treatment services; or

(ii) create a united local health department that provides substance ~~[abuse]~~ use disorder treatment services, mental health services, and local health department services in accordance with Subsection (3).

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

(c) Each agreement for joint substance ~~[abuse]~~ use disorder 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

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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~~] use disorder 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 authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (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~~] use disorder 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~~] use disorder programs and services. The department and Department of Health shall ensure that those directives are not duplicative or

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conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance [~~abuse~~] use disorder prevention and treatment needs and services, including substance [~~abuse~~] use disorder 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; ~~{ and }~~

(iii) the identification of ~~{whether}~~ each evidence-based treatment program within the plan ~~{ is evidence-based.}; and~~

(iv) an indication of whether each evidence-based program identified in Subsection (5)(b)(iii) is provided with fidelity.

(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~~] full-time or part-time director for substance [~~abuse~~] use disorder 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~~] use disorder services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance [~~abuse~~] use disorder 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,

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contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish evidence-based programs for the prevention of substance [~~abuse~~] use disorder 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~~] individuals 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~~] use disorder 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 (5)(m).

(6) 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 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

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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 (4)(b).

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

(8) (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] use disorder authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance [abuse] use disorder 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

(iv) shall include a referral for:

(A) prenatal care; and

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

(10) If a substance [abuse] use disorder treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) 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 3. Section ~~{17-43-203}~~ 17-43-301 is amended to read:

~~{~~ **17-43-203. Definition of "public funds" -- Responsibility for oversight of public funds -- Substance use disorder programs and services:**

~~\_\_\_\_\_ (1) As used in this section, "public funds":~~

~~\_\_\_\_\_ (a) means:~~

~~\_\_\_\_\_ (i) federal money received from the department or the Department of Health; and~~

~~\_\_\_\_\_ (ii) state money appropriated by the Legislature to the department, the Department of Health, a county governing body, or a local substance abuse authority for the purposes of providing substance [abuse] use disorder programs or services; and~~

~~\_\_\_\_\_ (b) includes that federal and state money:~~

~~\_\_\_\_\_ (i) even after the money has been transferred by a local substance abuse authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance [abuse] use disorder programs or services for the local substance abuse authority; and~~

~~\_\_\_\_\_ (ii) while in the possession of the private provider.~~

~~\_\_\_\_\_ (2) Each local substance abuse authority is responsible for oversight of all public funds received by it, to determine that those public funds are utilized in accordance with federal and state law, the rules and policies of the department and the Department of Health, and the provisions of any contract between the local substance abuse authority and the department, the Department of Health, or a private provider. That oversight includes requiring that neither the contract provider, as described in Subsection (1), nor any of its employees:~~

~~\_\_\_\_\_ (a) violate any applicable federal or state criminal law;~~

~~\_\_\_\_\_ (b) knowingly violate any applicable rule or policy of the department or Department of Health, or any provision of contract between the local substance abuse authority and the department, the Department of Health, or the private provider;~~

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~~—— (c) knowingly keep any false account or make any false entry or erasure in any account of or relating to the public funds;~~

~~—— (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;~~

~~—— (e) fail to ensure competent oversight for lawful disbursement of public funds;~~

~~—— (f) appropriate public funds for an unlawful use or for a use that is not in compliance with contract provisions; or~~

~~—— (g) knowingly or intentionally use public funds unlawfully or in violation of a governmental contract provision, or in violation of state policy.~~

~~—— (3) Each local substance abuse authority that knows or reasonably should know of any of the circumstances described in Subsection (2), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.~~

~~—— (4) Any public funds required to be repaid to the state by a local substance abuse authority under Subsection (3), based upon the actions or failure of the contract provider, may be recovered by the local substance abuse authority from its contract provider, in addition to the local substance abuse authority's costs and attorney's fees.~~

~~—— (5) Each local substance abuse authority is responsible to ensure that the authority and the authority's contract provider expends state money, as described in Subsection (1), in accordance with Subsection 62A-15-103(8).~~

~~—— Section 4. 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.

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(b) Within [~~legislative~~] 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~~] use disorder, mental health, and physical health care needs, as described in Section 62A-15-103[-]; and

(iii) promote evidence-based treatment programming.

(c) Within [~~legislative~~] 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.

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

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(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

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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 county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(4) (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 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.

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

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

(ii) as provided in Subsection (5)(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 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 (5)(a)(ii) shall include:

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(i) services for adults, youth, and children, which shall include:

~~{ (i) identification of whether each treatment program within the plan is evidence-based; and~~

~~{ [(i)] ~~(iii)A~~ inpatient care and services;~~

~~[(ii)] ~~(iii)B~~ residential care and services;~~

~~[(iii)] ~~(iv)C~~ outpatient care and services;~~

~~[(iv)] ~~(v)D~~ 24-hour crisis care and services;~~

~~[(v)] ~~(vi)E~~ psychotropic medication management;~~

~~[(vi)] ~~(vii)F~~ psychosocial rehabilitation, including vocational training and skills development;~~

~~[(vii)] ~~(viii)G~~ case management;~~

~~[(viii)] ~~(ix)H~~ community supports, including in-home services, housing, family support services, and respite services;~~

~~[(ix)] ~~(x)I~~ consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and~~

~~[(x)] ~~(xi)J~~ services to ~~[persons]~~ individuals incarcerated in a county jail or other county correctional facility~~[-];~~~~

(ii) the identification of each evidence-based treatment program within the plan; and

(iii) an indication of whether each evidence-based treatment program identified in

Subsection (5)(b)(ii) is provided with fidelity.

(6) 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 (4)(b).

(7) 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.

(8) (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 ~~{5}~~4. Section ~~{17-43-303}~~62A-15-102 is amended to read:

~~{~~ ~~17-43-303. Definition of "public funds" -- Responsibility for oversight of public funds -- Mental health programs and services.~~

~~\_\_\_\_\_ (1) As used in this section, "public funds":~~

~~\_\_\_\_\_ (a) means:~~

~~\_\_\_\_\_ (i) federal money received from the department or the Department of Health; and~~

~~\_\_\_\_\_ (ii) state money appropriated by the Legislature to the department, the Department of Health, a county governing body, or a local mental health authority for the purposes of providing mental health programs or services; and~~

~~\_\_\_\_\_ (b) includes that federal and state money:~~

~~\_\_\_\_\_ (i) even after the money has been transferred by a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for the local mental health authority; and~~

~~\_\_\_\_\_ (ii) while in the possession of the private provider.~~

~~\_\_\_\_\_ (2) Each local mental health authority is responsible for oversight of all public funds received by it, to determine that those public funds are utilized in accordance with federal and state law, the rules and policies of the department and the Department of Health, and the~~

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~~provisions of any contract between the local mental health authority and the department, the Department of Health, or a private provider. That oversight includes requiring that neither the contract provider, as described in Subsection (1), nor any of its employees:~~

- ~~—— (a) violate any applicable federal or state criminal law;~~
  - ~~—— (b) knowingly violate any applicable rule or policy of the department or Department of Health, or any provision of contract between the local mental health authority and the department, the Department of Health, or the private provider;~~
  - ~~—— (c) knowingly keep any false account or make any false entry or erasure in any account of or relating to the public funds;~~
  - ~~—— (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;~~
  - ~~—— (e) fail to ensure competent oversight for lawful disbursement of public funds;~~
  - ~~—— (f) appropriate public funds for an unlawful use or for a use that is not in compliance with contract provisions; or~~
  - ~~—— (g) knowingly or intentionally use public funds unlawfully or in violation of a governmental contract provision, or in violation of state policy.~~
- ~~—— (3) A local mental health authority that knew or reasonably should have known of any of the circumstances described in Subsection (2), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.~~
- ~~—— (4) Any public funds required to be repaid to the state by a local mental health authority pursuant to Subsection (3), based upon the actions or failure of the contract provider, may be recovered by the local mental health authority from its contract provider, in addition to the local mental health authority's costs and attorney's fees.~~
- ~~—— (5) Each local mental health authority is responsible to ensure that the authority and the authority's contract provider expends state money, as described in Subsection (1), in accordance with Subsection 62A-15-103(8).~~

~~—— Section 6. Section 62A-15-102 is amended to read:~~

‡ **62A-15-102. Definitions.**

As used in this chapter:

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~~{ (1) "Board" means the Outcome Improvement Advisory Board.~~

~~{ (1) (2) "Criminal risk factors" means a person's characteristics and behaviors that:~~

- ~~(a) affect the person's risk of engaging in criminal behavior; and~~
- ~~(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.~~

~~{ (2) (3) "Director" means the director of the Division of Substance Abuse and Mental Health.~~

~~{ (3) (4) "Division" means the Division of Substance Abuse and Mental Health established in Section 62A-15-103.~~

~~{ (4) "Evidence-based" means the same as that term is defined in Section 17-43-102.~~

~~{ (5) "Fidelity" means the same as that term is defined in Section 17-43-102.~~

~~{ (4) (6) "Local mental health authority" means a county legislative body.~~

~~{ (5) (7) "Local substance abuse authority" means a county legislative body.~~

~~{ (6) (8) (a) "Public funds" means federal money received from the [Department of Human Services] department or the Department of Health[;] and state money { } appropriated by the Legislature to the Department of Human Services, the Department of Health, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services { }.~~

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services pursuant to substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the

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provision of plan services.

~~[(7)]~~ (9) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

~~{ (10) "State money" means money appropriated by the Legislature to the Department of Human Services, the Department of Health, a county governing body, a local substance abuse authority, or a local mental health authority for the provision of substance use disorder or mental health programming.~~

‡ Section ~~{7}~~ 5. Section 62A-15-103 is amended to read:

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

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

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance ~~[abuse]~~ use disorder by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance ~~[abuse]~~ use disorder education programs aimed at prevention of substance ~~[abuse]~~ use disorder;

(iii) promote or establish programs for the prevention of substance ~~[abuse]~~ use disorder within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance ~~[abuse]~~ use disorder, by identifying and disseminating information about effective practices and programs;

(v) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance ~~[abuse]~~ use disorder and mental health programs licensed by the ~~[Department of Human Services]~~ department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance ~~[abuse]~~ use disorder, mental health, physical health, and criminal risk factors;

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(vii) establish and promote [~~an~~] a diverse evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance [~~abuse~~] use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate [~~persons~~] individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;

(iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that all individuals receiving services through local mental health authorities or the Utah State Hospital be informed about and, if desired, provided assistance in completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

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

(ii) provide consultation and other assistance to public and private agencies and groups working on substance [~~abuse~~] use disorder and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and

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research organizations, and other related groups;

(iv) ~~{in consultation with the board, }~~promote or conduct research on substance [abuse] use disorder and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance [abuse] use disorder and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities ~~{ with a weighted metric that assigns 50% of the total available score to compliance with Subsection 62A-15-103(2)(n) }~~;

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

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

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

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

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

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

(A) a statewide comprehensive continuum of substance [abuse] use disorder services;

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

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

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have ~~[substance abuse or]~~ a substance use disorder or a mental illness ~~[conditions]~~ or both, and who are involved in the

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criminal justice system;

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

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with its provider of substance ~~[abuse]~~ use disorder programs and services and each local mental health authority's contract with its provider of mental health programs and services to ensure compliance with state and federal law and policy;

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

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

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

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

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

~~—(i){}]~~ a review and determination regarding ~~[whether]~~:

~~[(A)]~~ (i) whether public funds allocated to local substance abuse authorities and local mental health authorities are consistent with services rendered and outcomes reported by them or their contract providers; ~~[and]~~

~~[(B)]~~ (ii) whether each local substance abuse authority and each local mental health authority is:

(A) exercising sufficient oversight and control over public funds allocated for substance ~~[abuse]~~ use disorder and mental health programs and services; ~~{and~~

~~—(ii){[and]~~

(B) promoting evidence-based treatment; and

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### (C) providing evidence-based treatment with fidelity; and

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

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance ~~abuse~~ use disorder and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment includes the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(h) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

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

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

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

(iii) the requirement that all public and private providers of treatment to individuals involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the

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division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

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

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

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

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

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

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

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

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

~~{~~ ~~(n) ensure that an evidence-based treatment program is:~~

~~(i) provided by an individual who, within six months after the day on which the individual begins to provide the treatment program, receives training that includes:~~

~~(A) a discussion of the theory behind the treatment program;~~

~~(B) demonstrations of how to provide the treatment program; and~~

~~(C) practice of the necessary components of the treatment program;~~

~~(ii) provided by an individual who receives, at least quarterly, ongoing training on the~~

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~~provision of the treatment program, including individualized feedback of the individual's provision of the treatment program, by another individual who is trained in and who demonstrates proficiency in the treatment program;~~

~~—— (iii) monitored monthly through direct observation to:~~

~~—— (A) ensure that the treatment program is delivered as prescribed in the applicable program manual or protocol; and~~

~~—— (B) identify the need for corrective action when the program manual or protocol requirements are not met; and~~

~~—— (iv) administered according to a sustainability plan that includes a description of how the administering authority will:~~

~~—— (A) continue the practice of the treatment program regardless of staff turnover; and~~

~~—— (B) fund the treatment program.~~

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

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

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

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

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

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

- (a) the use of public funds;
- (b) oversight responsibilities regarding public funds; and
- (c) governance of substance ~~[abuse]~~ use disorder and mental health programs and services.

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

~~—— (8) Excluding screening and outcome instruments, the division shall require that:~~

~~—— (a) beginning in fiscal year 2020, 20% of all individual psychotherapy and individual therapeutic behavioral services that are billed by a local substance abuse authority or a local mental health authority are evidence-based;~~

~~—— (b) beginning in fiscal year 2020, 33% of all group psychotherapy and group therapeutic behavioral services that are billed by a local substance abuse authority or a local mental health authority are evidence-based;~~

~~—— (c) beginning in fiscal year 2021, 33% of all individual psychotherapy and individual therapeutic behavioral services that are billed by a local substance abuse authority or a local mental health authority are evidence-based;~~

~~—— (d) beginning in fiscal year 2021, 50% of all group psychotherapy and group therapeutic behavioral services that are billed by a local substance abuse authority or a local mental health authority are evidence-based;~~

~~—— (e) beginning in fiscal year 2022, 40% of all individual psychotherapy and individual therapeutic behavioral services that are billed by a local substance abuse authority or a local mental health authority are evidence-based; and~~

~~—— (f) beginning in fiscal year 2022, 66% of all group psychotherapy and group therapeutic behavioral services that are billed by a local substance abuse authority or a local mental health authority are evidence-based.~~

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~~(9) Training that is recommended or offered by the division for the prevention or treatment of a substance use disorder or a mental illness shall be training for the provision of an evidence-based program.~~

~~[(9)] (10)~~

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

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

~~{11} The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.~~

~~Section 8}{10) In an annual report sent to the local substance abuse authorities and the local mental health authorities, the division shall:~~

(a) list the evidence-based treatment programs in use by a local substance abuse authority or a local mental health authority, as provided in the annual plans; and

(b) as identified in the annual program audit, indicate:

(i) each evidence-based program that is provided with fidelity; and

(ii) each local substance abuse authority or local mental health authority that is providing the evidence-based program with fidelity.

Section 6. Section **62A-15-114** is enacted to read:

**62A-15-114. Outcome Improvement Advisory Board.**

~~(1) {The division shall establish the board.~~

~~(2) The board shall be comprised of:~~

~~(a) eight voting board members:~~

~~(i) As used in this section, "task force" means the Behavioral Health Care Outcome Improvement Task Force created in this section.~~

(2) There is created the Behavioral Health Care Outcome Improvement Task Force consisting of the following members:

(a) three members of the Senate appointed by the president of the Senate, no more than

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two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the director of the Division of Substance Abuse and Mental Health, or the director's designee;

(d) one member representing the local mental health authorities, appointed by the president of the Senate;

(e) one member representing the local substance abuse authorities, appointed by the speaker of the House of Representatives;

(f) four members:

(i) who have expertise in substance abuse or mental health outcome improvement strategies;

(ii) who have expertise in evidence-based ~~for research-based~~ behavioral health ~~practices~~ services;

~~(iii)~~ (iii) who are not employed by or within the ~~department; and~~

~~(iii) at least three of whom are not otherwise involved with publically funded~~ Department of Human Services;

(iv) two of whom are appointed by the president of the Senate; and

(v) two of whom are appointed by the speaker of the House of Representatives; and

(g) two members who received behavioral health ~~;~~ and

~~(b) a nonvoting staff member employed by the division, who:~~

~~(i) shall serve the board as an advisor; and~~

~~(ii) shall select the eight voting board members.~~

~~(3) The board shall:~~

~~(a) certify that a treatment program is evidence-based for purposes of Subsection 62A-15-103(8);~~

~~(b) review the implementation practice and sustainability plan~~ services and who are currently in recovery, one of whom is appointed by the president of the Senate and one of whom is appointed by the speaker of the House.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

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(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with ~~an~~ evidence-based treatment program; and

~~\_\_\_\_\_ (c) advise the division on strategies, practices, or treatment programs that may improve client outcomes.~~

~~\_\_\_\_\_ Section 9. Section ~~62A-15-115~~ is enacted to read:~~

~~\_\_\_\_\_ ~~62A-15-115. Allocation of funding.~~~~

~~\_\_\_\_\_ (1) As used in this section, "division services" means services provided by the division, by a} the task force; and~~

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall make policy recommendations related to:

(a) the current funding practices of the Division of Substance Abuse and Mental Health, the local substance abuse ~~{authority}~~ authorities, ~~{by a}~~ and the local mental health ~~{authority, or by a contractor of the division, a}~~ authorities;

(b) prioritized performance measures related to the cost of services, the quality of services, including metrics for acceptable client outcomes, and access to services;

(c) the division's role in evaluating the local substance abuse ~~{authority, or a}~~ authorities' and the local mental health ~~{authority}.~~

~~\_\_\_\_\_ (2) Beginning fiscal year 2019, newly appropriated funds for the purposes of increasing the number of clients receiving division services or improving a client's access to division~~

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services shall be allocated:

- ~~— (a) 60% to increase the number of clients receiving division services, and~~
- ~~— (b) 40% to increase the quality of existing services, including:~~
  - ~~— (i) the adoption of evidence-based treatment programs; or~~
  - ~~— (ii) the training necessary to effectively provide evidence-based treatment programs.~~
- ~~— Section 10} authorities' compliance with performance measures; and~~
- ~~— (d) a funding formula that links future funding to performance measures.~~
- ~~— (8) On or before November 1, 2018, the task force shall provide a report, including any proposed legislation, to the Health and Human Services Interim Committee.~~

Section 7. Section **63I-1-262** is amended to read:

### **63I-1-262. Repeal dates, Title 62A.**

- (1) Section 62A-4a-213 is repealed July 1, 2019.
- (2) Section 62A-4a-202.9 is repealed December 31, 2019.
- (3) Section ~~{62A-15-115}~~62A-15-114 is repealed ~~{June 30}~~January 1, ~~{2025}~~2019.
- ~~{3}~~ (4) Subsection 62A-15-1101(5) is repealed July 1, 2018.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel}**