

Representative Brad M. Daw proposes the following substitute bill:

SUBSTANCE USE AND HEALTH CARE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

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

31 ENACTS:

32 **58-17b-309.7**, Utah Code Annotated 1953

33 **63M-7-211**, Utah Code Annotated 1953



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

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

37 **17-22-32. County jail reporting requirements.**

38 (1) As used in this section:

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

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

42 (A) being transported for medical care; or

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

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

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

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

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

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

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

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

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

57 including use of opiates; ~~and~~

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

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

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

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

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

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

69 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim
70 Committee and the ~~[Utah Substance Use and Mental Health Advisory Council]~~ committee
71 created in Section 63M-7-211 before November 1 of each year.

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

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

76 **58-17b-309.7. Exemptions from licensure -- Opioid treatment program.**

77 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

100 (c) acts in accordance with division rule.

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

105 Section 3. Section **63M-7-211** is enacted to read:

106 **63M-7-211. Inmate health care study -- Creation -- Membership -- Duties --**
107 **Reporting.**

108 (1) As used in this section:

109 (a) "Commission" means the Commission on Criminal and Juvenile Justice created in
110 Section [63M-7-201](#).

111 (b) "Correctional facility" means:

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

114 (ii) a county jail.

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

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

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

- 119 (c) health care and treatment of pregnant inmates in correctional facilities;
- 120 (d) body cavity searches of arrestees or inmates in correctional facilities; and
- 121 (e) continuation of medication and mental health treatment for inmates who are
- 122 transferred from a county jail to the Department of Corrections.
- 123 (3) The committee shall consist of:
- 124 (a) a representative from the Division of Substance Abuse and Mental Health within
- 125 the Department of Human Services;
- 126 (b) a representative from a local substance abuse and mental health authority from:
- 127 (i) a county of the first class, as classified in Section [17-50-501](#); and
- 128 (ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section
- 129 [17-50-501](#);
- 130 (c) a representative from the Department of Health;
- 131 (d) a representative from the Utah Sheriff's Association;
- 132 (e) a representative from the Statewide Association of Prosecutors of Utah;
- 133 (f) a representative from the Utah Association of Counties;
- 134 (g) a representative from the Utah Association of Criminal Defense Lawyers;
- 135 (h) a physician actively engaged in correctional health care in a county jail from:
- 136 (i) a county of the first class, as classified in Section [17-50-501](#); and
- 137 (ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section
- 138 [17-50-501](#);
- 139 (i) a psychiatric service provider actively engaged in correctional health care;
- 140 (j) a district attorney or a county attorney actively engaged in the practice of civil or
- 141 constitutional law from:
- 142 (i) a county of the first class, as classified in Section [17-50-501](#); and
- 143 (ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section
- 144 [17-50-501](#);
- 145 (k) a representative from a community-based substance use treatment provider in the
- 146 state;
- 147 (l) a physician from a community-based health care facility that specializes in women's
- 148 health;
- 149 (m) a representative from the Department of Corrections;

150 (n) a representative from an organization with expertise in civil rights or civil liberties
151 of incarcerated individuals; and

152 (o) other stakeholders, as determined by the commission.

153 (4) Before June 15 of each year, a correctional facility shall submit to the committee a
154 copy of the correctional facility's existing policies, procedures, and protocols for:

155 (a) treatment of an inmate in a county jail experiencing a substance use or mental
156 health disorder, including withdrawal from alcohol or other drugs;

157 (b) providing contraception to a female inmate in a correctional facility;

158 (c) providing health care and treatment for a pregnant inmate in a correctional facility,
159 including any restraints required during a pregnant inmate's labor and delivery;

160 (d) a body cavity search of an arrestee or inmate in a correctional facility; and

161 (e) providing medication and mental health treatment for inmates who are transferred
162 from a county jail to the Department of Corrections; and

163 (5) The committee shall:

164 (a) survey the policies, procedures, and protocols submitted by a correctional facility
165 under Subsection (4);

166 (b) based on the results of the survey under Subsection (5)(a), create model policies,
167 procedures, and protocols relating to the items described in Subsection (4) that take the
168 following into consideration:

169 (i) the needs and limitations of correctional health care, particularly in rural areas of the
170 state;

171 (ii) evidence-based practices;

172 (iii) tools and protocols for substance use screening and assessment;

173 (iv) the transition of an inmate from treatment or health care in a correctional facility to
174 community-based treatment or health care; and

175 (v) the needs of different correctional facility populations;

176 (c) develop training recommendations for correctional officers relating to:

177 (i) suicide prevention and behavioral health; and

178 (ii) body cavity searches; and

179 (d) develop practices and policies for correctional officers and law enforcement to
180 administer a substance use screening to an inmate for alcohol or other drugs.

181 (6) Neither the commission, the committee, nor a member of the committee may
182 provide access to or use a correctional facility's policies, procedures, or protocols submitted
183 under this section in a manner or for a purpose not described in this section.

184 (7) Before November 30 of each year, the commission shall present a report of the
185 committee's recommendations to the Law Enforcement and Criminal Justice Interim
186 Committee.

187 Section 4. Section **64-13-45** is amended to read:

188 **64-13-45. Department reporting requirements.**

189 (1) As used in this section:

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

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

193 (A) being transported for medical care; or

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

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

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

198 (2) [~~So that the state may oversee the inmate health care system, the~~] The department
199 shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section
200 [63M-7-201](#), before [~~August 1~~] June 15 of each year that includes:

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

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

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

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

207 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use,
208 including use of opiates; [~~and~~]

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

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

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

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

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

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

220 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim
221 Committee and the Utah Substance Use and Mental Health Advisory Council before November
222 1 of each year.

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