

Medicaid Program Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor:

LONG TITLE**General Description:**

This bill amends the provisions related to the Medicaid program.

Highlighted Provisions:

This bill:

- amends provisions regarding atypical anti-psychotic, psychotropic drugs, and the Medicaid preferred drug list;
- amends provisions related to case management; and
- makes technical and conforming changes

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26B-3-105, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-5-101, as last amended by Laws of Utah 2024, Chapters 240, 420

26B-5-102, as last amended by Laws of Utah 2024, Chapters 250, 420

26B-5-301, as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-5-801, as renumbered and amended by Laws of Utah 2024, Chapter 245

53-21-101, as last amended by Laws of Utah 2024, Chapter 345

63M-7-204, as last amended by Laws of Utah 2024, Chapter 345

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

Section 1. Section **26B-3-105** is amended to read:

26B-3-105 . Medicaid drug program -- Preferred drug list.

(1) As used in this section:

(a) "Psychotropic drug" means the following classes of drugs:

- (i) anti-depressant;
(ii) anti-convulsant/mood stabilizer;
(iii) anti-anxiety; and
(iv) attention deficit hyperactivity disorder stimulant.
- (b) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days.
- (2) A Medicaid drug program developed by the department under Subsection 26B-3-104(2)(f):
- (a) shall, notwithstanding Subsection 26B-3-104(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;
- (b) may include therapeutic categories of drugs that may be exempted from the drug program;
- (c) notwithstanding Section 58-17b-606, may include placing some drugs~~[-, except the drugs described in Subsection (2);]~~ on a preferred drug list:
- (i) to the extent determined appropriate by the department; and
- (ii) in the manner described in Subsection (3) for ~~[psychotropic]~~ atypical anti-psychotic drugs;
- (d) notwithstanding the requirements of Sections 26B-3-302 through 26B-3-309 regarding the Drug Utilization Review Board, and except as provided in Subsection (3), shall immediately implement the prior authorization requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:
- (i) on the preferred drug list on the date that this act takes effect; or
- (ii) added to the preferred drug list after this act takes effect; and
- (e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements ~~[established under Subsections (1)(c) and (d)]~~ which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:
- (i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 a.m. to 5 p.m.;

- (ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and
- (iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

~~[(2)(a) As used in this Subsection (2):]~~

~~[(i) "Immunosuppressive drug":]~~

~~[(A) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and]~~

~~[(B) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.]~~

~~[(ii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days using a particular psychotropic drug.]~~

~~[(b) A preferred drug list developed under the provisions of this section may not include an immunosuppressive drug.]~~

~~[(c)(i) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant.]~~

~~[(ii) For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the department a medical necessity for dispensing the prescribed immunosuppressive drug.]~~

~~[(d) Notwithstanding the requirements of Sections 26B-3-302 through 26B-3-309 regarding the Drug Utilization Review Board, the state Medicaid drug program may not require the use of step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.]~~

~~[(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).]~~

~~[(f) The department shall grant a prior authorization for a sedative hypnotic that is not on~~

the preferred drug list under Subsection (2)(c), if the health care provider has documentation related to one of the following conditions for the Medicaid client:]

- [(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;]
- [(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;]
- [(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;]
- [(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;]
- [(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or]
- [(vi) other valid reasons as determined by the department.]

[(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).]

(3)[(a) As used in this Subsection (3), "psychotropic drug" means the following classes of drugs:]

- [(i) atypical anti-psychotic;]
- [(ii) anti-depressant;]
- [(iii) anti-convulsant/mood stabilizer;]
- [(iv) anti-anxiety; and]
- [(v) attention deficit hyperactivity disorder stimulant.]

[(b)] (a)(i) The department shall [develop a preferred drug list for psychotropic drugs] include atypical anti-psychotic drugs on the preferred drug list.

(ii) [Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section] The department shall allow a health care provider to override the preferred drug list for an atypical anti-psychotic drug by writing "dispense as written" on the prescription for the [psychotropic] atypical anti-psychotic drug.

(iii) A health care provider may not override Section 58-17b-606 by writing "dispense as written" on a prescription.

[(e)] (b) The department, and a Medicaid accountable care organization that is

responsible for providing behavioral health, shall[:]

[(+)] establish a system to:

[(A)] (i) track health care provider prescribing patterns for [psychotropic] atypical anti-psychotic drugs;

[(B)] (ii) educate health care providers who are not complying with the preferred drug list; and

[(C)] (iii) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list[; and] .

[(ii) ~~determine whether health care provider compliance with the preferred drug list is at least:~~

[(A) ~~55% of prescriptions by July 1, 2017;~~

[(B) ~~65% of prescriptions by July 1, 2018; and~~

[(C) ~~75% of prescriptions by July 1, 2019.~~

[(d) ~~Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings from implementing the preferred drug list for psychotropic drugs of at least \$750,000 General Fund savings.~~

(c)(i) In the event that the dispense as written override for atypical anti-psychotics is removed through any means, including legislation, the department shall implement a prior authorization procedure for atypical anti-psychotics that are not on the preferred drug list in accordance with Subsection (3)(c)(ii).

(ii) The department shall approve a prior authorization request for any atypical anti-psychotic that is not on the preferred drug list based on patient claims history or health care provider attestation of one of the following conditions for the enrollee:

(A) a trial and failure of any preferred atypical anti-psychotic in the last 365 days;
or

(B) the patient is stabilized on an atypical anti-psychotic that is not included on the preferred drug list.

(4) For enrollees that begin a psychotropic drug treatment on or after July 1, 2025, the department shall pay for a psychotropic drug that is not on the preferred drug list if the department, based on patient claims history or health care provider attestation, has evidence of:

(a) an enrollee's trial and failure of a psychotropic drug on the preferred drug list that is equivalent or similar to the drug that is not on the preferred drug list in the last 365 days; or

(b) the enrollee being stabilized on the psychotropic drug that is not on the preferred drug list at the time of enrollment.

Section 2. Section **26B-5-101** is amended to read:

26B-5-101 . Chapter definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section 26B-1-1202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an

- 201 individual experiences a mental health crisis;
- 202 (e) referrals to other community resources;
- 203 (f) local mental health crisis lines; and
- 204 (g) the statewide mental health crisis line.
- 205 (9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 206 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental
- 207 health professionals that, in coordination with local law enforcement and emergency
- 208 medical service personnel, provides mental health crisis services.
- 209 (11) "Office" means the Office of Substance Use and Mental Health created in Section
- 210 26B-5-102.
- 211 (12)(a) "Public funds" means federal money received from the department, and state
- 212 money appropriated by the Legislature to the department, a county governing body,
- 213 or a local substance abuse authority, or a local mental health authority for the
- 214 purposes of providing substance abuse or mental health programs or services.
- 215 (b) "Public funds" include federal and state money that has been transferred by a local
- 216 substance abuse authority or a local mental health authority to a private provider
- 217 under an annual or otherwise ongoing contract to provide comprehensive substance
- 218 abuse or mental health programs or services for the local substance abuse authority or
- 219 local mental health authority. The money maintains the nature of "public funds"
- 220 while in the possession of the private entity that has an annual or otherwise ongoing
- 221 contract with a local substance abuse authority or a local mental health authority to
- 222 provide comprehensive substance use or mental health programs or services for the
- 223 local substance abuse authority or local mental health authority.
- 224 (c) Public funds received for the provision of services under substance use or mental
- 225 health service plans may not be used for any other purpose except those authorized in
- 226 the contract between the local mental health or substance abuse authority and
- 227 provider for the provision of plan services.
- 228 (13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders,
- 229 delusional disorders, psychotic disorders, and other mental disorders as defined by the
- 230 division.
- 231 (14) "Stabilization services" means in-home services provided to a child with, or who is at
- 232 risk for, complex emotional and behavioral needs, including teaching the child's parent
- 233 or guardian skills to improve family functioning.
- 234 (15) "Statewide mental health crisis line" means the same as that term is defined in Section

235 26B-5-610.

236 (16) "System of care" means a broad, flexible array of services and supports that:

- 237 (a) serve a child with or who is at risk for complex emotional and behavioral needs;
- 238 (b) are community based;
- 239 (c) are informed about trauma;
- 240 (d) build meaningful partnerships with families and children;
- 241 (e) integrate service planning, service coordination, and management across state and
- 242 local entities;
- 243 (f) include individualized case planning;
- 244 (g) provide management and policy infrastructure that supports a coordinated network of
- 245 interdepartmental service providers, contractors, and service providers who are
- 246 outside of the department; and
- 247 (h) are guided by the type and variety of services needed by a child with or who is at risk
- 248 for complex emotional and behavioral needs and by the child's family.

249 [~~(17) "Targeted case management" means a service that assists Medicaid recipients in a~~
250 ~~target group to gain access to needed medical, social, educational, and other services.~~]

251 Section 3. Section **26B-5-102** is amended to read:

252 **26B-5-102 . Division of Integrated Healthcare -- Office of Substance Use and**
253 **Mental Health -- Creation -- Responsibilities.**

254 (1)(a) The Division of Integrated Healthcare shall exercise responsibility over the
255 policymaking functions, regulatory and enforcement powers, rights, duties, and
256 responsibilities outlined in state law that were previously vested in the Division of
257 Substance Abuse and Mental Health within the department, under the administration
258 and general supervision of the executive director.

259 (b) The division is the substance abuse authority and the mental health authority for this
260 state.

261 (c) There is created the Office of Substance Use and Mental Health within the division.

262 (d) The office shall exercise the responsibilities, powers, rights, duties, and
263 responsibilities assigned to the office by the executive director.

264 (2) The division shall:

265 [~~(a)(i)~~] (a) educate the general public regarding the nature and consequences of substance
266 use by promoting school and community-based prevention programs;

267 [~~(ii)~~] (b) render support and assistance to public schools through approved school-based
268 substance abuse education programs aimed at prevention of substance use;

269 [(iii)] (c) promote or establish programs for the prevention of substance use within the
 270 community setting through community-based prevention programs;

271 [(iv)] (d) cooperate with and assist treatment centers, recovery residences, and other
 272 organizations that provide services to individuals recovering from a substance use
 273 disorder, by identifying and disseminating information about effective practices and
 274 programs;

275 [(v)] (e) promote integrated programs that address an individual's substance use, mental
 276 health, and physical health;

277 [(vi)] (f) establish and promote an evidence-based continuum of screening, assessment,
 278 prevention, treatment, and recovery support services in the community for
 279 individuals with a substance use disorder or mental illness;

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

281 [(viii)] (h) consider the impact of the programs described in this Subsection (2) on:

282 [(A)] (i) emergency department utilization;

283 [(B)] (ii) jail and prison populations;

284 [(C)] (iii) the homeless population; and

285 [(D)] (iv) the child welfare system; [and]

286 [(ix)] (i) promote or establish programs for education and certification of instructors to
 287 educate individuals convicted of driving under the influence of alcohol or drugs or
 288 driving with any measurable controlled substance in the body;

289 [(b)(i)] (j) collect and disseminate information pertaining to mental health;

290 [(ii)] (k) provide direction over the state hospital including approval of the state hospital's
 291 budget, administrative policy, and coordination of services with local service plans;

292 [(iii)] (l) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
 293 Rulemaking Act, to educate families concerning mental illness and promote family
 294 involvement, when appropriate, and with patient consent, in the treatment program of
 295 a family member;

296 [(iv)] (m) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
 297 Rulemaking Act, to direct that an individual receiving services through a local mental
 298 health authority or the Utah State Hospital be informed about and, if desired by the
 299 individual, provided assistance in the completion of a declaration for mental health
 300 treatment in accordance with Section 26B-5-313; [and]

301 [(v)] (n) ~~[to the extent authorized and in accordance with statute,]~~ make rules in
 302 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

303 ~~[(A)]~~ (i) ~~[create a certification for targeted case management]~~ certify an adult as a case
304 manager, qualified to provide case management services within the state;
305 ~~[(B)]~~ (ii) establish training and certification requirements;
306 ~~[(C)]~~ (iii) specify the types of services each certificate holder is qualified to provide;
307 ~~[(D)]~~ (iv) specify the type of supervision under which a certificate holder is required
308 to operate; and
309 ~~[(E)]~~ (v) specify continuing education and other requirements for maintaining or
310 renewing certification;
311 ~~[(e)(i)]~~ (o) consult and coordinate with local substance abuse authorities and local mental
312 health authorities regarding programs and services;
313 ~~[(ii)]~~ (p) provide consultation and other assistance to public and private agencies and
314 groups working on substance use and mental health issues;
315 ~~[(iii)]~~ (q) promote and establish cooperative relationships with courts, hospitals, clinics,
316 medical and social agencies, public health authorities, law enforcement agencies,
317 education and research organizations, and other related groups;
318 ~~[(iv)]~~ (r) promote or conduct research on substance use and mental health issues, and
319 submit to the governor and the Legislature recommendations for changes in policy
320 and legislation;
321 ~~[(v)]~~ (s) receive, distribute, and provide direction over public funds for substance use and
322 mental health services;
323 ~~[(vi)]~~ (t) monitor and evaluate programs provided by local substance abuse authorities
324 and local mental health authorities;
325 ~~[(vii)]~~ (u) examine expenditures of local, state, and federal funds;
326 ~~[(viii)]~~ (v) monitor the expenditure of public funds by:
327 ~~[(A)]~~ (i) local substance abuse authorities;
328 ~~[(B)]~~ (ii) local mental health authorities; and
329 ~~[(C)]~~ (iii) in counties where they exist, a private contract provider that has an annual
330 or otherwise ongoing contract to provide comprehensive substance abuse or
331 mental health programs or services for the local substance abuse authority or local
332 mental health authority;
333 ~~[(ix)]~~ (w) contract with local substance abuse authorities and local mental health
334 authorities to provide a comprehensive continuum of services that include
335 community-based services for individuals involved in the criminal justice system, in
336 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)]~~ (y) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

~~[(A)]~~ (i) a statewide comprehensive continuum of substance use services;

~~[(B)]~~ (ii) a statewide comprehensive continuum of mental health services;

~~[(C)]~~ (iii) services result in improved overall health and functioning;

~~[(D)]~~ (iv) a statewide comprehensive continuum of community-based services

designed to reduce criminal risk factors for individuals who are determined to

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

~~[(E)]~~ (v) compliance, where appropriate, with the certification requirements in Subsection ~~[(2)(h)]~~ (2)(gg); and

~~[(F)]~~ (vi) appropriate expenditure of public funds;

~~[(xii)]~~ (z) review and make recommendations regarding each local substance abuse

authority's contract with the local substance abuse authority's provider of substance

use 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)]~~ (aa) monitor and ensure compliance with division rules and contract requirements; ~~[and]~~

~~[(xiv)]~~ (bb) 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)]~~ (cc) 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)]~~ (dd) 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)]~~ (ee) 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 disorder and mental health programs and services; and

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

~~[(g)]~~ ~~(ff)~~ 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)]~~ ~~(gg)~~ train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

~~[(A)]~~ ~~(i)~~ a substance use disorder;

~~[(B)]~~ ~~(ii)~~ a mental health disorder; ~~[or]~~

~~[(C)]~~ ~~(iii)~~ a substance use disorder and a mental health disorder;

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

~~[(iii)]~~ ~~(v)~~ 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)]~~ ~~(vi)~~ 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)]~~ (hh) 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 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;

~~[(j)]~~ (ii) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services 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)]~~ (jj) 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)]~~ (2)(ii); 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)]~~ (2)(ii);

~~[(h)]~~ (kk) 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 in accordance with the metrics and requirements described in Section 63M-7-102;

~~[(m)]~~ (ll) at the division's discretion, use the data described in Subsection ~~[(2)(f)]~~ (2)(kk) to make decisions regarding the use of funds allocated to the division to provide treatment;

~~[(n)]~~ (mm) annually, on or before August 31, submit the data collected under Subsection ~~[(2)(f)]~~ (2)(kk) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

~~[(o)]~~ (nn) publish the following on the division's website:

- 439 (i) the performance goals and outcome measurements described in Subsection ~~[(2)(j)]~~
440 (2)(ii); and
- 441 (ii) a description of the services provided and the contact information for the mental
442 health and substance use treatment programs described in Subsection ~~[(2)(j)]~~ (2)(ii)
443 and residential, vocational and life skills programs, as defined in Section
444 13-53-102; and
- 445 ~~[(p)]~~ (oo) consult and coordinate with the Division of Child and Family Services to
446 develop and manage the operation of a program designed to reduce substance use
447 during pregnancy and by parents of a newborn child that includes:
- 448 (i) providing education and resources to health care providers and individuals in the
449 state regarding prevention of substance use during pregnancy;
- 450 (ii) providing training to health care providers in the state regarding screening of a
451 pregnant woman or pregnant minor to identify a substance use disorder; and
- 452 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
453 child in need of substance use treatment services to a facility that has the capacity
454 to provide the treatment services.
- 455 (3) In addition to the responsibilities described in Subsection (2), the division shall, within
456 funds appropriated by the Legislature for this purpose, implement and manage the
457 operation of a firearm safety and suicide prevention program, in consultation with the
458 Bureau of Criminal Identification created in Section 53-10-201, including:
- 459 (a) coordinating with local mental health and substance abuse authorities, a nonprofit
460 behavioral health advocacy group, and a representative from a Utah-based nonprofit
461 organization with expertise in the field of firearm use and safety that represents
462 firearm owners, to:
- 463 (i) produce and periodically review and update a firearm safety brochure and other
464 educational materials with information about the safe handling and use of firearms
465 that includes:
- 466 (A) information on safe handling, storage, and use of firearms in a home
467 environment;
- 468 (B) information about at-risk individuals and individuals who are legally
469 prohibited from possessing firearms;
- 470 (C) information about suicide prevention awareness; and
- 471 (D) information about the availability of firearm safety packets;
- 472 (ii) procure cable-style gun locks for distribution under this section;

- 473 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
474 cable-style gun lock described in this Subsection (3); and
- 475 (iv) create a suicide prevention education course that:
- 476 (A) provides information for distribution regarding firearm safety education;
- 477 (B) incorporates current information on how to recognize suicidal behaviors and
478 identify individuals who may be suicidal; and
- 479 (C) provides information regarding crisis intervention resources;
- 480 (b) distributing, free of charge, the firearm safety packet to the following persons, who
481 shall make the firearm safety packet available free of charge:
- 482 (i) health care providers, including emergency rooms;
- 483 (ii) mobile crisis outreach teams;
- 484 (iii) mental health practitioners;
- 485 (iv) other public health suicide prevention organizations;
- 486 (v) entities that teach firearm safety courses;
- 487 (vi) school districts for use in the seminar, described in Section 53G-9-702, for
488 parents of students in the school district; and
- 489 (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
- 490 (c) creating and administering a rebate program that includes a rebate that offers
491 between \$10 and \$200 off the purchase price of a firearm safe from a participating
492 firearms dealer or a person engaged in the business of selling firearm safes in Utah,
493 by a Utah resident; and
- 494 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
495 making rules that establish procedures for:
- 496 (i) producing and distributing the suicide prevention education course and the firearm
497 safety brochures and packets;
- 498 (ii) procuring the cable-style gun locks for distribution; and
- 499 (iii) administering the rebate program.
- 500 (4)(a) The division may refuse to contract with and may pursue legal remedies against
501 any local substance abuse authority or local mental health authority that fails, or has
502 failed, to expend public funds in accordance with state law, division policy, contract
503 provisions, or directives issued in accordance with state law.
- 504 (b) The division may withhold funds from a local substance abuse authority or local
505 mental health authority if the authority's contract provider of substance use or mental
506 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 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

541 authority;

542 (b) recommend evidence-based and evidence informed mental health screenings and
543 intervention assessments for a local education agency; and

544 (c) coordinate with the local community, including local departments of health, to
545 enhance and expand mental health related resources for a local education agency.

546 Section 4. Section **26B-5-301** is amended to read:

547 **26B-5-301 . Definitions.**

548 As used in this part, Part 4, Commitment of Persons Under Age 18, and Part 5, Essential
549 Treatment and Intervention:

550 (1) "Adult" means an individual 18 years old or older.

551 (2) "Approved treatment facility or program" means a mental health or substance use
552 treatment provider that meets the goals and measurements described in Subsection [
553 ~~26B-5-102(2)(j)~~] 26B-5-102(2)(ii).

554 (3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment
555 ordered under Section 26B-5-351.

556 (4) "Attending physician" means a physician licensed to practice medicine in this state who
557 has primary responsibility for the care and treatment of the declarant.

558 (5) "Attorney-in-fact" means an adult properly appointed under this part to make mental
559 health treatment decisions for a declarant under a declaration for mental health treatment.

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

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

567 (8) "Designated examiner" means:

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

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

574 (9) "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.

(10) "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.

(11) "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

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

(12) "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.

(13) "Incapable" means that, in the opinion of the court in a guardianship proceeding under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

(14) "Institution" means a hospital or a health facility licensed under Section 26B-2-206.

(15) "Local substance abuse authority" means the same as that term is defined in Section 26B-5-101 and described in Section 17-43-201.

(16) "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.

(17) "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.

- 609 (18) "Mental illness" means:
- 610 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
- 611 behavioral, or related functioning; or
- 612 (b) the same as that term is defined in:
- 613 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
- 614 published by the American Psychiatric Association; or
- 615 (ii) the current edition of the International Statistical Classification of Diseases and
- 616 Related Health Problems.
- 617 (19) "Mental health treatment" means convulsive treatment, treatment with psychoactive
- 618 medication, or admission to and retention in a facility for a period not to exceed 17 days.
- 619 (20) "Patient" means an individual who is:
- 620 (a) under commitment to the custody or to the treatment services of a local mental health
- 621 authority; or
- 622 (b) undergoing essential treatment and intervention.
- 623 (21) "Physician" means an individual who is:
- 624 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or
- 625 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical
- 626 Practice Act.
- 627 (22) "Serious bodily injury" means bodily injury that involves a substantial risk of death,
- 628 unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
- 629 protracted loss or impairment of the function of a bodily member, organ, or mental
- 630 faculty.
- 631 (23) "State hospital" means the Utah State Hospital established in Section 26B-5-302.
- 632 (24) "Substantial danger" means that due to mental illness, an individual is at serious risk of:
- 633 (a) suicide;
- 634 (b) serious bodily self-injury;
- 635 (c) serious bodily injury because the individual is incapable of providing the basic
- 636 necessities of life, including food, clothing, or shelter;
- 637 (d) causing or attempting to cause serious bodily injury to another individual;
- 638 (e) engaging in harmful sexual conduct; or
- 639 (f) if not treated, suffering severe and abnormal mental, emotional, or physical distress
- 640 that:
- 641 (i) is associated with significant impairment of judgment, reason, or behavior; and
- 642 (ii) causes a substantial deterioration of the individual's previous ability to function

independently.

- (25) "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 5. Section **26B-5-801** is amended to read:

26B-5-801 . Definitions -- Creation of committee -- Membership -- Terms.

- (1)(a) As used in this part, "committee" means the Utah Substance Use and Mental Health Advisory Committee created in this section.
- (b) There is created within the department the Utah Substance Use and Mental Health Advisory Committee, which serves under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702.
- (2) The committee shall be comprised of the following voting members:
- (a) the attorney general or the attorney general's designee;
 - (b) one elected county official appointed by the Utah Association of Counties;
 - (c) the commissioner of public safety or the commissioner's designee;
 - (d) the director of the Division of Integrated Healthcare or the director's designee;
 - (e) the state superintendent of public instruction or the superintendent's designee;
 - (f) the executive director of the Department of Health and Human Services or the executive director's designee;
 - (g) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;
 - (h) the executive director of the Department of Corrections or the executive director's designee;
 - (i) the director of the Division of Juvenile Justice and Youth Services or the director's designee;
 - (j) the director of the Division of Child and Family Services or the director's designee;
 - (k) the chair of the Board of Pardons and Parole or the chair's designee;
 - (l) the director of the Office of Multicultural Affairs or the director's designee;
 - (m) the director of the Division of Indian Affairs or the director's designee;
 - ~~[(nn)]~~ (n) the state court administrator or the state court administrator's designee;
 - ~~[(oo)]~~ (o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;
 - ~~[(pp)]~~ (p) one district court judge who presides over a mental health court and who is

appointed by the chief justice of the Utah Supreme Court;

~~[(qq)]~~ (q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

~~[(rr)]~~ (r) one prosecutor appointed by the Statewide Association of Prosecutors;

~~[(ss)]~~ (s) the chair or co-chair of each subcommittee established by the committee;

~~[(tt)]~~ (t) the chair or co-chair of the Statewide Suicide Prevention Committee created under Subsection 26B-5-611(3);

~~[(uu)]~~ (u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

~~[(vv)]~~ (v) the chair of the Utah Victim Services Commission or the chair's designee;

~~[(ww)]~~ (w) the superintendent of the Utah State Hospital or the superintendent's designee;

~~[(xx)]~~ (x) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

~~[(yy)]~~ (y) in addition to the voting members described in Subsections (2)(a) through (x), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (x) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of Integrated Healthcare

as a peer support specialist as described in Subsection [~~26B-5-102(2)(h)~~]
26B-5-102(2)(gg).

- (3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the committee.

Section 6. Section **53-21-101** is amended to read:

53-21-101 . Definitions.

As used in this chapter:

- (1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.
- (2) "Designated mental health resources liaison" means a non-leadership human resources or other administrative employee designated by a first responder agency who receives and processes a request for mental health resources on behalf of the first responder agency under this chapter.
- (3) "First responder" means:
- (a) a law enforcement officer, as defined in Section 53-13-103;
 - (b) an emergency medical technician, as defined in Section 53-2e-101;
 - (c) an advanced emergency medical technician, as defined in Section 53-2e-101;
 - (d) a paramedic, as defined in Section 53-2e-101;
 - (e) a firefighter, as defined in Section 34A-3-113;
 - (f) a dispatcher, as defined in Section 53-6-102;
 - (g) a correctional officer, as defined in Section 53-13-104;
 - (h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;
 - (i) a search and rescue worker under the supervision of a local sheriff;
 - (j) a forensic interviewer or victim advocate employed by a children's justice center established in accordance with Section 67-5b-102;
 - (k) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;
 - (l) a crime scene investigator technician;
 - (m) a wildland firefighter;
 - (n) an investigator or prosecutor of cases involving sexual crimes against children; or
 - (o) a civilian employee of a first responder agency who has been authorized to view or otherwise access information concerning crimes, accidents, or other traumatic events.

- 745 (4) "First responder agency" means:
- 746 (a) a special district, municipality, interlocal entity, or other political subdivision that
- 747 employs a first responder to provide fire protection, paramedic, law enforcement, or
- 748 emergency services; or
- 749 (b) a certified private law enforcement agency as defined in Section 53-19-102.
- 750 (5)(a) "Mental health resources" means:
- 751 (i) an assessment to determine appropriate mental health treatment that is performed
- 752 by a mental health therapist;
- 753 (ii) outpatient mental health treatment provided by a mental health therapist; or
- 754 (iii) peer support services provided by a peer support specialist who is qualified to
- 755 provide peer support services under Subsection [26B-5-102(2)(h)]
- 756 26B-5-102(2)(gg).
- 757 (b) "Mental health resources" includes, at a minimum, the following services:
- 758 (i) regular periodic screenings for all employees within the first responder agency;
- 759 (ii) assessments and availability to mental health services for personnel directly
- 760 involved in a critical incident within 48 hours of the incident; and
- 761 (iii) regular and continuing access to the mental health program for:
- 762 (A) spouses and children of first responders;
- 763 (B) first responders who have retired or separated from the agency; and
- 764 (C) spouses of first responders who have retired or separated from the agency.
- 765 (6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 766 (7) "Plan" means a plan to implement or expand a program that provides mental health
- 767 resources to first responders for which the division awards a grant under this chapter.
- 768 (8) "Retired" means the status of an individual who has become eligible, applies for, and
- 769 may receive an allowance under Title 49, Utah State Retirement and Insurance Benefit
- 770 Act.
- 771 (9) "Separated" means the status of an individual who has separated from employment as a
- 772 first responder from a first responder agency as a result of a critical incident involving
- 773 the first responder.
- 774 (10) "Small first responder agency" means a first responder agency that:
- 775 (a) has 10 or fewer employees;
- 776 (b) is primarily staffed by volunteers; or
- 777 (c) is located in:
- 778 (i) a county of the third, fourth, fifth, or sixth class;

- (ii) a city of the third, fourth, fifth, or sixth class; or
- (iii) a town.

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

63M-7-204 . Duties of commission.

(1) The commission 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 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 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 [26B-5-102(2)(l)] 26B-5-102(kk);
- (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) 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;

(v) 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;

(w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection ~~[26B-5-102(2)(n)]~~ 26B-5-102(2)(mm) that:

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

(ii) separates the data provided under Subsection ~~[26B-5-102(2)(n)]~~

26B-5-102(2)(mm) by each mental health or substance use treatment program;

(x) publish the report described in Subsection (1)(w) 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;

(y) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-25-202;

(ii) Section 53-25-301; and

(iii) Section 53-25-401;

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry;

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time; and

(bb) accept public comment.

(2)(a) The commission may designate an entity to perform the duties described in this

881 part.

882 (b) If the commission designates an entity under Subsection (2)(a), the commission shall
883 ensure that the membership of the designated entity includes representation from
884 relevant stakeholder groups from the parts of the justice system implicated in the
885 policy area.

886 (3) in fulfilling the commission's duties under Subsection (1), the commission may seek
887 input and request assistance from groups with knowledge and expertise in criminal
888 justice, including other boards and commissions affiliated or housed within the
889 commission.

890 Section 8. **Effective Date.**

891 This bill takes effect on May 7, 2025.