

**WORKFORCE SERVICES AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Candice B. Pierucci**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Utah Workforce Services Code and the Substance Abuse and Mental Health Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies civil penalty provisions related to obtaining overpayments for certain public assistance;
- ▶ moves the Safety Net Initiative from the Department of Workforce Services to the Division of Substance Abuse and Mental Health; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**35A-1-104**, as last amended by Laws of Utah 2018, Chapter 200

**35A-3-603**, as last amended by Laws of Utah 2015, Chapter 221

RENUMBERS AND AMENDS:

**62A-15-118**, (Renumbered from 35A-3-802, as renumbered and amended by Laws of Utah 2016, Chapter 133)

REPEALS:

30 **35A-3-801**, as enacted by Laws of Utah 2016, Chapter 133



31  
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **35A-1-104** is amended to read:

34 **35A-1-104. Department authority.**

35 Within all other authority or responsibility granted to it by law, the department may:

36 (1) adopt rules when authorized by this title, in accordance with the procedures of Title  
37 63G, Chapter 3, Utah Administrative Rulemaking Act;

38 (2) purchase, as authorized or required by law, services that the department is  
39 responsible to provide for legally eligible persons;

40 (3) conduct adjudicative proceedings in accordance with the procedures of Title 63G,  
41 Chapter 4, Administrative Procedures Act;

42 (4) establish eligibility standards for [~~its~~] department programs, not inconsistent with  
43 state or federal law or regulations;

44 (5) take necessary steps, including legal action, to recover money or the monetary value  
45 of services provided to a recipient who is not eligible;

46 (6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and  
47 the production of books, accounts, documents, and other records necessary as evidence;

48 (7) acquire, manage, and dispose of any real or personal property needed or owned by  
49 the department, not inconsistent with state law;

50 (8) receive gifts, grants, devises, and donations or their proceeds, crediting the program  
51 designated by the donor, and using the gift, grant, devise, or donation for the purposes  
52 requested by the donor, as long as the request conforms to state and federal policy;

53 (9) accept and employ volunteer labor or services;

54 (10) reimburse volunteers for necessary expenses, when the department considers that  
55 reimbursement to be appropriate;

56 (11) carry out the responsibility assigned by the State Workforce Services Plan  
57 developed by the State Workforce Development Board;

- 58 (12) (a) provide training and educational opportunities for the department's staff; and  
59 (b) ensure that any training or educational opportunity described in Subsection (12)(a)  
60 complies with Title 63G, Chapter 22, State Training and Certification Requirements;
- 61 (13) examine and audit the expenditures of any public funds provided to a local  
62 authority, agency, or organization that contracts with or receives funds from those authorities or  
63 agencies;
- 64 (14) accept and administer grants from the federal government and from other sources,  
65 public or private;
- 66 (15) employ and determine the compensation of clerical, legal, technical, investigative,  
67 and other employees necessary to carry out ~~[its]~~ the department's policymaking, regulatory, and  
68 enforcement powers, rights, duties, and responsibilities under this title;
- 69 (16) establish and conduct free employment agencies, and bring together employers  
70 seeking employees and working people seeking employment, and make known the  
71 opportunities for employment in this state;
- 72 (17) collect, collate, and publish statistical and other information relating to employees,  
73 employers, employments, and places of employment, and other statistics as ~~[it]~~ the department  
74 considers proper;
- 75 (18) encourage the expansion and use of apprenticeship programs meeting state or  
76 federal standards for apprenticeship programs;
- 77 (19) develop processes to ensure that the department responds to the full range of  
78 employee and employer clients; and
- 79 (20) carry out the responsibilities assigned to ~~[it]~~ the department by statute~~[-and]~~.  
80 ~~[(21) administer the Safety Net Initiative as described in Section 35A-3-802.]~~
- 81 Section 2. Section **35A-3-603** is amended to read:  
82 **35A-3-603. Civil liability for overpayment.**
- 83 (1) A provider, recipient, or other person who receives an overpayment shall,  
84 regardless of fault, return the overpayment or repay its value to the department immediately:  
85 (a) upon receiving written notice of the overpayment from the department; or

86 (b) upon discovering the overpayment, if that occurs before receiving notice.

87 (2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance  
88 of the overpayment shall accrue at the rate of 1% a month.

89 (b) If the overpayment was not the fault of the person receiving it, that person is not  
90 liable for interest on the unreturned balance.

91 (c) In accordance with federal law and rules made by the department in accordance  
92 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be  
93 recovered through deductions from cash assistance, General Assistance, SNAP benefits, other  
94 cash-related assistance provided to a recipient under this chapter, or other means provided by  
95 federal law.

96 (3) A person who knowingly assists a recipient, provider, or other person in obtaining  
97 an overpayment is jointly and severally liable for the overpayment.

98 (4) (a) In proving civil liability for overpayment under this section, or Section  
99 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence  
100 that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally,  
101 knowingly, and recklessly" are defined in Section 76-2-103, by false statement,  
102 misrepresentation, impersonation, or other fraudulent means, including committing any of the  
103 acts or omissions described in Sections 76-8-1203, 76-8-1204, or 76-8-1205.

104 (b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76,  
105 Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an  
106 overpayment is subject to:

107 (i) a civil penalty of 10% of the amount of the overpayment, except for overpayments  
108 related to assistance for child care services; [and]

109 (ii) a civil penalty of 50% of the amount of the overpayment for overpayments related  
110 to assistance for child care services;

111 [(ii)] (iii) disqualification from receiving cash assistance from the Family Employment  
112 Program created in Section 35A-3-302 and the General Assistance program under Section  
113 35A-3-401, if the overpayment was obtained from either of those programs, for the period

114 described in Subsection (4)(c); [~~or~~] and  
115 [~~(iii)~~] (iv) disqualification from SNAP, if the overpayment was received from SNAP,  
116 for the period described in Subsection (4)(c).

117 (c) Unless otherwise provided by federal law, the period of a disqualification under  
118 Subsection (4)(b)[~~(ii)~~](iii) and [~~(iii)~~] (iv) is for:

- 119 (i) 12 months for a first offense;
- 120 (ii) 24 months for a second offense; and
- 121 (iii) permanently for a third offense.

122 (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department  
123 may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

124 (b) If the repayment obligation arose from an administrative error by the department,  
125 the department may not recover attorney fees and costs.

126 (6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the  
127 person from whom repayment is sought, the court shall assess an additional sum as considered  
128 appropriate as punitive damages up to the amount of repayment being sought.

129 (7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8,  
130 Part 12, Public Assistance Fraud.

131 (8) Jurisdiction over benefits is continuous.

132 (9) This chapter does not preclude the Department of Health from carrying out its  
133 responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20,  
134 Utah False Claims Act.

135 Section 3. Section **62A-15-118**, which is renumbered from Section 35A-3-802 is  
136 renumbered and amended to read:

137 ~~[35A-3-802]~~. **62A-15-118. Safety Net Initiative.**

138 (1) As used in this section, "individuals in underserved communities" means  
139 individuals living in culturally isolated communities in the state who may lack access to public  
140 assistance and other government services.

141 (2) There is created within the [~~department~~] division the Safety Net Initiative to:

142 (a) implement strategies to increase awareness and reduce risk factors in order to  
143 improve the safety and well-being of individuals in underserved communities;

144 (b) coordinate with government agencies, nonprofit organizations, and interested  
145 individuals to provide open communication with individuals in underserved communities; and

146 (c) coordinate efforts to give individuals in underserved communities needed access to  
147 public assistance and other government services.

148 (3) The [~~department~~] division may employ or contract with individuals, entities, and  
149 support staff as necessary to administer the duties required by this section.

150 Section 4. **Repealer.**

151 This bill repeals:

152 Section **35A-3-801**, Title.