

## SB0179S05 compared with SB0179S03

~~deleted text~~ shows text that was in SB0179S03 but was deleted in SB0179S05.

inserted text shows text that was not in SB0179S03 but was inserted into SB0179S05.

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Representative Ryan D. Wilcox proposes the following substitute bill:

### CRIMINAL JUSTICE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd D. Weiler**

House Sponsor: Ryan D. Wilcox

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#### LONG TITLE

##### General Description:

This bill addresses provisions related to the criminal justice system.

##### Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies provisions requiring a county jail to report certain information to the State Commission on Criminal and Juvenile Justice (CCJJ);
- ▶ prohibits CCJJ from providing a state grant to an agency or program who is not in compliance with certain statutory reporting requirements;
- ▶ requires certain residential, vocational, and life skills programs to provide data to CCJJ;
- ▶ requires CCJJ to evaluate, report, and publish certain data;

## **SB0179S05 compared with SB0179S03**

- ▶ requires a county to create a Criminal Justice Coordinating Council subject to certain requirements;
- ▶ removes and modifies provisions related to certification by the Division of Substance Abuse and Mental Health (DSAMH) of treatment providers who work with individuals involved in the criminal justice system;
- ▶ requires DSAMH to:
  - establish outcome measurements for treatment programs, including measurements related to recidivism reduction;
  - coordinate with the Administrative Office of the Courts, the Department of Corrections (DOC), the Department of Workforce Services, and the Board of Pardons and Parole to collect certain recidivism data;
  - meet certain reporting requirements for the measurements and data; and
  - publish certain treatment information online; ~~{ }~~
- ▶ modifies the Statewide Behavioral Health Crisis Response Account;
- ▶ requires DOC to:
  - track an offender's compliance with certain ~~{conditions of}~~ treatment while on probation or parole; and
  - create a case action plan for an offender within a certain time frame;
- ▶ prohibits DOC from contracting with a county to house state inmates if the county is not in compliance with certain statutory reporting requirements;
- ▶ provides that a felony offense is not required for participation in a drug court program; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2023:

- ▶ to General Fund Restricted -- Behavioral Health Crisis Response Account, as an ongoing appropriation:
  - from General Fund, \$1,000,000; and
- ▶ to Department of Health and Human Services -- Integrated Health Care Services -- Non-Medicaid Behavioral Health Treatment and Crisis Response, as an ongoing appropriation:

## **SB0179S05 compared with SB0179S03**

- from the General Fund Restricted -- Behavioral Health Crisis Response Account, \$1,000,000.

### **Other Special Clauses:**

This bill provides a coordination clause.

### **Utah Code Sections Affected:**

#### AMENDS:

- 17-22-32**, as last amended by Laws of Utah 2020, Chapters 283 and 413
- 62A-4a-412**, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419
- 62A-15-103**, as last amended by Laws of Utah 2021, Chapters 231 and 277
- 62A-15-123**, as enacted by Laws of Utah 2021, Chapter 76
- 62A-15-602**, as last amended by Laws of Utah 2021, Chapter 122
- 63M-7-204**, as last amended by Laws of Utah 2021, Chapters 64 and 426
- 64-13-6**, as last amended by Laws of Utah 2021, Chapters 173, 246, and 260
- 64-13-21**, as last amended by Laws of Utah 2021, Chapters 173 and 260
- 64-13-26**, as last amended by Laws of Utah 2015, Chapter 412
- 64-13e-103**, as last amended by Laws of Utah 2020, Chapter 410
- 78A-5-201**, as last amended by Laws of Utah 2015, Chapter 412

#### ENACTS:

- 13-53-111**, Utah Code Annotated 1953
- 17-55-101**, Utah Code Annotated 1953
- 17-55-201**, Utah Code Annotated 1953
- 63M-7-218**, Utah Code Annotated 1953

#### REPEALS:

- 62A-15-103.5**, as last amended by Laws of Utah 2021, Chapter 64

### **Utah Code Sections Affected by Coordination Clause:**

- 17-55-101**, Utah Code Annotated 1953
- 17-55-201**, Utah Code Annotated 1953

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

Section 1. Section **13-53-111** is enacted to read:

**13-53-111. Recidivism reporting requirements.**

## SB0179S05 compared with SB0179S03

(1) A residential, vocational and life skills program shall collect data on recidivism of participants, including data on:

(a) participants who ~~are ordered by a criminal court or the Board of Pardons and Parole to~~ participate in the residential, vocational and life skills program ~~and commit~~ while under the supervision of a criminal court or the Board of Pardons and Parole and are convicted of another offense while participating in the program or within two years after the day on which the program ends; and

(b) the type of services provided to, and employment of, the participants described in Subsection (1)(a).

(2) A residential, vocational and life skills program shall annually, on or before August 31, provide the data described in Subsection (1) to the State Commission on Criminal and Juvenile Justice, to be included in the report described in Subsection 63M-7-204(1)(x).

Section 2. Section 17-22-32 is amended to read:

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

(1) As used in this section:

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

(b) (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.

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

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

(2) Each county jail shall submit a report to the commission before June 15 of each year that includes, for the preceding calendar year [~~if reasonably available~~]:

(a) the average daily inmate population each month;

(b) the number of inmates in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the United States Federal Bureau of Investigation;

## **SB0179S05 compared with SB0179S03**

- (c) the number of inmates booked into the county jail;
- (d) the number of inmates held in the county jail each month on behalf of each of the following entities:
  - (i) the Bureau of Indian Affairs;
  - (ii) a state prison;
  - (iii) a federal prison;
  - (iv) the United States Immigration and Customs Enforcement;
  - (v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;
- (e) the number of inmates that are denied pretrial release and held in the custody of the county jail while the inmate awaited final disposition of the inmate's criminal charges;
- (f) for each inmate booked into the county jail:
  - (i) the name of the agency that arrested the inmate;
  - (ii) the date and time the inmate was booked into and released from the custody of the county jail;
  - (iii) if the inmate was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;
  - (iv) if the inmate was released from the custody of the county jail on a financial condition, whether the financial condition was set by a bail commissioner or a court;
  - (v) the number of days the inmate was held in the custody of the county jail before disposition of the inmate's criminal charges;
  - (vi) whether the inmate was released from the custody of the county jail before final disposition of the inmate's criminal charges; and
  - (vii) the state identification number of the inmate;
- (g) the number of in-custody deaths that occurred at the county jail;
- (h) for each in-custody death;
  - (i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any, of the deceased;
  - (ii) the date, time, and location of death;
  - (iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

## **SB0179S05 compared with SB0179S03**

(iv) a brief description of the circumstances surrounding the death;

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

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

(k) the county jail policies, procedures, and protocols:

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

(ii) 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

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

(3) (a) Subsection (2) does not apply to a county jail if the county jail:

(i) collects and stores the data described in Subsection (2); and

(ii) enters into a memorandum of understanding with the commission that allows the commission to access the data described in Subsection (2).

(b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include a provision to protect any information related to an ongoing investigation and comply with all applicable federal and state laws.

(c) If the commission accesses data from a county jail in accordance with Subsection (3)(a), the commission may not release a report prepared from that data, unless:

(i) the commission provides the report for review to:

(A) the county jail; and

(B) any arresting agency that is named in the report; and

(ii) (A) the county jail approves the report for release;

(B) the county jail reviews the report and prepares a response to the report to be published with the report; or

(C) the county jail fails to provide a response to the report within four weeks after the

## SB0179S05 compared with SB0179S03

day on which the commission provides the report to the county jail.

(4) The commission 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;

(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; and

(d) submit the compilation to the protection and advocacy agency designated by the governor before November 1 of each year.

(5) The [~~Commission on Criminal and Juvenile Justice~~] commission 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.

(6) A report including only the names and causes of death of deceased inmates and the facility in which they were being held in custody [~~will~~] shall be made available to the public.

Section 3. Section **17-55-101** is enacted to read:

### **CHAPTER 55. CRIMINAL JUSTICE COORDINATING COUNCILS**

#### **Part 1. General Provisions**

##### **17-55-101. Definitions.**

As used in this part:

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

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, or incarceration of a person involved in criminal activity.

(3) "Criminal justice coordinating council" or "council" means a council created by a county or counties in accordance with Section 17-55-201.

(4) "Criminal justice system" means the continuum of criminal justice agencies and post-incarceration services that an individual may encounter as a result of the individual's criminal activity.

(5) (a) "Post-incarceration services" means services that may assist an individual who is leaving incarceration to reintegrate into the community.

## SB0179S05 compared with SB0179S03

(b) "Post-incarceration services" includes:

- (i) educational services;
- (ii) housing services;
- (iii) health care services;
- (iv) workforce services; and
- (v) human services programs.

~~{ (6) "Recidivism" means reoffending after release from incarceration.~~

~~‡~~ Section 4. Section **17-55-201** is enacted to read:

### **Part 2. Criminal Justice Coordinating Councils**

#### **17-55-201. Criminal Justice Coordinating Councils -- Creation -- Strategic plan --**

##### **Reporting.**

(1) (a) Beginning January 1, 2023, a county shall:

- (i) create a Criminal Justice Coordinating Council; or
- (ii) jointly with another county or counties, create a Criminal Justice Coordinating Council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2) (a) A council shall include:

- (i) one county commissioner ~~or county council member~~;
- (ii) the county sheriff~~{,}~~ or the sheriff's designee;
- (iii) one chief of police of a municipality within the county~~{,}~~ or the chief's designee;
- (iv) the county attorney~~{,}~~ or the attorney's designee;
- (v) ~~{the}~~one public defender or ~~{an}~~ attorney who provides public defense within the

county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole within the

Department of Corrections;

(ix) one representative from the local mental health authority within the county; ~~and~~

(x) one ~~{member of the public}~~individual who is:

(A) a crime victim; ~~{and}~~



## SB0179S05 compared with SB0179S03

~~(xi) one member of the public with lived experiences in the criminal justice system;~~or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include ~~{ individuals};~~

(i) an individual representing:

~~{i}A~~ A local government;

~~{ii}B~~ B human services programs;

~~{iii}C~~ C higher education;

~~{iv}D~~ D peer support services;

~~{v}E~~ E workforce services;

~~{vi}F~~ F local housing services;

~~{vii}G~~ G mental health or substance use disorder providers;

~~{viii}H~~ H a health care organization within the county;

~~{ix}I~~ I a local homeless council;

~~{x}J~~ J family counseling and support groups; or

~~{xi}K~~ K organizations that work with families of incarcerated individuals~~;~~

~~(3) The county commissioner on a council;~~ or

(ii) an individual with lived experiences in the criminal justice system.

(3) The member described in Subsection (2)(a)(i) shall serve as chair of the council.

(4) (a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals.

(b) The commission may assist a council in the development of a strategic plan.

(5) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

## **SB0179S05 compared with SB0179S03**

Section 5. Section **62A-4a-412** is amended to read:

### **62A-4a-412. Reports, information, and referrals confidential.**

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an

## **SB0179S05 compared with SB0179S03**

employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 62A-15-103(2)(~~t~~)(p).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007, the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in the division's or law enforcement officials' subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 80-3-107, but

## **SB0179S05 compared with SB0179S03**

including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

- (i) identify the referent;
- (ii) impede a criminal investigation; or
- (iii) endanger an individual's safety.

(4) Any person who willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

- (i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and
- (ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation under Sections 78B-6-128 and 78B-6-130:

- (a) may provide this report to the person who is the subject of the report; and
- (b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

(7) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(8) (a) Except as provided in Subsection (8)(b), in a divorce, custody, or related

## SB0179S05 compared with SB0179S03

proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (8)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (8)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.

Section 6. Section **62A-15-103** is amended to read:

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

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) 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 by promoting school and community-based prevention programs;

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

(iii) promote or establish programs for the prevention of substance abuse 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 disorder, by identifying and disseminating information about effective practices and programs;

~~[(v) except as provided in Section 62A-15-103.5, make 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~~

## SB0179S05 compared with SB0179S03

and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;]

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

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

~~[(viii)]~~ (vii) evaluate the effectiveness of programs described in this Subsection (2);

~~[(ix)]~~ (viii) 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)]~~ (ix) promote or establish programs for education and certification of instructors to educate 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 the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make 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) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the 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;

## **SB0179S05 compared with SB0179S03**

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse 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 research organizations, and other related groups;

(iv) promote or conduct research on substance abuse 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 and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of 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, a 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 authority;

(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 services;

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

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

## **SB0179S05 compared with SB0179S03**

(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 mental illness conditions or both, and who are involved in the criminal justice system;

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

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's 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) 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, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use



## SB0179S05 compared with SB0179S03

disorder and mental health programs and services; and

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

(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) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

~~[(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:]~~

~~[(i) collaboration with the Department of Corrections and the Utah Substance Use and~~

## SB0179S05 compared with SB0179S03

~~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, including 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)(i) 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;]~~

~~[(j) except as provided in Section 62A-15-103.5, 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, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual 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)(i) for the treatment of an individual involved in the criminal justice system; and]~~

~~[(iii) the requirement that a public or private provider of treatment to an individual 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 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;]~~

~~[(k) (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:~~

~~(i) pretrial services and the resources needed to reduce recidivism;~~

~~(ii) county jail and county behavioral health early-assessment resources needed for an~~

## SB0179S05 compared with SB0179S03

[~~offender~~] individual 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;

~~[(1) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), 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;]~~

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Licensure of Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism, including data on:

(i) individuals who participate in a mental health or substance use treatment program while incarcerated and ~~commit~~ are convicted of another offense within two years after release from incarceration;

(ii) individuals who are ordered by a criminal court or the Board of Pardons and Parole to participate in a mental health or substance use treatment program and ~~commit~~ are

## SB0179S05 compared with SB0179S03

convicted of another offense while participating in the treatment program or within two years after the day on which the treatment program ends;

(iii) the type of treatment provided to, and employment of, the individuals described in Subsections (2)(l)(i) and (ii); and

(iv) cost savings associated with recidivism reduction and the reduction in the number of inmates in the state;

(m) ~~[m]~~ at the division's discretion, use the data described in Subsection (2)(l) 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)(i)]~~ to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection ~~[(2)(k)]~~ (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice~~[, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and]~~ to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j);  
and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

~~[(o)]~~ (p) consult and coordinate with the Department of Health and the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn

## **SB0179S05 compared with SB0179S03**

child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

## **SB0179S05 compared with SB0179S03**

(iv) other public health suicide prevention organizations;  
(v) entities that teach firearm safety courses;  
(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue 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 provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) 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 the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) 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

## **SB0179S05 compared with SB0179S03**

Section 17-43-203.

(6) In carrying out the division's 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.

(7) 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.

(8) 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) use of public funds;
- (b) oversight of public funds; and
- (c) governance of substance use disorder and mental health programs and services.

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

(10) 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 division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

- (a) provide coordination between a local education agency and local mental health authority;
- (b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and
- (c) coordinate with the local community, including local departments of health, to

## **SB0179S05 compared with SB0179S03**

enhance and expand mental health related resources for a local education agency.

Section 7. Section **62A-15-123** is amended to read:

### **62A-15-123. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses.**

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and  
(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) ~~[The]~~ Except as provided in Subsection (2)(d), the division shall prioritize expending funds from the account as follows:

(i) the Statewide Mental Health Crisis Line, as defined in Section 62A-15-1301, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mitigation of any negative impacts on 911 emergency service from 988 services;

(iii) mobile crisis outreach teams as defined in Section 62A-15-1401, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) behavioral health receiving centers as defined in Section 62A-15-118;

(v) stabilization services as described in Section 62A-1-104; and

(vi) mental health crisis services provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which



## SB0179S05 compared with SB0179S03

an individual experiences a mental health crisis.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the amount of each disbursement from the [~~restricted account described in Section 62A-15-123~~] account;

(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(c) any conditions placed by the division on the disbursements from the [~~restricted~~] account;

(d) the anticipated expenditures from the [~~restricted account described in this chapter~~] account for the next fiscal year;

(e) the amount of any unexpended funds carried forward;

(f) the number of Statewide Mental Health Crisis Line calls received;

(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and

(h) other relevant justification for ongoing support from the [~~restricted~~] account.

Section 8. Section **62A-15-602** is amended to read:

### **62A-15-602. Definitions.**

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years of age or older.

(2) "Approved treatment facility or program" means a mental health or substance use

## **SB0179S05 compared with SB0179S03**

treatment provider that meets the [~~standards~~] goals and measurements described in Subsection [~~62A-15-103(2)(a)(v)] 62A-15-103(2)(j).~~

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 62A-15-630.5.

(4) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(5) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(6) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(7) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(8) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

## **SB0179S05 compared with SB0179S03**

(d) any sexual act causing substantial emotional injury or bodily pain.

(10) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(11) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

(12) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

(13) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

(14) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

(15) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(16) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(17) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical

## SB0179S05 compared with SB0179S03

Practice Act.

(18) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(19) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

- (a) suicide;
- (b) serious bodily self-injury;
- (c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;
- (d) causing or attempting to cause serious bodily injury to another individual; or
- (e) engaging in harmful sexual conduct.

(20) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 9. Section **63M-7-204** is amended to read:

### **63M-7-204. Duties of commission.**

- (1) The State Commission on Criminal and Juvenile Justice administration shall:
  - (a) promote the commission's purposes as enumerated in Section 63M-7-201;
  - (b) promote the communication and coordination of all criminal and juvenile justice agencies;
  - (c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;
  - (d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;
  - (e) study, evaluate, and report on policies, procedures, and programs of other

## **SB0179S05 compared with SB0179S03**

jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education

## SB0179S05 compared with SB0179S03

programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 62A-15-103(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5; ~~and~~

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision[=];

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

## **SB0179S05 compared with SB0179S03**

(ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental health or substance use treatment program; and

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 10. Section **63M-7-218** is enacted to read:

### **63M-7-218. State grant requirements.**

(1) As used in this section, "commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) Beginning ~~January~~ July 1, 2023, the commission may not award any grant of state funds to:

(a) a county that is subject to, and not in compliance with, Subsection 64-13e-104(6);

(b) a county jail that is subject to, and not in compliance with, Subsection 17-22-32(2) or 77-20-103(2);

(c) a criminal justice coordinating council that is subject to, and not in compliance with, Subsection 17-55-201(4);

(d) a state or local government agency or nonprofit organization that is subject to, and not in compliance with, Subsection 63M-7-214(7);

(e) a law enforcement agency that is subject to, and not in compliance with, Subsection 63M-7-214(7) or 77-7-8.5(2);

(f) a prosecutorial agency that is subject to, and not in compliance with, Subsection 63M-7-216(2) or 77-22-2.5(9); or

(g) a residential, vocational and life skills program that is subject to, and not in compliance with, Section 13-53-111.

Section 11. Section **64-13-6** is amended to read:

### **64-13-6. Department duties.**

## SB0179S05 compared with SB0179S03

- (1) The department shall:
  - (a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;
  - (b) implement court-ordered punishment of offenders;
  - (c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;
  - (d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;
  - (e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);
  - (f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;
  - (g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;
  - (h) manage programs that take into account the needs and interests of victims, where reasonable;
  - (i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;
  - (j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;
  - (k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;
  - (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;
  - (m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:
    - (i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan [~~shall be established~~] for the offender [~~not more~~] no later than [90] 60 days after [~~supervision by the department~~] the day on which the department's community



## SB0179S05 compared with SB0179S03

supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan [~~shall be established~~] for the offender [~~not more~~] no later than [~~120~~] 90 days after the [~~commitment~~] day on which the offender is committed to the custody of the department;

(ii) each case action plan shall integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change; and

(n) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department may in the course of supervising probationers and parolees:

(a) respond in accordance with the graduated and evidence-based processes established by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

## **SB0179S05 compared with SB0179S03**

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time.

(6) (a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

## SB0179S05 compared with SB0179S03

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 12. Section **64-13-21** is amended to read:

**64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.**

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) If a sentenced offender participates in substance use treatment or participation in a residential, vocational and life skills program, as defined in Section 13-53-102, is a condition of a sentenced offender's while under supervision on probation or parole, the department shall monitor the offender's compliance with and completion of with the treatment or program.

~~[(b)]~~ (c) The department shall establish standards for:

(i) the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated and evidence-based responses, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced ~~[pursuant to]~~ under Subsection ~~{}~~ under Subsections 58-37-8 ~~{(2)(b)(i)(B) and}~~ (2)(b)(ii)[-]; and

(ii) the monitoring described in Subsection (1)(b).

## **SB0179S05 compared with SB0179S03**

(2) The department shall apply the graduated and evidence-based responses established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

## **SB0179S05 compared with SB0179S03**

(6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment

## SB0179S05 compared with SB0179S03

program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 13. Section **64-13-26** is amended to read:

### **64-13-26. Private providers of services.**

(1) [~~The~~] Subject to Subsection 64-13-21(1)(b), the department may contract with [~~private providers or other agencies~~] a private provider or another agency for the provision of care, treatment, and supervision of [~~offenders~~] an offender committed to the care and custody of the department.

(2) (a) The department shall:

(i) establish standards for the operation of the programs;

(ii) establish standards [~~pursuant to~~] under Section 64-13-25 regarding program standards; and

(iii) annually review the programs for compliance.

(b) The reviews described in Subsection (2)(a) shall be classified as confidential internal working papers.

(c) Access to records regarding the reviews is available upon the discretion of the executive director or the governor, or upon court order.

Section 14. Section **64-13e-103** is amended to read:

### **64-13e-103. Contracts for housing state inmates.**

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county or other correctional facility.

## **SB0179S05 compared with SB0179S03**

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection (3)(a)(ii), 83.19% of the actual state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection (3)(c);

(ii) 74.18% of the actual state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection (3)(c); and

(iii) 66.23% of the actual state daily incarceration rate for beds in a county other than the beds described in Subsections (3)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection (3)(b)(i);

(ii) the department determines that the Legislature has appropriated sufficient funds to:

(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i) or (ii); and

(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by

## SB0179S05 compared with SB0179S03

a county that did not provide a treatment program; and

(iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; and

(b) the total number of state inmate days of incarceration that were provided by the county.

(6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless:

(a) beginning July 1, 2023, the county jail within the county is in compliance with the reporting requirements described in Subsection 17-22-32(2); and

(b) the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

~~(a)~~ (i) the approximate number of beds to be contracted;

~~(b)~~ (ii) the daily rate at which the county is paid to house a state inmate;

~~(c)~~ (iii) the approximate amount of the county's long-term debt; and

~~(d)~~ (iv) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

Section 15. Section **78A-5-201** is amended to read:

**78A-5-201. Creation and expansion of existing drug court programs -- Definition of drug court program -- Criteria for participation in drug court programs -- Reporting requirements.**

(1) There may be created a drug court program in any judicial district that



## SB0179S05 compared with SB0179S03

demonstrates:

(a) the need for a drug court program; and  
(b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, and substance abuse treatment services to reduce substance abuse by offenders.

(2) The collaborative strategy in each drug court program shall:

(a) include monitoring and evaluation components to measure program effectiveness;  
and

(b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

- (i) executive director of the Department of Human Services;
- (ii) executive director of the Department of Corrections; and
- (iii) state court administrator.

(3) (a) Funds disbursed to a drug court program shall be allocated as follows:

(i) 87% to the Department of Human Services for testing, treatment, and case management; and

(ii) 13% to the Administrative Office of the Courts for increased judicial and court support costs.

(b) This provision does not apply to federal block grant funds.

(4) A drug court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, juvenile court probation, and the Division of Child and Family Services as appropriate to promote public safety, protect participants' due process rights, and integrate substance abuse treatment with justice system case processing.

(5) Screening criteria for participation in a drug court program shall include:

(a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;

(b) an agreement to frequent alcohol and other drug testing;

(c) participation in one or more substance abuse treatment programs; and

(d) an agreement to submit to sanctions for noncompliance with drug court program requirements.

(6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for

## SB0179S05 compared with SB0179S03

participation in adult criminal drug courts.

(b) Acceptance of an offender into a drug court shall be based on a risk and needs assessment, without regard to the nature of the offense.

(c) A plea to, conviction of, or adjudication for a felony offense is not required for participation in a drug court program.

### Section 16. **Repealer.**

This bill repeals:

Section **62A-15-103.5, Provider certification.**

### Section 17. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023.

#### Subsection 17(a). **Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

#### ITEM 1

To Department of Health and Human Services -- Integrated Health Care Services

From General Fund Restricted -- Behavioral Health

Crisis Response Account \$1,000,000

Schedule of Programs:

Non-Medicaid Behavioral Health

Treatment and Crisis Response \$1,000,000

The Legislature intends that the appropriations under this item be used to build and operate one or more behavioral health receiving centers in a rural area of the state.

#### Subsection 17(b). **Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

#### ITEM 2

To General Fund Restricted -- Behavioral Health Crisis Response Account

**SB0179S05 compared with SB0179S03**

From General Fund

\$1,000,000

Schedule of Programs:

General Fund Restricted -- Behavioral

Health Crisis Response Account

\$1,000,000

Section 18. **Coordinating S.B. 179 with H.B. 324 -- Superseding and substantive amendments.**

If this S.B. 179 and H.B. 324, Criminal Justice Coordinating Councils, both pass and become law, it is the intent of the Legislature that Sections 17-55-101 and 17-55-201 in this S.B. 179 supersede Sections 17-55-101 and 17-55-102 in H.B. 324 and that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enact Sections 17-55-101 and 17-55-102 in H.B. 324.