

WORKFORCE SERVICES AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This bill modifies provisions of the Utah Workforce Services Code.

Highlighted Provisions:

This bill:

- ▶ removes certain limitations on education and training assistance for a participant in the Family Employment Program;
- ▶ allows the Unemployment Insurance Division to disclose certain information to a division of the United States Department of Labor;
- ▶ grants certain rulemaking authority to the division; and
- ▶ provides a sunset date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-3-304, as last amended by Laws of Utah 2012, Chapter 354

35A-4-312, as last amended by Laws of Utah 2013, Chapter 473

63I-1-235, as last amended by Laws of Utah 2014, Chapter 127

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

Section 1. Section **35A-3-304** is amended to read:

30 **35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.**

31 (1) (a) Within 20 business days of the date of enrollment, a parent client shall:

32 (i) be assigned an employment counselor; and

33 (ii) complete an assessment provided by the division regarding the parent client's:

34 (A) family circumstances;

35 (B) education;

36 (C) work history;

37 (D) skills;

38 (E) ability to become self-sufficient; and

39 (F) likelihood of a substance use disorder involving the misuse of a controlled

40 substance.

41 (b) The assessment provided under Subsection (1)(a)(ii) shall include:

42 (i) a survey to be completed by the parent client with the assistance of the division; and

43 (ii) a written questionnaire to be completed by the parent client designed to accurately

44 determine the likelihood of the parent client having a substance use disorder involving the

45 misuse of a controlled substance.

46 (c) In addition to the other requirements of this part, if the results of the written

47 questionnaire taken by a parent client indicate a reasonable likelihood that the parent client has

48 a substance use disorder involving the misuse of a controlled substance, the parent client may

49 only receive cash assistance provided under this part in accordance with the additional

50 requirements of Section [35A-3-304.5](#).

51 (2) (a) Within 15 business days of a parent client completing an assessment, the

52 division and the parent client shall enter into an employment plan.

53 (b) The employment plan shall have a target date for entry into employment.

54 (c) The division shall provide a copy of the employment plan to the parent client.

55 (d) As to the parent client, the plan may include:

56 (i) job searching requirements;

57 (ii) if the parent client does not have a high school diploma, participation in an

- 58 educational program to obtain a high school diploma, or its equivalent;
- 59 (iii) education or training necessary to obtain employment;
- 60 (iv) a combination of work and education or training;
- 61 (v) assisting the Office of Recovery Services in good faith to:
- 62 (A) establish the paternity of a minor child; and
- 63 (B) establish or enforce a child support order.
- 64 (e) If the parent client tests positive for the unlawful use of a controlled substance after
- 65 taking a drug test under Section 35A-3-304.5, the employment plan shall include an agreement
- 66 by the parent client to participate in treatment for a substance use disorder and meet the other
- 67 requirements of Section 35A-3-304.5.
- 68 (f) As to the division, the plan may include:
- 69 (i) providing cash and other types of public and employment assistance, including child
- 70 care;
- 71 (ii) assisting the parent client to obtain education or training necessary for employment;
- 72 (iii) assisting the parent client to set up and follow a household budget; and
- 73 (iv) assisting the parent client to obtain employment.
- 74 (g) The division may amend the employment plan to reflect new information or
- 75 changed circumstances.
- 76 (h) If immediate employment is an activity contained in the employment plan the
- 77 parent client shall:
- 78 (i) promptly commence a search for a specified number of hours each week for
- 79 employment; and
- 80 (ii) regularly submit a report to the division on:
- 81 (A) how time was spent in search for a job;
- 82 (B) the number of job applications completed;
- 83 (C) the interviews attended;
- 84 (D) the offers of employment extended; and
- 85 (E) other related information required by the division.

86 (i) (i) If full-time education or training to secure employment is an activity contained in
87 an employment plan, the parent client shall promptly undertake a full-time education or
88 training program.

89 (ii) The employment plan may describe courses, education or training goals, and
90 classroom hours.

91 (j) (i) As a condition of receiving cash assistance under this part, a parent client shall
92 agree to make a good faith effort to comply with the employment plan.

93 (ii) If a parent client consistently fails to show good faith in complying with the
94 employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of
95 the cash assistance services provided under this part.

96 (iii) The division shall establish a process to reconcile disputes between a client and the
97 division as to whether:

98 (A) the parent client has made a good faith effort to comply with the employment plan;

99 or

100 (B) the division has complied with the employment plan.

101 ~~[(3)(a) Except as provided in Subsection (3)(b), a parent client's participation in~~
102 ~~education or training beyond that required to obtain a high school diploma or its equivalent is~~
103 ~~limited to the lesser of:]~~

104 ~~[(i) 24 months; or]~~

105 ~~[(ii) the completion of the education and training requirements of the employment~~
106 ~~plan.]~~

107 ~~[(b) A parent client may participate in education or training for up to six months~~
108 ~~beyond the 24-month limit of Subsection (3)(a)(i) if:]~~

109 ~~[(i) the parent client is employed for 80 or more hours a month; and]~~

110 ~~[(ii) the extension is for good cause shown and approved by the director.]~~

111 ~~[(c) A parent client who receives an extension under Subsection (3)(b) remains subject~~
112 ~~to Subsection (4).]~~

113 ~~[(4)(a) A parent client with a high school diploma or equivalent who has received 24~~

114 ~~months of education or training shall participate in full-time work activities.]~~

115 ~~[(b) The 24 months need not be continuous and the department may define "full-time~~
116 ~~work activities" by rule.]~~

117 ~~[(5)]~~ (3) As a condition for receiving cash assistance on behalf of a minor child under
118 this part, the minor child shall be:

119 (a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and
120 53A-11-101.7; or

121 (b) exempt from school attendance under Section 53A-11-102.

122 ~~[(6)]~~ (4) This section does not apply to a person who has received diversion assistance
123 under Section 35A-3-303.

124 ~~[(7)]~~ (5) (a) The division shall recruit and train volunteers to serve as mentors for
125 parent clients.

126 (b) A mentor may advocate on behalf of a parent client and help a parent client:

127 (i) develop life skills;

128 (ii) implement an employment plan; or

129 (iii) obtain services and supports from:

130 (A) the volunteer mentor;

131 (B) the division; or

132 (C) civic organizations.

133 Section 2. Section 35A-4-312 is amended to read:

134 **35A-4-312. Records.**

135 (1) (a) An employing unit shall keep true and accurate work records containing
136 information the department may prescribe by rule.

137 (b) A record shall be open to inspection and subject to being copied by the division or
138 its authorized representatives at a reasonable time and as often as necessary.

139 (c) An employing unit shall make a record available in the state for three years after the
140 calendar year in which the services are rendered.

141 (2) The division may require from an employing unit a sworn or unsworn report with

142 respect to a person employed by the employing unit that the division considers necessary for
143 the effective administration of this chapter.

144 (3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106,
145 information obtained under this chapter or obtained from an individual may not be published or
146 open to public inspection in a manner revealing the employing unit's or individual's identity.

147 (4) (a) The information obtained by the division under this section may not be used in
148 court or admitted into evidence in an action or proceeding, except:

149 (i) in an action or proceeding arising out of this chapter;

150 (ii) if the Labor Commission enters into a written agreement with the division under
151 Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

152 (A) Title 34, Chapter 23, Employment of Minors;

153 (B) Title 34, Chapter 28, Payment of Wages;

154 (C) Title 34, Chapter 40, Utah Minimum Wage Act; or

155 (D) Title 34A, Utah Labor Code;

156 (iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and
157 Section 63G-2-207; or

158 (iv) under the terms of a written agreement between the Office of State Debt Collection
159 and the division as provided in Subsection (5).

160 (b) The information obtained by the division under this section shall be disclosed to:

161 (i) a party to an unemployment insurance hearing before an administrative law judge of
162 the department or a review by the Workforce Appeals Board to the extent necessary for the
163 proper presentation of the party's case; or

164 (ii) an employer, upon request in writing for information concerning a claim for a
165 benefit with respect to a former employee of the employer.

166 (5) The information obtained by the division under this section may be disclosed to:

167 (a) an employee of the department in the performance of the employee's duties in
168 administering this chapter or other programs of the department;

169 (b) an employee of the Labor Commission for the purpose of carrying out the programs

170 administered by the Labor Commission;

171 (c) an employee of the Department of Commerce for the purpose of carrying out the
172 programs administered by the Department of Commerce;

173 (d) an employee of the governor's office or another state governmental agency
174 administratively responsible for statewide economic development, to the extent necessary for
175 economic development policy analysis and formulation;

176 (e) an employee of another governmental agency that is specifically identified and
177 authorized by federal or state law to receive the information for the purposes stated in the law
178 authorizing the employee of the agency to receive the information;

179 (f) an employee of a governmental agency or workers' compensation insurer to the
180 extent the information will aid in:

181 (i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

182 (A) a workers' compensation program; or

183 (B) public assistance funds; or

184 (ii) the recovery of overpayments of workers' compensation or public assistance funds;

185 (g) an employee of a law enforcement agency to the extent the disclosure is necessary
186 to avoid a significant risk to public safety or in aid of a felony criminal investigation;

187 (h) an employee of the State Tax Commission or the Internal Revenue Service for the
188 purposes of:

189 (i) audit verification or simplification;

190 (ii) state or federal tax compliance;

191 (iii) verification of a code or classification of the:

192 (A) 1987 Standard Industrial Classification Manual of the federal Executive Office of
193 the President, Office of Management and Budget; or

194 (B) 2002 North American Industry Classification System of the federal Executive
195 Office of the President, Office of Management and Budget; and

196 (iv) statistics;

197 (i) an employee or contractor of the department or an educational institution, or other

198 governmental entity engaged in workforce investment and development activities under the
199 Workforce Investment Act of 1998 for the purpose of:

- 200 (i) coordinating services with the department;
- 201 (ii) evaluating the effectiveness of those activities; and
- 202 (iii) measuring performance;
- 203 (j) an employee of the Governor's Office of Economic Development, for the purpose of
204 periodically publishing in the Directory of Business and Industry, the name, address, telephone
205 number, number of employees by range, code or classification of an employer, and type of
206 ownership of Utah employers;
- 207 (k) the public for any purpose following a written waiver by all interested parties of
208 their rights to nondisclosure;
- 209 (l) an individual whose wage data is submitted to the department by an employer, if no
210 information other than the individual's wage data and the identity of the employer who
211 submitted the information is provided to the individual;
- 212 (m) an employee of the Insurance Department for the purpose of administering Title
213 31A, Chapter 40, Professional Employer Organization Licensing Act;
- 214 (n) an employee of the Office of State Debt Collection for the purpose of collecting
215 state accounts receivable as provided in Section [63A-3-502](#); [~~or~~]
- 216 (o) a creditor, under a court order, to collect on a judgment as provided in Section
217 [35A-4-314](#)[~~-~~]; or
- 218 (p) an employee of the Wage and Hour Division of the United States Department of
219 Labor for the purpose of carrying out the programs administered by the Wage and Hour
220 Division as permitted under 20 C.F.R. 603.5(e), if the information is subject to the payment of
221 costs described in 20 C.F.R. 603.8(d) and:
 - 222 (i) is limited to:
 - 223 (A) the name and identifying information of an employer found by the department to
224 have misclassified one or more workers under Subsection [35A-4-204](#)(3);
 - 225 (B) the total number of misclassified workers for that employer; and

226 (C) the aggregate amount of misclassified wages for that employer;
227 (ii) an employer is given the opportunity to cure a misclassification of one or more
228 workers, in a manner established by division rule in accordance with Title 63G, Chapter 3,
229 Utah Administrative Rulemaking Act, before the information is disclosed as described in this
230 Subsection (5)(p); and
231 (iii) an annual report regarding the benefit to the state from disclosure of information
232 under this Subsection (5)(p) is provided to the department for inclusion in the department's
233 annual report described in Section [35A-1-109](#).

234 (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5),
235 with the exception of Subsections (5)(a), (g), and (o), may be made if:

- 236 (a) the division determines that the disclosure will not have a negative effect on:
237 (i) the willingness of employers to report wage and employment information; or
238 (ii) the willingness of individuals to file claims for unemployment benefits; and
239 (b) the agency enters into a written agreement with the division in accordance with
240 rules made by the department.

241 (7) (a) The employees of a division of the department other than the Workforce
242 Development and Information Division and the Unemployment Insurance Division or an
243 agency receiving private information from the division under this chapter are subject to the
244 same requirements of privacy and confidentiality and to the same penalties for misuse or
245 improper disclosure of the information as employees of the division.

246 (b) Use of private information obtained from the department by a person or for a
247 purpose other than one authorized in Subsection (4) or (5) violates Subsection [76-8-1301](#)(4).

248 Section 3. Section **63I-1-235** is amended to read:

249 **63I-1-235. Repeal dates, Title 35A.**

250 (1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.

251 (2) Subsection [35A-4-312](#)(5)(p) is repealed July 1, 2017.

252 [~~2~~] (3) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July
253 1, 2016.

254 [~~3~~] (4) Title 35A, Chapter 8, Part 18, Transitional Housing and Community
255 Development Advisory Council, is repealed July 1, 2014.
256 [~~4~~] (5) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed
257 July 1, 2016.