

**UTAH SUBSTANCE USE AND MENTAL HEALTH ADVISORY
COUNCIL**

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill addresses the Utah Substance Use and Mental Health Advisory Council.

Highlighted Provisions:

This bill:

- corrects references to the council;
- adds a member to the council; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-2-306, as enacted by Laws of Utah 2012, Chapter 388

32B-7-305, as enacted by Laws of Utah 2010, Chapter 276 and last amended by
Coordination Clause, Laws of Utah 2010, Chapter 276

62A-15-103, as last amended by Laws of Utah 2016, Chapters 113 and 211

63M-7-202, as last amended by Laws of Utah 2010, Chapter 39

63M-7-301, as last amended by Laws of Utah 2016, Chapter 158

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

Section 1. Section **32B-2-306** is amended to read:

32B-2-306. Underage drinking prevention media and education campaign.

(1) As used in this section:

(a) "Advisory council" means the Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council created in Section **63M-7-301**.

(b) "Restricted account" means the Underage Drinking Prevention Media and Education Campaign Restricted Account created in this section.

(2) (a) There is created a restricted account within the General Fund known as the "Underage Drinking Prevention Media and Education Campaign Restricted Account."

(b) The restricted account consists of:

(i) deposits made under Subsection (3); and

(ii) interest earned on the restricted account.

(3) The department shall deposit 0.6% of the total gross revenue from sales of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the restricted account and to be used by the department as provided in Subsection (5).

(4) The advisory council shall:

(a) provide ongoing oversight of a media and education campaign funded under this section;

(b) create an underage drinking prevention workgroup consistent with guidelines proposed by the advisory council related to the membership and duties of the underage drinking prevention workgroup;

(c) create guidelines for how money appropriated for a media and education campaign can be used;

(d) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups; and

(e) approve plans submitted by the department in accordance with Subsection (5).

(5) (a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce underage drinking in cooperation with the advisory council.

(b) The department shall:

(i) in cooperation with the underage drinking prevention workgroup created under Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of the money appropriated under this section;

(ii) upon approval of the plan by the advisory council, conduct the media and education campaign in accordance with the guidelines made by the advisory council; and

(iii) submit to the advisory council annually by no later than October 1, a written report detailing the use of the money for the media and education campaigns conducted under this Subsection (5) and the impact and results of the use of the money during the prior fiscal year ending June 30.

Section 2. Section **32B-7-305** is amended to read:

32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.

(1) A local authority that pursuant to this part adjudicates an administrative penalty for a violation of a law involving the sale of an alcoholic product to a minor, shall:

(a) maintain a record of an adjudicated violation until the record is expunged under Subsection (3);

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who commits the violation;

(ii) the name of the off-premise beer retailer for whom the individual is a staff member at the time of the violation; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to the Highway Safety Office of the Department of Public Safety within 30 days of the date on which a violation is adjudicated.

(2) (a) The Highway Safety Office shall develop and operate a system to collect,

86 analyze, maintain, track, and disseminate the violation history information received under
87 Subsection (1).

88 (b) The Highway Safety Office shall make the system described in Subsection (2)(a)
89 available to:

90 (i) assist a local authority in assessing administrative penalties under Section
91 32B-7-303; and

92 (ii) inform an off-premise beer retailer of an individual who has an administrative
93 violation history under Section 32B-7-303.

94 (c) The Highway Safety Office shall maintain a record of violation history information
95 received pursuant to Subsection (1) until the record is expunged under Subsection (3).

96 (3) (a) A local authority and the Highway Safety Office shall expunge from the records
97 maintained an administrative penalty imposed under Section 32B-7-303 for purposes of
98 determining future administrative penalties under Section 32B-7-303 if the individual has not
99 been found in violation of any law involving the sale of an alcoholic product to a minor for a
100 period of 36 consecutive months from the day on which the individual is last adjudicated as
101 violating a law involving the sale of an alcoholic product to a minor.

102 (b) A local authority shall expunge from the records maintained by the local authority
103 an administrative penalty imposed under Section 32B-7-303 against an off-premise beer
104 retailer for purposes of determining future administrative penalties under Section 32B-7-303 if
105 the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in
106 violation of any law involving the sale of an alcoholic product to a minor for a period of 36
107 consecutive months from the day on which the off-premise beer retailer or staff of the
108 off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic
109 product to a minor.

110 (4) The Highway Safety Office shall administer a program to reimburse a municipal or
111 county law enforcement agency:

112 (a) for the actual costs of an alcohol-related compliance check investigation conducted
113 pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

(b) for administrative costs associated with reporting the compliance check investigation described in Subsection (4)(a);

(c) if the municipal or county law enforcement agency completes and submits to the Highway Safety Office a report within 90 days of the compliance check investigation described in Subsection (4)(a) in a format required by the Highway Safety Office; and

(d) in the order that the municipal or county law enforcement agency submits the report required by Subsection (4)(c) until the amount allocated by the Highway Safety Office to reimburse a municipal or county law enforcement agency is spent.

(5) The Highway Safety Office shall report to the Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council by no later than October 1 following a fiscal year on the following funded during the prior fiscal year:

(a) compliance check investigations reimbursed under Subsection (4); and

(b) the collection, analysis, maintenance, tracking, and dissemination of violation history information described in Subsection (2).

Section 3. Section **62A-15-103** is amended to read:

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

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. 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) promulgate 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 and mental health programs licensed by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance abuse and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) 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) promote or establish programs for education and certification of instructors to educate persons 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 its budget, administrative policy, and coordination of services with local service plans;

(iii) promulgate 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) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, to direct that all individuals receiving services through local mental health authorities or the Utah State Hospital be informed about and, if desired, provided assistance in 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;

(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 any 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, the 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 authorities;

(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;

(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)(i); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with its provider of substance abuse programs and services and each local mental health authority's contract with its 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) assure 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

to submit its plan to the division by May 1 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority in the state and its contract provider and each local mental health authority in the state and its contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to local substance abuse authorities and local mental health authorities are consistent with services rendered and outcomes reported by them or their contract providers; 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 abuse and mental health programs and services; and

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

(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) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance abuse and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:

(i) collaboration with the Department of Corrections~~[;]~~ and the Utah Substance ~~[Abuse]~~ Use and 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 includes 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)(h) 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;

(i) 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 who provide, as part of their practice, substance abuse and mental health treatment to individuals involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance ~~[Abuse]~~ 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)(h) for the treatment of individuals involved in the criminal justice system; and

(iii) the requirement that all public and private providers of treatment to individuals 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;

(j) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed for the reduced recidivism efforts;

(ii) county jail and county behavioral health early-assessment resources needed for offenders 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;

(k) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(h), 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;

(l) in its discretion, use the data 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)(h); and

(m) annually, on or before August 31, submit the data collected under Subsection (2)(j) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

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

(4) 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 its oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) 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.

(5) In carrying out its 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.

(6) 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.

(7) 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) the use of public funds;

(b) oversight responsibilities regarding public funds; and

(c) governance of substance abuse and mental health programs and services.

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

(9) 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.

Section 4. Section **63M-7-202** is amended to read:

63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.

(1) The commission on criminal and juvenile justice shall be composed of 21 voting members as follows:

(a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;

(b) the state court administrator;

(c) the executive director of the Department of Corrections;

(d) the director of the Division of Juvenile Justice Services;

(e) the commissioner of the Department of Public Safety;

- 338 (f) the attorney general;
- 339 (g) the president of the chiefs of police association or a chief of police designated by
340 the association's president;
- 341 (h) the president of the sheriffs' association or a sheriff designated by the association's
342 president;
- 343 (i) the chair of the Board of Pardons and Parole or a member designated by the chair;
- 344 (j) the chair of the Utah Sentencing Commission;
- 345 (k) the chair of the Utah Substance ~~[Abuse]~~ Use and Mental Health Advisory Council;
- 346 (l) the chair of the Utah Board of Juvenile Justice;
- 347 (m) the chair of the Utah Council on Victims of Crime or the chair's designee;
- 348 (n) the director of the Division of Substance Abuse and Mental Health; and
- 349 (o) the following members designated to serve four-year terms:
- 350 (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the
351 Judicial Council;
- 352 (ii) a representative of the statewide association of public attorneys designated by the
353 association's officers;
- 354 (iii) one member of the House of Representatives who is appointed by the speaker of
355 the House of Representatives; and
- 356 (iv) one member of the Senate who is appointed by the president of the Senate.
- 357 (2) The governor shall appoint the remaining three members to four-year staggered
358 terms as follows:
- 359 (a) one criminal defense attorney appointed from a list of three nominees submitted by
360 the Utah State Bar Association;
- 361 (b) one representative of public education; and
- 362 (c) one citizen representative.
- 363 (3) In addition to the members designated under Subsections (1) and (2), the United
364 States Attorney for the district of Utah may serve as a nonvoting member.
- 365 (4) In appointing the members under Subsection (2), the governor shall take into

account the geographical makeup of the commission.

Section 5. Section **63M-7-301** is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) an 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 Substance Abuse and Mental Health 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 or the executive director's designee;

(g) the executive director of the 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 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;

(n) the state court administrator or the state court administrator's designee;

(o) a district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) a district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

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

(r) a prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the following members appointed to serve four-year terms:

(i) a member of the House of Representatives appointed by the speaker of the House of Representatives;

(ii) a member of the Senate appointed by the president of the Senate; and

(iii) a representative appointed by the Utah League of Cities and Towns;

(u) 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

(v) in addition to the voting members described in Subsections (2)(a) through (u), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (u) 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 prevention professionals;

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

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

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

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

422 (viii) one resident of the state who represents local law enforcement agencies[-]; and
423 (ix) one representative of private service providers that serve youth with substance use
424 disorders or mental health disorders.

425 (3) A person other than a person described in Subsection (2) may not be appointed as a
426 voting member of the council.