

HB0398S03 compared with HB0398S02

~~deleted text~~ shows text that was in HB0398S02 but was deleted in HB0398S03.

Inserted text shows text that was not in HB0398S02 but was inserted into HB0398S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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

HB0398S03 compared with HB0398S02

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:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

58-17b-309.7, Utah Code Annotated 1953

63M-7-211, Utah Code Annotated 1953

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

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

17-22-32. County jail reporting requirements.

(1) As used in this section:

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

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

(A) being transported for medical care; or

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

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

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

(2) [~~So that the state may oversee the inmate health care system, a~~] A county jail shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section

HB0398S03 compared with HB0398S02

63M-7-201, before ~~[August 1]~~ June 15 of each year that includes:

- (a) the number of in-custody deaths that occurred during the preceding calendar year;
 - (b) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a);
 - (c) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;
 - (d) the county jail policies, procedures, and protocols:
 - (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates; ~~[and]~~
 - (ii) ~~[relating]~~ that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and
 - (iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and
 - (e) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.
- (3) The Commission on Criminal and Juvenile Justice shall:
- (a) compile the information from the reports described in Subsection (2);
 - (b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and
 - (c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the ~~{}~~Utah Substance Use and Mental Health Advisory Council~~}~~ committee created in Section 63M-7-211 before November 1 of each year.
- (4) The Commission on Criminal and Juvenile Justice may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

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

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

(1) As used in this section:

- (a) "Dispense" means to prepare, package, or label for subsequent use.
- (b) "Nurse practitioner" means an individual who is licensed to practice as an advanced

HB0398S03 compared with HB0398S02

practice registered nurse under Chapter 31b, Nurse Practice Act.

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

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

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

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

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

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

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

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

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

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

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

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

(c) acts in accordance with division rule.

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

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

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

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

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

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

HB0398S03 compared with HB0398S02

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

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

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

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

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

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

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

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

~~(11)~~ (12) On July 1, 2025:

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

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

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

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

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

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

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

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

HB0398S03 compared with HB0398S02

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

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

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

HB0398S03 compared with HB0398S02

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~[(3)]~~ 4. Section **63M-7-211** is enacted to read:

63M-7-211. Inmate health care study -- Creation -- Membership -- Duties --

Reporting.

(1) As used in this section:

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

HB0398S03 compared with HB0398S02

(b) "Correctional facility" means:

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

(ii) a county jail.

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

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

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

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

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

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

(3) The committee shall consist of:

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

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

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

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

(c) a representative from the Department of Health;

(d) a representative from the Utah Sheriff's Association;

(e) a representative from the Statewide Association of Prosecutors of Utah;

(f) a representative from the Utah Association of Counties;

(g) a representative from the Utah Association of Criminal Defense Lawyers;

(h) a physician actively engaged in correctional health care in a county jail from:

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

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

(i) a psychiatric service provider actively engaged in correctional health care;

(j) a district attorney or a county attorney actively engaged in the practice of civil or constitutional law from:

HB0398S03 compared with HB0398S02

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

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

(k) a representative from a community-based substance use treatment provider in the state;

(l) a physician from a community-based health care facility that specializes in women's health;

(m) a representative from the Department of Corrections;

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

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

(4) Before June 15 ~~of each year~~, 2019, a correctional facility shall submit to the committee a copy of the correctional facility's existing policies, procedures, and protocols for:

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

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

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

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

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

(5) The committee shall:

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

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

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

(ii) evidence-based practices;

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

HB0398S03 compared with HB0398S02

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

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

~~— (c) develop training recommendations for correctional officers} and~~

(b) based on the results of the survey under Subsection (5)(a), develop

recommendations relating to:

(i) {suicide prevention and behavioral health; and

~~— (ii) body cavity searches; and~~

~~— (d) develop practices and policies}~~whether model policies, procedures, and protocols for correctional {officers and law enforcement to administer a substance use screening to an inmate for alcohol or other drugs;

~~— (6){facilities are necessary; and~~

(ii) development and implementation of any model policies the committee finds necessary under Subsection (5)(b)(i).

(6) (a) Each member of the committee may have access to and use a correctional facility's policies, procedures, or protocols submitted under this section for the purposes described in this section.

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

(7) (a) Before November 30{of each year}, 2019, the commission shall present a report of the results of the survey and the committee's recommendations under Subsection (5) to the Law Enforcement and Criminal Justice Interim Committee.

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

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

Section ~~{4}~~5. Section **64-13-45** is amended to read:

64-13-45. Department reporting requirements.

HB0398S03 compared with HB0398S02

(1) As used in this section:

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

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

(A) being transported for medical care; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HB0398S03 compared with HB0398S02

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

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