

1 **SUBSTANCE USE AND HEALTH CARE AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad M. Daw**

5 Senate Sponsor: Todd Weiler

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies and enacts provisions relating to substance use, mental health
10 treatment, and health care.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ modifies provisions requiring a county jail and the Department of Corrections to
15 report certain information to the Commission on Criminal and Juvenile Justice
16 regarding an inmate's death;
- 17 ▶ modifies provisions relating to licensing of a practitioner who dispenses certain
18 opiate agonists;
- 19 ▶ requires the Commission on Criminal and Juvenile Justice to convene a committee
20 to study certain health care and other services provided to inmates in a correctional
21 facility; and
- 22 ▶ makes technical changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 17-22-32, as enacted by Laws of Utah 2018, Chapter 437

30 **63I-1-263**, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321,
31 338, 340, 347, 369, 428, 430, and 469

32 **64-13-45**, as enacted by Laws of Utah 2018, Chapter 437

33 ENACTS:

34 **58-17b-309.7**, Utah Code Annotated 1953

35 **63M-7-211**, Utah Code Annotated 1953



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

38 Section 1. Section **17-22-32** is amended to read:

39 **17-22-32. County jail reporting requirements.**

40 (1) As used in this section:

41 (a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the
42 custody of a county jail.

43 (ii) "In-custody death" includes an inmate death that occurs while the inmate is:

44 (A) being transported for medical care; or

45 (B) receiving medical care outside of a county jail.

46 (b) "Inmate" means an individual who is processed or booked into custody or housed in
47 a county jail in the state.

48 (c) "Opiate" means the same as that term is defined in Section **58-37-2**.

49 (2) [~~So that the state may oversee the inmate health care system, a~~] A county jail shall
50 submit a report to the Commission on Criminal and Juvenile Justice, created in Section
51 **63M-7-201**, before [~~August 1~~] June 15 of each year that includes:

52 (a) the number of in-custody deaths that occurred during the preceding calendar year;

53 (b) the known, or discoverable on reasonable inquiry, causes and contributing factors
54 of each of the in-custody deaths described in Subsection (2)(a);

55 (c) the county jail's policy for notifying an inmate's next of kin after the inmate's
56 in-custody death;

57 (d) the county jail policies, procedures, and protocols:

58 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use,
59 including use of opiates; ~~and~~

60 (ii) ~~relating~~ that relate to the county jail's provision, or lack of provision, of
61 medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including
62 methadone and all forms of buprenorphine and naltrexone; and

63 (iii) that relate to screening, assessment, and treatment of an inmate for a substance use
64 or mental health disorder; and

65 (e) any report the county jail provides or is required to provide under federal law or
66 regulation relating to inmate deaths.

67 (3) The Commission on Criminal and Juvenile Justice shall:

68 (a) compile the information from the reports described in Subsection (2);

69 (b) omit or redact any identifying information of an inmate in the compilation to the
70 extent omission or redaction is necessary to comply with state and federal law; and

71 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim
72 Committee and the Utah Substance Use and Mental Health Advisory Council before November
73 1 of each year.

74 (4) The Commission on Criminal and Juvenile Justice may not provide access to or use
75 a county jail's policies, procedures, or protocols submitted under this section in a manner or for
76 a purpose not described in this section.

77 Section 2. Section **58-17b-309.7** is enacted to read:

78 **58-17b-309.7. Exemptions from licensure -- Opioid treatment program.**

79 (1) As used in this section:

80 (a) "Dispense" means to prepare, package, or label for subsequent use.

81 (b) "Nurse practitioner" means an individual who is licensed to practice as an advanced
82 practice registered nurse under Chapter 31b, Nurse Practice Act.

83 (c) "Opioid treatment program" means a program or practitioner that is:

84 (i) engaged in opioid treatment of an individual using an opiate agonist medication;

85 (ii) registered under 21 U.S.C. Sec. 823(g)(1);

86 (iii) licensed by the Office of Licensing, within the Department of Human Services,
87 created in Section 62A-2-103; and

88 (iv) certified by the Substance Abuse and Mental Health Services Administration in
89 accordance with 42 C.F.R. 8.11.

90 (d) "Physician" means an individual licensed to practice as a physician or osteopath in
91 this state under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic
92 Medical Practice Act.

93 (e) "Physician assistant" means an individual who is licensed to practice as a physician
94 assistant under Chapter 70a, Physician Assistant Act.

95 (f) "Practitioner" means a nurse practitioner, physician's assistant, or a registered nurse.

96 (g) "Registered nurse" means the same as that term is defined in Section 78B-3-403.

97 (2) A practitioner may dispense methadone at an opioid treatment program regardless
98 of whether the practitioner is licensed to dispense methadone under this chapter if the
99 practitioner:

100 (a) is operating under the direction of a pharmacist;

101 (b) dispenses the methadone under the direction of a pharmacist; and

102 (c) acts in accordance with division rule.

103 (3) The division shall, in consultation with pharmacies, physicians, and practitioners
104 who work in an opioid treatment program, make rules in accordance with Title 63G, Chapter 3,
105 Utah Administrative Rulemaking Act, to establish guidelines under which a practitioner may
106 dispense methadone to a patient in an opioid treatment program under this section.

107 Section 3. Section **63I-1-263** is amended to read:

108 **63I-1-263. Repeal dates, Titles 63A to 63N.**

109 (1) Subsection **63A-5-104(4)(h)** is repealed on July 1, 2024.

110 (2) Section **63A-5-603**, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

111 (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
112 1, 2028.

113 (4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is

114 repealed November 30, 2019.

115 (5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,
116 2020.

117 (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
118 repealed July 1, 2021.

119 (7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,
120 2023.

121 (8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
122 2025.

123 (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
124 2020.

125 (10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

126 (11) Section 63M-7-211 is repealed on December 31, 2019.

127 [~~(H)~~] (12) On July 1, 2025:

128 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource
129 Development Coordinating Committee," is repealed;

130 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed
131 sites for the transplant of species to local government officials having jurisdiction over areas
132 that may be affected by a transplant.";

133 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development
134 Coordinating Committee" is repealed;

135 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development
136 Coordinating Committee created in Section 63J-4-501 and" is repealed;

137 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development
138 Coordinating Committee and" is repealed;

139 (f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered
140 accordingly;

141 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;

142 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the
143 word "and" is inserted immediately after the semicolon;

144 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

145 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

146 and

147 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are
148 renumbered accordingly.

149 ~~[(12)]~~ (13) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is
150 repealed July 1, 2026.

151 ~~[(13)]~~ (14) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah
152 Marriage Commission, is repealed July 1, 2023.

153 ~~[(14)]~~ (15) (a) Subsection 63J-1-602.1(51), relating to the Utah Statewide Radio
154 System Restricted Account, is repealed July 1, 2022.

155 (b) When repealing Subsection 63J-1-602.1(51), the Office of Legislative Research and
156 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
157 necessary changes to subsection numbering and cross references.

158 ~~[(15)]~~ (16) The Crime Victim Reparations and Assistance Board, created in Section
159 63M-7-504, is repealed July 1, 2027.

160 ~~[(16)]~~ (17) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
161 2027.

162 ~~[(17)]~~ (18) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

163 ~~[(18)]~~ (19) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act,
164 is repealed January 1, 2021.

165 (b) Subject to Subsection ~~[(18)]~~ (19)(c), Sections 59-7-610 and 59-10-1007 regarding
166 tax credits for certain persons in recycling market development zones, are repealed for taxable
167 years beginning on or after January 1, 2021.

168 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

169 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or

170 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

171 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
172 the expenditure is made on or after January 1, 2021.

173 (d) Notwithstanding Subsections ~~(18)~~ (19)(b) and (c), a person may carry forward a
174 tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

175 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

176 (ii) (A) for the purchase price of machinery or equipment described in Section
177 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
178 2020; or

179 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
180 expenditure is made on or before December 31, 2020.

181 ~~(19)~~ (20) Section 63N-2-512 is repealed on July 1, 2021.

182 ~~(20)~~ (21) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
183 January 1, 2021.

184 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
185 calendar years beginning on or after January 1, 2021.

186 (c) Notwithstanding Subsection ~~(20)~~ (21)(b), an entity may carry forward a tax credit
187 in accordance with Section 59-9-107 if:

188 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
189 31, 2020; and

190 (ii) the qualified equity investment that is the basis of the tax credit is certified under
191 Section 63N-2-603 on or before December 31, 2023.

192 ~~(21)~~ (22) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1,
193 2023.

194 ~~(22)~~ (23) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is
195 repealed July 1, 2023.

196 ~~(23)~~ (24) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant
197 Program, is repealed January 1, 2023.

198 [~~(24)~~] (25) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is
199 repealed July 1, 2018.

200 Section 4. Section 63M-7-211 is enacted to read:

201 **63M-7-211. Inmate health care study -- Creation -- Membership -- Duties --**
202 **Reporting.**

203 (1) As used in this section:

204 (a) "Commission" means the Commission on Criminal and Juvenile Justice created in
205 Section 63M-7-201.

206 (b) "Correctional facility" means:

207 (i) a facility operated by or contracted with the Department of Corrections to house a
208 criminal offender in either a secure or nonsecure setting; or

209 (ii) a county jail.

210 (2) The commission shall create a committee to study:

211 (a) treatment provided to inmates in a county jail for substance use or mental health
212 disorders, including withdrawal from alcohol or other drugs;

213 (b) contraception provided to female inmates in correctional facilities;

214 (c) health care and treatment of pregnant inmates in correctional facilities;

215 (d) body cavity searches of arrestees or inmates in correctional facilities; and

216 (e) continuation of medication and mental health treatment for inmates who are
217 transferred from a county jail to the Department of Corrections.

218 (3) The committee shall consist of:

219 (a) a representative from the Division of Substance Abuse and Mental Health within
220 the Department of Human Services;

221 (b) a representative from a local substance abuse and mental health authority from:

222 (i) a county of the first class, as classified in Section 17-50-501; and

223 (ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section
224 17-50-501;

225 (c) a representative from the Department of Health;

- 226 (d) a representative from the Utah Sheriff's Association;
- 227 (e) a representative from the Statewide Association of Prosecutors of Utah;
- 228 (f) a representative from the Utah Association of Counties;
- 229 (g) a representative from the Utah Association of Criminal Defense Lawyers;
- 230 (h) a physician actively engaged in correctional health care in a county jail from:
- 231 (i) a county of the first class, as classified in Section [17-50-501](#); and
- 232 (ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section
- 233 [17-50-501](#);
- 234 (i) a psychiatric service provider actively engaged in correctional health care;
- 235 (j) a district attorney or a county attorney actively engaged in the practice of civil or
- 236 constitutional law from:
- 237 (i) a county of the first class, as classified in Section [17-50-501](#); and
- 238 (ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section
- 239 [17-50-501](#);
- 240 (k) a representative from a community-based substance use treatment provider in the
- 241 state;
- 242 (l) a physician from a community-based health care facility that specializes in women's
- 243 health;
- 244 (m) a representative from the Department of Corrections;
- 245 (n) a representative from an organization with expertise in civil rights or civil liberties
- 246 of incarcerated individuals; and
- 247 (o) other stakeholders, as determined by the commission.
- 248 (4) Before June 15, 2019, a correctional facility shall submit to the committee a copy of
- 249 the correctional facility's existing policies, procedures, and protocols for:
- 250 (a) treatment of an inmate in a county jail experiencing a substance use or mental
- 251 health disorder, including withdrawal from alcohol or other drugs;
- 252 (b) providing contraception to a female inmate in a correctional facility;
- 253 (c) providing health care and treatment for a pregnant inmate in a correctional facility,

254 including any restraints required during a pregnant inmate's labor and delivery;
255 (d) a body cavity search of an arrestee or inmate in a correctional facility; and
256 (e) providing medication and mental health treatment for inmates who are transferred
257 from a county jail to the Department of Corrections.
258 (5) The committee shall:
259 (a) survey the policies, procedures, and protocols submitted by a correctional facility
260 under Subsection (4) taking the following into consideration:
261 (i) the needs and limitations of correctional health care, particularly in rural areas of the
262 state;
263 (ii) evidence-based practices;
264 (iii) tools and protocols for substance use screening and assessment;
265 (iv) the transition of an inmate from treatment or health care in a correctional facility to
266 community-based treatment or health care; and
267 (v) the needs of different correctional facility populations; and
268 (b) based on the results of the survey under Subsection (5)(a), develop
269 recommendations relating to:
270 (i) whether model policies, procedures, and protocols for correctional facilities are
271 necessary; and
272 (ii) development and implementation of any model policies the committee finds
273 necessary under Subsection (5)(b)(i).
274 (6) (a) Each member of the committee may have access to and use a correctional
275 facility's policies, procedures, or protocols submitted under this section for the purposes
276 described in this section.
277 (b) Neither the commission, the committee, nor a member of the committee may
278 provide access to or use a correctional facility's policies, procedures, or protocols submitted
279 under this section in a manner or for a purpose not described in this section.
280 (7) (a) Before November 30, 2019, the commission shall present a report of the results
281 of the survey and the committee's recommendations under Subsection (5) to the Law

282 Enforcement and Criminal Justice Interim Committee.

283 (b) The commission is not required to include in the report described in Subsection
284 (7)(a) the policies, procedures, or protocols of a correctional facility that were submitted under
285 Subsection (4) on or after June 15, 2019.

286 (c) As part of the report described in Subsection (7)(a), the commission shall state
287 which, if any, correctional facilities did not submit policies, procedures, or protocols under
288 Subsection (4) before June 15, 2019.

289 Section 5. Section **64-13-45** is amended to read:

290 **64-13-45. Department reporting requirements.**

291 (1) As used in this section:

292 (a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the
293 custody of the department.

294 (ii) "In-custody death" includes an inmate death that occurs while the inmate is:

295 (A) being transported for medical care; or

296 (B) receiving medical care outside of a correctional facility, other than a county jail.

297 (b) "Inmate" means an individual who is processed or booked into custody or housed in
298 the department or a correctional facility other than a county jail.

299 (c) "Opiate" means the same as that term is defined in Section [58-37-2](#).

300 (2) [~~So that the state may oversee the inmate health care system, the~~] The department
301 shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section
302 [63M-7-201](#), before ~~[August 1]~~ June 15 of each year that includes:

303 (a) the number of in-custody deaths that occurred during the preceding calendar year;

304 (b) the known, or discoverable on reasonable inquiry, causes and contributing factors
305 of each of the in-custody deaths described in Subsection (2)(a);

306 (c) the department's policy for notifying an inmate's next of kin after the inmate's
307 in-custody death;

308 (d) the department policies, procedures, and protocols:

309 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use,

310 including use of opiates; ~~and~~

311 (ii) ~~relating~~ that relate to the department's provision, or lack of provision, of
312 medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including
313 methadone and all forms of buprenorphine and naltrexone; and

314 (iii) that relate to screening, assessment, and treatment of an inmate for a substance use
315 disorder or mental health disorder; and

316 (e) any report the department provides or is required to provide under federal law or
317 regulation relating to inmate deaths.

318 (3) The Commission on Criminal and Juvenile Justice shall:

319 (a) compile the information from the reports described in Subsection (2);

320 (b) omit or redact any identifying information of an inmate in the compilation to the
321 extent omission or redaction is necessary to comply with state and federal law; and

322 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim
323 Committee and the Utah Substance Use and Mental Health Advisory Council before November
324 1 of each year.

325 (4) The Commission on Criminal and Juvenile Justice may not provide access to or use
326 the department's policies, procedures, or protocols submitted under this section in a manner or
327 for a purpose not described in this section.