

Senator Todd D. Weiler proposes the following substitute bill:

CRIMINAL JUSTICE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions requiring a county jail to report certain information to the State Commission on Criminal and Juvenile Justice (CCJJ);
- ▶ prohibits CCJJ from providing a state grant to an agency who is not in compliance with certain statutory reporting requirements;
- ▶ requires a county to create a Criminal Justice Coordinating Council subject to certain requirements;
- ▶ removes provisions related to certification by the Division of Substance Abuse and Mental Health (DSAMH) of treatment providers who work with individuals involved in the criminal justice system;
- ▶ requires DSAMH to:
 - establish outcome measurements for treatment programs, including measurements related to recidivism reduction;
 - coordinate with the Administrative Office of the Courts, the Department of



26 Corrections (DOC), and the Board of Pardons and Parole to collect certain recidivism data; and

- 27 • meet certain reporting requirements for the measurements and data;
- 28 ▶ modifies the Statewide Behavioral Health Crisis Response Account;
- 29 ▶ requires DOC to:
 - 30 • track an offender's compliance with treatment conditions of probation or parole;

31 and

- 32 • create a case action plan for an offender within a certain time frame;
- 33 ▶ prohibits DOC from contracting with a county to house state inmates if the county is

34 not in compliance with certain statutory reporting requirements;

 - 35 ▶ increases the penalty for certain drug offenses; and
 - 36 ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38 This bill appropriates in fiscal year 2023:

39 ▶ to General Fund Restricted -- Behavioral Health Crisis Response Account, as an
40 ongoing appropriation:

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

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

47 **Other Special Clauses:**

48 This bill provides a coordination clause.

49 **Utah Code Sections Affected:**

50 AMENDS:

- 51 [17-22-32](#), as last amended by Laws of Utah 2020, Chapters 283 and 413
- 52 [58-37-8](#), as last amended by Laws of Utah 2021, Chapter 236
- 53 [62A-15-103](#), as last amended by Laws of Utah 2021, Chapters 231 and 277
- 54 [62A-15-123](#), as enacted by Laws of Utah 2021, Chapter 76
- 55 [63M-7-204](#), as last amended by Laws of Utah 2021, Chapters 64 and 426
- 56 [64-13-6](#), as last amended by Laws of Utah 2021, Chapters 173, 246, and 260

57 **64-13-21**, as last amended by Laws of Utah 2021, Chapters 173 and 260
 58 **64-13-26**, as last amended by Laws of Utah 2015, Chapter 412
 59 **64-13e-103**, as last amended by Laws of Utah 2020, Chapter 410
 60 **77-40-102**, as last amended by Laws of Utah 2021, Chapters 206 and 260

61 ENACTS:

62 **17-55-101**, Utah Code Annotated 1953
 63 **17-55-201**, Utah Code Annotated 1953
 64 **63M-7-218**, Utah Code Annotated 1953

65 REPEALS:

66 **62A-15-103.5**, as last amended by Laws of Utah 2021, Chapter 64

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

68 **17-55-101**, Utah Code Annotated 1953
 69 **17-55-201**, Utah Code Annotated 1953



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

72 Section 1. Section **17-22-32** is amended to read:

73 **17-22-32. County jail reporting requirements.**

74 (1) As used in this section:

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

77 (b) (i) "In-custody death" means an inmate death that occurs while the inmate is in the
 78 custody of a county jail.

79 (ii) "In-custody death" includes an inmate death that occurs while the inmate is:

80 (A) being transported for medical care; or

81 (B) receiving medical care outside of a county jail.

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

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

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

87 (a) the average daily inmate population each month;

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

91 (c) the number of inmates booked into the county jail;

92 (d) the number of inmates held in the county jail each month on behalf of each of the
93 following entities:

94 (i) the Bureau of Indian Affairs;

95 (ii) a state prison;

96 (iii) a federal prison;

97 (iv) the United States Immigration and Customs Enforcement;

98 (v) any other entity with which a county jail has entered a contract to house inmates on
99 the entity's behalf;

100 (e) the number of inmates that are denied pretrial release and held in the custody of the
101 county jail while the inmate awaited final disposition of the inmate's criminal charges;

102 (f) for each inmate booked into the county jail:

103 (i) the name of the agency that arrested the inmate;

104 (ii) the date and time the inmate was booked into and released from the custody of the
105 county jail;

106 (iii) if the inmate was released from the custody of the county jail, the reason the
107 inmate was released from the custody of the county jail;

108 (iv) if the inmate was released from the custody of the county jail on a financial
109 condition, whether the financial condition was set by a bail commissioner or a court;

110 (v) the number of days the inmate was held in the custody of the county jail before
111 disposition of the inmate's criminal charges;

112 (vi) whether the inmate was released from the custody of the county jail before final
113 disposition of the inmate's criminal charges; and

114 (vii) the state identification number of the inmate;

115 (g) the number of in-custody deaths that occurred at the county jail;

116 (h) for each in-custody death;

117 (i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or
118 disability, if any, of the deceased;

- 119 (ii) the date, time, and location of death;
- 120 (iii) the law enforcement agency that detained, arrested, or was in the process of
- 121 arresting the deceased; and
- 122 (iv) a brief description of the circumstances surrounding the death;
- 123 (i) the known, or discoverable on reasonable inquiry, causes and contributing factors of
- 124 each of the in-custody deaths described in Subsection (2)(g);
- 125 (j) the county jail's policy for notifying an inmate's next of kin after the inmate's
- 126 in-custody death;
- 127 (k) the county jail policies, procedures, and protocols:
- 128 (i) for treatment of an inmate experiencing withdrawal from alcohol or substance use,
- 129 including use of opiates;
- 130 (ii) that relate to the county jail's provision, or lack of provision, of medications used to
- 131 treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all
- 132 forms of buprenorphine and naltrexone; and
- 133 (iii) that relate to screening, assessment, and treatment of an inmate for a substance use
- 134 or mental health disorder; and
- 135 (l) any report the county jail provides or is required to provide under federal law or
- 136 regulation relating to inmate deaths.
- 137 (3) (a) Subsection (2) does not apply to a county jail if the county jail:
- 138 (i) collects and stores the data described in Subsection (2); and
- 139 (ii) enters into a memorandum of understanding with the commission that allows the
- 140 commission to access the data described in Subsection (2).
- 141 (b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include
- 142 a provision to protect any information related to an ongoing investigation and comply with all
- 143 applicable federal and state laws.
- 144 (c) If the commission accesses data from a county jail in accordance with Subsection
- 145 (3)(a), the commission may not release a report prepared from that data, unless:
- 146 (i) the commission provides the report for review to:
- 147 (A) the county jail; and
- 148 (B) any arresting agency that is named in the report; and
- 149 (ii) (A) the county jail approves the report for release;

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

152 (C) the county jail fails to provide a response to the report within four weeks after the
153 day on which the commission provides the report to the county jail.

154 (4) The commission shall:

155 (a) compile the information from the reports described in Subsection (2);

156 (b) omit or redact any identifying information of an inmate in the compilation to the
157 extent omission or redaction is necessary to comply with state and federal law;

158 (c) submit the compilation to the Law Enforcement and Criminal Justice Interim
159 Committee and the Utah Substance Use and Mental Health Advisory Council before November
160 1 of each year; and

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

163 (5) The [~~Commission on Criminal and Juvenile Justice~~] commission may not provide
164 access to or use a county jail's policies, procedures, or protocols submitted under this section in
165 a manner or for a purpose not described in this section.

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

168 Section 2. Section **17-55-101** is enacted to read:

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

170 **Part 1. General Provisions**

171 **17-55-101. Definitions.**

172 As used in this part:

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

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

177 (3) "Criminal justice coordinating council" or "council" means a council created by a
178 county in accordance with Section [17-55-201](#).

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

181 criminal activity.

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

184 (b) "Post-incarceration services" includes:

185 (i) educational services;

186 (ii) housing services;

187 (iii) health care services;

188 (iv) workforce services; and

189 (v) human services programs.

190 Section 3. Section **17-55-201** is enacted to read:

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

192 **17-55-201. Criminal Justice Coordinating Councils -- Creation -- Strategic plan --**

193 **Reporting.**

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

195 (i) create a Criminal Justice Coordinating Council; or

196 (ii) jointly with another county or counties, create a Criminal Justice Coordinating
197 Council.

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

200 (2) (a) A council shall include:

201 (i) one county commissioner;

202 (ii) the county sheriff;

203 (iii) one chief of police of a municipality within the county;

204 (iv) the county attorney;

205 (v) the public defender or an attorney who provides public defense within the county;

206 (vi) one district court judge;

207 (vii) one representative from the adult probation and parole section of the Department
208 of Corrections;

209 (viii) one representative from the local mental health authority within the county;

210 (ix) one member of the public who is a crime victim; and

211 (x) one member of the public with lived experiences in the criminal justice system.

- 212 (b) A council may include individuals representing:
213 (i) local government;
214 (ii) human services programs;
215 (iii) higher education;
216 (iv) peer support services;
217 (v) workforce services;
218 (vi) local homeless services;
219 (vii) mental health or substance use disorder providers;
220 (viii) family counseling and support groups; or
221 (ix) organizations that work with families of incarcerated individuals.
222 (3) (a) A council shall develop and implement a strategic plan for the county's or
223 counties' criminal justice system that includes:
224 (i) mapping of all systems, resources, assets, and services within the county's or
225 counties' criminal justice system;
226 (ii) a plan for data sharing across the county's or counties' criminal justice system;
227 (iii) recidivism reduction objectives; and
228 (iv) community reintegration goals.
229 (b) The commission may assist a council in the development of a strategic plan.
230 (4) Before November 30 of each year, a council shall provide a written report to the
231 commission regarding:
232 (a) the implementation of a strategic plan described in Subsection (3); and
233 (b) any data on the impact of the council on the criminal justice system in the county or
234 counties.
235 Section 4. Section **58-37-8** is amended to read:
236 **58-37-8. Prohibited acts -- Penalties.**
237 (1) Prohibited acts A -- Penalties and reporting:
238 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
239 intentionally:
240 (i) produce, manufacture, or dispense, or to possess with intent to produce,
241 manufacture, or dispense, a controlled or counterfeit substance;
242 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or

243 arrange to distribute a controlled or counterfeit substance;

244 (iii) possess a controlled or counterfeit substance with intent to distribute; or

245 (iv) engage in a continuing criminal enterprise where:

246 (A) the person participates, directs, or engages in conduct that results in a violation of
247 Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act,
248 Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance
249 Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

250 (B) the violation is a part of a continuing series of two or more violations of Chapter
251 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b,
252 Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act,
253 or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert
254 with five or more persons with respect to whom the person occupies a position of organizer,
255 supervisor, or any other position of management.

256 (b) A person convicted of violating Subsection (1)(a) with respect to:

257 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
258 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
259 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
260 subsequent conviction is guilty of a first degree felony;

261 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
262 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
263 upon a second or subsequent conviction is guilty of a second degree felony; or

264 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
265 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
266 felony.

267 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
268 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
269 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
270 person or in the person's immediate possession during the commission or in furtherance of the
271 offense, the court shall additionally sentence the person convicted for a term of one year to run
272 consecutively and not concurrently; and the court may additionally sentence the person
273 convicted for an indeterminate term not to exceed five years to run consecutively and not

274 concurrently.

275 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
276 felony punishable by imprisonment for an indeterminate term of not less than:

277 (A) seven years and which may be for life; or

278 (B) 15 years and which may be for life if the trier of fact determined that the defendant
279 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
280 was under 18 years old.

281 (ii) Imposition or execution of the sentence may not be suspended, and the person is
282 not eligible for probation.

283 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
284 offense, was under 18 years old.

285 (e) The Administrative Office of the Courts shall report to the Division of
286 Occupational and Professional Licensing the name, case number, date of conviction, and if
287 known, the date of birth of each person convicted of violating Subsection (1)(a).

288 (2) Prohibited acts B -- Penalties and reporting:

289 (a) It is unlawful:

290 (i) for a person knowingly and intentionally to possess or use a controlled substance
291 analog or a controlled substance, unless ~~[it]~~ the controlled substance analog or the controlled
292 substance was obtained under a valid prescription or order, directly from a practitioner while
293 acting in the course of the person's professional practice, or as otherwise authorized by this
294 chapter;

295 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
296 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
297 by persons unlawfully possessing, using, or distributing controlled substances in any of those
298 locations; or

299 (iii) for a person knowingly and intentionally to possess an altered or forged
300 prescription or written order for a controlled substance.

301 (b) (i) A person convicted of violating Subsection (2)(a)(i) with respect to:

302 ~~[(†)]~~ (A) marijuana, if the amount is 100 pounds or more, is guilty of a second degree
303 felony; or

304 ~~[(†)]~~ (B) a substance classified in Schedule I or II, or a controlled substance analog, is,

305 except as provided in Subsection (2)(b)(ii), guilty of a class A misdemeanor on a first or second
306 conviction, and on a third or subsequent conviction if each prior offense was committed within
307 seven years before the date of the offense upon which the current conviction is based is guilty
308 of a third degree felony.

309 (ii) A second conviction described in Subsection (2)(b)(i)(B) is a third degree felony if
310 the person commits the offense on which the second conviction is based after the day on which
311 the person commits the offense on which the first conviction is based.

312 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
313 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
314 penalty than provided in this Subsection (2).

315 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
316 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
317 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

318 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior
319 offense was committed within seven years before the date of the offense upon which the
320 current conviction is based.

321 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony
322 if each prior offense was committed within seven years before the date of the offense upon
323 which the current conviction is based.

324 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
325 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
326 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
327 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
328 listed in:

329 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
330 indeterminate term as provided by law, and the court:

331 (A) [~~the court~~] shall additionally sentence the person convicted to a term of one year to
332 run consecutively and not concurrently; and

333 (B) [~~the court~~] may additionally sentence the person convicted for an indeterminate
334 term not to exceed five years to run consecutively and not concurrently; and

335 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an

336 indeterminate term as provided by law, and the court shall additionally sentence the person
337 convicted to a term of six months to run consecutively and not concurrently.

338 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

339 (i) on a first conviction, guilty of a class B misdemeanor;

340 (ii) on a second conviction, guilty of a class A misdemeanor; and

341 (iii) on a third or subsequent conviction, guilty of a third degree felony.

342 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
343 amounting to a violation of Section 76-5-207:

344 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
345 body any measurable amount of a controlled substance, except for

346 11-nor-9-carboxy-tetrahydrocannabinol; and

347 (ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined
348 in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section
349 76-1-601 or the death of another; or

350 (B) if the controlled substance is marijuana, operates a motor vehicle as defined in
351 Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in
352 Section 76-1-601 or the death of another.

353 (h) A person who violates Subsection (2)(g) by having in the person's body:

354 (i) a controlled substance classified under Schedule I, other than those described in
355 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
356 degree felony;

357 (ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or
358 equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in
359 Section 58-37-4.2 is guilty of a third degree felony; or

360 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A
361 misdemeanor.

362 (i) A person is guilty of a separate offense for each victim suffering serious bodily
363 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)
364 whether or not the injuries arise from the same episode of driving.

365 (j) The Administrative Office of the Courts shall report to the Division of Occupational
366 and Professional Licensing the name, case number, date of conviction, and if known, the date

367 of birth of each person convicted of violating Subsection (2)(a).

368 (3) Prohibited acts C -- Penalties:

369 (a) It is unlawful for a person knowingly and intentionally:

370 (i) to use in the course of the manufacture or distribution of a controlled substance a
371 license number which is fictitious, revoked, suspended, or issued to another person or, for the
372 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
373 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
374 person;

375 (ii) to acquire or obtain possession of, to procure or attempt to procure the
376 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
377 attempting to acquire or obtain possession of, or to procure the administration of a controlled
378 substance by misrepresentation or failure by the person to disclose receiving a controlled
379 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
380 prescription or written order for a controlled substance, or the use of a false name or address;

381 (iii) to make a false or forged prescription or written order for a controlled substance,
382 or to utter the same, or to alter a prescription or written order issued or written under the terms
383 of this chapter; or

384 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
385 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
386 device of another or any likeness of any of the foregoing upon any drug or container or labeling
387 so as to render a drug a counterfeit controlled substance.

388 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
389 misdemeanor.

390 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
391 degree felony.

392 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

393 (4) Prohibited acts D -- Penalties:

394 (a) Notwithstanding other provisions of this section, a person not authorized under this
395 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
396 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
397 of fact finds the act is committed:

398 (i) in a public or private elementary or secondary school or on the grounds of any of
399 those schools during the hours of 6 a.m. through 10 p.m.;

400 (ii) in a public or private vocational school or postsecondary institution or on the
401 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

402 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
403 facility's hours of operation;

404 (iv) in a public park, amusement park, arcade, or recreation center when the public or
405 amusement park, arcade, or recreation center is open to the public;

406 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

407 (vi) in or on the grounds of a library when the library is open to the public;

408 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
409 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

410 (viii) in the presence of a person younger than 18 years of age, regardless of where the
411 act occurs; or

412 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
413 distribution of a substance in violation of this section to an inmate or on the grounds of a
414 correctional facility as defined in Section 76-8-311.3.

415 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
416 and shall be imprisoned for a term of not less than five years if the penalty that would
417 otherwise have been established but for this Subsection (4) would have been a first degree
418 felony.

419 (ii) Imposition or execution of the sentence may not be suspended, and the person is
420 not eligible for probation.

421 (c) (i) [Hf] Except as provided in Subsection (4)(c)(ii), if the classification that would
422 otherwise have been established would have been less than a first degree felony but for this
423 Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than
424 the maximum penalty prescribed for that offense.

425 (ii) This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

426 (d) (i) If the violation is of Subsection (4)(a)(ix):

427 (A) the person may be sentenced to imprisonment for an indeterminate term as
428 provided by law, and the court shall additionally sentence the person convicted for a term of

429 one year to run consecutively and not concurrently; and

430 (B) the court may additionally sentence the person convicted for an indeterminate term
431 not to exceed five years to run consecutively and not concurrently; and

432 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
433 the mental state required for the commission of an offense, directly or indirectly solicits,
434 requests, commands, coerces, encourages, or intentionally aids another person to commit a
435 violation of Subsection (4)(a)(ix).

436 (e) It is not a defense to a prosecution under this Subsection (4) that:

437 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
438 the offense or was unaware of the individual's true age; or

439 (ii) the actor mistakenly believed that the location where the act occurred was not as
440 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
441 described in Subsection (4)(a).

442 (5) A violation of this chapter for which no penalty is specified is a class B
443 misdemeanor.

444 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
445 guilty or no contest to a violation or attempted violation of this section or a plea which is held
446 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
447 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
448 abeyance agreement.

449 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
450 conviction that is:

451 (i) from a separate criminal episode than the current charge; and

452 (ii) from a conviction that is separate from any other conviction used to enhance the
453 current charge.

454 (7) A person may be charged and sentenced for a violation of this section,
455 notwithstanding a charge and sentence for a violation of any other section of this chapter.

456 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
457 of, a civil or administrative penalty or sanction authorized by law.

458 (b) When a violation of this chapter violates a federal law or the law of another state,
459 conviction or acquittal under federal law or the law of another state for the same act is a bar to

460 prosecution in this state.

461 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
462 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
463 substance or substances, is prima facie evidence that the person or persons did so with
464 knowledge of the character of the substance or substances.

465 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
466 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
467 administering controlled substances or from causing the substances to be administered by an
468 assistant or orderly under the veterinarian's direction and supervision.

469 (11) Civil or criminal liability may not be imposed under this section on:

470 (a) a person registered under this chapter who manufactures, distributes, or possesses
471 an imitation controlled substance for use as a placebo or investigational new drug by a
472 registered practitioner in the ordinary course of professional practice or research; or

473 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
474 employment.

475 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
476 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
477 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
478 as defined in Section 58-37-2.

479 (b) In a prosecution alleging violation of this section regarding peyote as defined in
480 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
481 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
482 traditional Indian religion.

483 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
484 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
485 trial.

486 (ii) The notice shall include the specific claims of the affirmative defense.

487 (iii) The court may waive the notice requirement in the interest of justice for good
488 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

489 (d) (i) The defendant shall establish the affirmative defense under this Subsection (12)
490 by a preponderance of the evidence.

491 (ii) If the defense under Subsection (12)(d)(i) is established, it is a complete defense to
492 the charges.

493 (13) (a) It is an affirmative defense that the person produced, possessed, or
494 administered a controlled substance listed in Section 58-37-4.2 if the person was:

495 (i) engaged in medical research; and

496 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

497 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
498 a controlled substance listed in Section 58-37-4.2.

499 (14) It is an affirmative defense that the person possessed, in the person's body, a
500 controlled substance listed in Section 58-37-4.2 if:

501 (a) the person was the subject of medical research conducted by a holder of a valid
502 license to possess controlled substances under Section 58-37-6; and

503 (b) the substance was administered to the person by the medical researcher.

504 (15) (a) The application of any increase in penalty under this section to a violation of
505 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony.

506 (b) This Subsection (15) takes precedence over any conflicting provision of this
507 section.

508 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
509 listed in Subsection (16)(b) that the person or bystander:

510 (i) reasonably believes that the person or another person is experiencing an overdose
511 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
512 controlled substance or other substance;

513 (ii) reports, or assists a person who reports, in good faith the overdose event to a
514 medical provider, an emergency medical service provider as defined in Section 26-8a-102, a
515 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
516 person is the subject of a report made under this Subsection (16);

517 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
518 actual location of the overdose event that facilitates responding to the person experiencing the
519 overdose event;

520 (iv) remains at the location of the person experiencing the overdose event until a
521 responding law enforcement officer or emergency medical service provider arrives, or remains

522 at the medical care facility where the person experiencing an overdose event is located until a
523 responding law enforcement officer arrives;

524 (v) cooperates with the responding medical provider, emergency medical service
525 provider, and law enforcement officer, including providing information regarding the person
526 experiencing the overdose event and any substances the person may have injected, inhaled, or
527 otherwise introduced into the person's body; and

528 (vi) is alleged to have committed the offense in the same course of events from which
529 the reported overdose arose.

530 (b) The offenses referred to in Subsection (16)(a) are:

531 (i) the possession or use of less than 16 ounces of marijuana;

532 (ii) the possession or use of a scheduled or listed controlled substance other than
533 marijuana; and

534 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
535 Imitation Controlled Substances Act.

536 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
537 include seeking medical assistance under this section during the course of a law enforcement
538 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

539 (17) If any provision of this chapter, or the application of any provision to any person
540 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
541 invalid provision or application.

542 (18) A legislative body of a political subdivision may not enact an ordinance that is
543 less restrictive than any provision of this chapter.

544 (19) If a minor who is under 18 years old is found by a court to have violated this
545 section, the court may order the minor to complete:

546 (a) a screening as defined in Section 41-6a-501;

547 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
548 assessment to be appropriate; and

549 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
550 treatment as indicated by an assessment.

551 Section 5. Section 62A-15-103 is amended to read:

552 **62A-15-103. Division -- Creation -- Responsibilities.**

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

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

557 (2) The division shall:

558 (a) (i) educate the general public regarding the nature and consequences of substance
559 abuse by promoting school and community-based prevention programs;

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

562 (iii) promote or establish programs for the prevention of substance abuse within the
563 community setting through community-based prevention programs;

564 (iv) cooperate with and assist treatment centers, recovery residences, and other
565 organizations that provide services to individuals recovering from a substance abuse disorder,
566 by identifying and disseminating information about effective practices and programs;

567 [~~(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title~~
568 ~~63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public~~
569 ~~and private programs, minimum standards for public and private providers of substance abuse~~
570 ~~and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure~~
571 ~~of Programs and Facilities;~~]

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

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

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

579 [~~(ix)~~] (viii) consider the impact of the programs described in this Subsection (2) on:

580 (A) emergency department utilization;

581 (B) jail and prison populations;

582 (C) the homeless population; and

583 (D) the child welfare system; and

584 [~~(x)~~] (ix) promote or establish programs for education and certification of instructors to
585 educate individuals convicted of driving under the influence of alcohol or drugs or driving with
586 any measurable controlled substance in the body;

587 (b) (i) collect and disseminate information pertaining to mental health;

588 (ii) provide direction over the state hospital including approval of the state hospital's
589 budget, administrative policy, and coordination of services with local service plans;

590 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
591 Rulemaking Act, to educate families concerning mental illness and promote family
592 involvement, when appropriate, and with patient consent, in the treatment program of a family
593 member; and

594 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
595 Rulemaking Act, to direct that an individual receiving services through a local mental health
596 authority or the Utah State Hospital be informed about and, if desired by the individual,
597 provided assistance in the completion of a declaration for mental health treatment in
598 accordance with Section [62A-15-1002](#);

599 (c) (i) consult and coordinate with local substance abuse authorities and local mental
600 health authorities regarding programs and services;

601 (ii) provide consultation and other assistance to public and private agencies and groups
602 working on substance abuse and mental health issues;

603 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
604 medical and social agencies, public health authorities, law enforcement agencies, education and
605 research organizations, and other related groups;

606 (iv) promote or conduct research on substance abuse and mental health issues, and
607 submit to the governor and the Legislature recommendations for changes in policy and
608 legislation;

609 (v) receive, distribute, and provide direction over public funds for substance abuse and
610 mental health services;

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

613 (vii) examine expenditures of local, state, and federal funds;

614 (viii) monitor the expenditure of public funds by:

- 615 (A) local substance abuse authorities;
- 616 (B) local mental health authorities; and
- 617 (C) in counties where they exist, a private contract provider that has an annual or
- 618 otherwise ongoing contract to provide comprehensive substance abuse or mental health
- 619 programs or services for the local substance abuse authority or local mental health authority;
- 620 (ix) contract with local substance abuse authorities and local mental health authorities
- 621 to provide a comprehensive continuum of services that include community-based services for
- 622 individuals involved in the criminal justice system, in accordance with division policy, contract
- 623 provisions, and the local plan;
- 624 (x) contract with private and public entities for special statewide or nonclinical
- 625 services, or services for individuals involved in the criminal justice system, according to
- 626 division rules;
- 627 (xi) review and approve each local substance abuse authority's plan and each local
- 628 mental health authority's plan in order to ensure:
 - 629 (A) a statewide comprehensive continuum of substance abuse services;
 - 630 (B) a statewide comprehensive continuum of mental health services;
 - 631 (C) services result in improved overall health and functioning;
 - 632 (D) a statewide comprehensive continuum of community-based services designed to
 - 633 reduce criminal risk factors for individuals who are determined to have substance abuse or
 - 634 mental illness conditions or both, and who are involved in the criminal justice system;
 - 635 (E) compliance, where appropriate, with the certification requirements in Subsection
 - 636 (2)(j); and
 - 637 (F) appropriate expenditure of public funds;
- 638 (xii) review and make recommendations regarding each local substance abuse
- 639 authority's contract with the local substance abuse authority's provider of substance abuse
- 640 programs and services and each local mental health authority's contract with the local mental
- 641 health authority's provider of mental health programs and services to ensure compliance with
- 642 state and federal law and policy;
- 643 (xiii) monitor and ensure compliance with division rules and contract requirements;
- 644 and
- 645 (xiv) withhold funds from local substance abuse authorities, local mental health

646 authorities, and public and private providers for contract noncompliance, failure to comply
647 with division directives regarding the use of public funds, or for misuse of public funds or
648 money;

649 (d) ensure that the requirements of this part are met and applied uniformly by local
650 substance abuse authorities and local mental health authorities across the state;

651 (e) require each local substance abuse authority and each local mental health authority,
652 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to
653 the division on or before May 15 of each year;

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

657 (i) a review and determination regarding whether:

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

661 (B) each local substance abuse authority and each local mental health authority is
662 exercising sufficient oversight and control over public funds allocated for substance use
663 disorder and mental health programs and services; and

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

665 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
666 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

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

669 (A) a substance use disorder;

670 (B) a mental health disorder; or

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

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

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

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

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

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

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

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

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

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

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

693 [~~(i) collaboration with the Department of Corrections and the Utah Substance Use and~~
694 ~~Mental Health Advisory Council to develop and coordinate the standards, including standards~~
695 ~~for county and state programs serving individuals convicted of class A and class B~~
696 ~~misdemeanors;]~~

697 [~~(ii) determining that the standards ensure available treatment, including the most~~
698 ~~current practices and procedures demonstrated by recognized scientific research to reduce~~
699 ~~recidivism, including focus on the individual's criminal risk factors; and]~~

700 [~~(iii) requiring that all public and private treatment programs meet the standards~~
701 ~~established under this Subsection (2)(i) in order to receive public funds allocated to the~~
702 ~~division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice~~
703 ~~for the costs of providing screening, assessment, prevention, treatment, and recovery support;]~~

704 [~~(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with~~
705 ~~Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures~~
706 ~~for the certification of licensed public and private providers, including individuals licensed by~~
707 ~~the Division of Occupational and Professional Licensing, programs licensed by the department,~~

708 and health care facilities licensed by the Department of Health, who provide, as part of their
709 practice, substance use disorder and mental health treatment to an individual involved in the
710 criminal justice system, including:]

711 [~~(i) collaboration with the Department of Corrections, the Utah Substance Use and
712 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
713 and implement the certification process;~~]

714 [~~(ii) basing the certification process on the standards developed under Subsection (2)(i)
715 for the treatment of an individual involved in the criminal justice system; and]~~

716 [~~(iii) the requirement that a public or private provider of treatment to an individual
717 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
718 shall renew the certification every two years, in order to qualify for funds allocated to the
719 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
720 on or after July 1, 2016;~~]

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

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

724 (ii) county jail and county behavioral health early-assessment resources needed for an
725 [~~offender~~] individual convicted of a class A or class B misdemeanor; and

726 (iii) the replacement of federal dollars associated with drug interdiction law
727 enforcement task forces that are reduced;

728 [~~(l) (i) establish performance goals and outcome measurements for all treatment
729 programs for which minimum standards are established under Subsection (2)(i), including
730 recidivism data and data regarding cost savings associated with recidivism reduction and the
731 reduction in the number of inmates, that are obtained in collaboration with the Administrative
732 Office of the Courts and the Department of Corrections; and]~~

733 [~~(ii) collect data to track and determine whether the goals and measurements are being
734 attained and make this information available to the public;~~]

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

739 involved with the criminal justice system;

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

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

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

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

751 (i) individuals who receive mental health or substance use treatment while incarcerated
752 and commit another offense within one year after release from incarceration;

753 (ii) individuals who are ordered by a criminal court or the Board of Pardons and Parole
754 to participate in mental health or substance use treatment and commit another offense while
755 receiving the treatment or within one year after the treatment ends;

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

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

760 (m) [in] at the division's discretion, use the data described in Subsection (2)(l) to make
761 decisions regarding the use of funds allocated to the division[; the Administrative Office of the
762 Courts, and the Department of Corrections to provide treatment for which standards are
763 established under Subsection (2)(i)] to provide treatment;

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

770 63M-7-204(1)(x); and

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

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

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

778 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
779 child in need of substance abuse treatment services to a facility that has the capacity to provide
780 the treatment services.

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

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

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

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

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

795 (C) information about suicide prevention awareness; and

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

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

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

800 (iv) create a suicide prevention education course that:

- 801 (A) provides information for distribution regarding firearm safety education;
- 802 (B) incorporates current information on how to recognize suicidal behaviors and
803 identify individuals who may be suicidal; and
- 804 (C) provides information regarding crisis intervention resources;
- 805 (b) distributing, free of charge, the firearm safety packet to the following persons, who
806 shall make the firearm safety packet available free of charge:
- 807 (i) health care providers, including emergency rooms;
- 808 (ii) mobile crisis outreach teams;
- 809 (iii) mental health practitioners;
- 810 (iv) other public health suicide prevention organizations;
- 811 (v) entities that teach firearm safety courses;
- 812 (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents
813 of students in the school district; and
- 814 (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
- 815 (c) creating and administering a rebate program that includes a rebate that offers
816 between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms
817 dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;
- 818 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
819 making rules that establish procedures for:
- 820 (i) producing and distributing the suicide prevention education course and the firearm
821 safety brochures and packets;
- 822 (ii) procuring the cable-style gun locks for distribution; and
- 823 (iii) administering the rebate program; and
- 824 (e) reporting to the Health and Human Services Interim Committee regarding
825 implementation and success of the firearm safety program and suicide prevention education
826 course at or before the November meeting each year.
- 827 (4) (a) The division may refuse to contract with and may pursue legal remedies against
828 any local substance abuse authority or local mental health authority that fails, or has failed, to
829 expend public funds in accordance with state law, division policy, contract provisions, or
830 directives issued in accordance with state law.
- 831 (b) The division may withhold funds from a local substance abuse authority or local

832 mental health authority if the authority's contract provider of substance abuse or mental health
833 programs or services fails to comply with state and federal law or policy.

834 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
835 or local mental health authority, the division shall review and determine whether the local
836 substance abuse authority or local mental health authority is complying with the oversight and
837 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
838 17-43-309.

839 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
840 liability described in Section 17-43-303 and to the responsibility and liability described in
841 Section 17-43-203.

842 (6) In carrying out the division's duties and responsibilities, the division may not
843 duplicate treatment or educational facilities that exist in other divisions or departments of the
844 state, but shall work in conjunction with those divisions and departments in rendering the
845 treatment or educational services that those divisions and departments are competent and able
846 to provide.

847 (7) The division may accept in the name of and on behalf of the state donations, gifts,
848 devises, or bequests of real or personal property or services to be used as specified by the
849 donor.

850 (8) The division shall annually review with each local substance abuse authority and
851 each local mental health authority the authority's statutory and contract responsibilities
852 regarding:

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

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

858 (10) If a local substance abuse authority contacts the division under Subsection
859 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant
860 minor, the division shall:

- 861 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
862 capacity to provide the treatment services; or

863 (b) otherwise ensure that treatment services are made available to the pregnant woman
864 or pregnant minor.

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

867 (a) provide coordination between a local education agency and local mental health
868 authority;

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

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

873 Section 6. Section **62A-15-123** is amended to read:

874 **62A-15-123. Statewide Behavioral Health Crisis Response Account -- Creation --**
875 **Administration -- Permitted uses.**

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

878 (a) money appropriated or otherwise made available by the Legislature; and

879 (b) contributions of money, property, or equipment from federal agencies, political
880 subdivisions of the state, or other persons.

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

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

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

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

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

895 (iii) mobile crisis outreach teams as defined in Section 62A-15-1401, distributed in

896 accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah

897 Administrative Rulemaking Act;

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

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

900 (vi) mental health crisis services provided by local substance abuse authorities as

901 described in Section 17-43-201 and local mental health authorities described in Section

902 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which

903 an individual experiences a mental health crisis.

904 (d) If the Legislature appropriates money to the account for a purpose described in

905 Subsection (2)(c), the division shall use the appropriation for that purpose.

906 (3) Subject to appropriations by the Legislature and any contributions to the account

907 described in Subsection (1)(b), the division may expend funds in the account for administrative

908 costs that the division incurs related to administering the account.

909 (4) The division director shall submit and make available to the public a report before

910 December of each year to the Behavioral Health Crisis Response Commission, as defined in

911 Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative

912 Management Committee that includes:

913 (a) the amount of each disbursement from the [~~restricted account described in Section~~

914 ~~62A-15-123~~] account;

915 (b) the recipient of each disbursement, the goods and services received, and a

916 description of the project funded by the disbursement;

917 (c) any conditions placed by the division on the disbursements from the [~~restricted~~

918 ~~account~~;

919 (d) the anticipated expenditures from the [~~restricted account described in this chapter~~

920 account for the next fiscal year;

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

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

923 (g) the progress towards accomplishing the goals of providing statewide mental health

924 crisis service; and

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

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

927 **63M-7-204. Duties of commission.**

928 (1) The State Commission on Criminal and Juvenile Justice administration shall:

929 (a) promote the commission's purposes as enumerated in Section [63M-7-201](#);

930 (b) promote the communication and coordination of all criminal and juvenile justice
931 agencies;

932 (c) study, evaluate, and report on the status of crime in the state and on the
933 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
934 reduction of crime in the state;

935 (d) study, evaluate, and report on programs initiated by state and local agencies to
936 address reducing recidivism, including changes in penalties and sentencing guidelines intended
937 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
938 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
939 alternative to incarceration, as resources allow;

940 (e) study, evaluate, and report on policies, procedures, and programs of other
941 jurisdictions which have effectively reduced crime;

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

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

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

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

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

954 (k) provide a comprehensive criminal justice plan annually;

955 (l) review agency forecasts regarding future demands on the criminal and juvenile

956 justice systems, including specific projections for secure bed space;

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

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

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

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

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

971 (n) allocate and administer grants, from money made available, for approved education
972 programs to help prevent the sexual exploitation of children;

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

975 (p) request, receive, and evaluate data and recommendations collected and reported by
976 agencies and contractors related to policies recommended by the commission regarding
977 recidivism reduction;

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

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

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

986 (t) allocate and administer grants, from money made available, for pilot qualifying

987 education programs;

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

989 (v) request, receive, and evaluate the aggregate data collected from prosecutorial
990 agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216

991 and 78A-2-109.5; [and]

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

994 (i) ensuring oversight and accountability;

995 (ii) supporting local corrections systems;

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

997 (iv) strengthening probation and parole supervision[-]; and

998 (x) compile a report of findings based on the data and recommendations provided by
999 the Division of Substance Abuse and Mental Health under Subsection 62A-15-103(2)(n) and
1000 annually provide the report to the Judiciary Interim Committee, the Health and Human Services
1001 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the
1002 related appropriations subcommittees.

1003 (2) If the commission designates an entity under Subsection (1)(r), the commission
1004 shall ensure that the membership of the entity includes representation from the three branches
1005 of government and, as determined by the commission, representation from relevant stakeholder
1006 groups across all parts of the juvenile justice system, including county representation.

1007 Section 8. Section 63M-7-218 is enacted to read:

1008 **63M-7-218. State grant requirements.**

1009 (1) As used in this section, "commission" means the State Commission on Criminal
1010 and Juvenile Justice created in Section 63M-7-201.

1011 (2) Beginning January 1, 2023, the commission may not award any grant of state funds
1012 to:

1013 (a) a county that is subject to, and not in compliance with, Subsection 64-13e-104(6);

1014 (b) a county jail that is subject to, and not in compliance with, Subsection 17-22-32(2)
1015 or 77-20-103(2);

1016 (c) a state or local government agency or nonprofit organization that is subject to, and
1017 not in compliance with, Subsection 63M-7-214(7);

1018 (d) a law enforcement agency that is subject to, and not in compliance with, Subsection
1019 63M-7-214(7) or 77-7-8.5(2);

1020 (e) a prosecutorial agency that is subject to, and not in compliance with, Subsection
1021 63M-7-216(2) or 77-22-2.5(9); or

1022 (f) a criminal justice coordinating council that is subject to, and not in compliance
1023 with, Subsection 17-55-201(4).

1024 Section 9. Section **64-13-6** is amended to read:

1025 **64-13-6. Department duties.**

1026 (1) The department shall:

1027 (a) protect the public through institutional care and confinement, and supervision in the
1028 community of offenders where appropriate;

1029 (b) implement court-ordered punishment of offenders;

1030 (c) provide evidence-based and evidence-informed program opportunities for offenders
1031 designed to reduce offenders' criminogenic and recidivism risks, including behavioral,
1032 cognitive, educational, and career-readiness program opportunities;

1033 (d) ensure that offender participation in all program opportunities described in
1034 Subsection (1)(c) is voluntary;

1035 (e) where appropriate, utilize offender volunteers as mentors in the program
1036 opportunities described in Subsection (1)(c);

1037 (f) provide treatment for sex offenders who are found to be treatable based upon
1038 criteria developed by the department;

1039 (g) provide the results of ongoing clinical assessment of sex offenders and objective
1040 diagnostic testing to sentencing and release authorities;

1041 (h) manage programs that take into account the needs and interests of victims, where
1042 reasonable;

1043 (i) supervise probationers and parolees as directed by statute and implemented by the
1044 courts and the Board of Pardons and Parole;

1045 (j) subject to Subsection (2), investigate criminal conduct involving offenders
1046 incarcerated in a state correctional facility;

1047 (k) cooperate and exchange information with other state, local, and federal law
1048 enforcement agencies to achieve greater success in prevention and detection of crime and

1049 apprehension of criminals;

1050 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
1051 Offender Supervision;

1052 (m) establish a case action plan based on appropriate validated risk, needs, and
1053 responsivity assessments for each offender as follows:

1054 (i) (A) if an offender is to be supervised in the community, the department shall
1055 establish a case action plan [~~shall be established~~] for the offender [~~not more~~] no later than [90]
1056 30 days after [~~supervision by the department~~] the day on which the department's community
1057 supervision of the offender begins; and

1058 (B) if the offender is committed to the custody of the department, the department shall
1059 establish a case action plan [~~shall be established~~] for the offender [~~not more~~] no later than [120]
1060 90 days after the [~~commitment~~] day on which the offender is committed to the custody of the
1061 department;

1062 [(ii)] (iii) each case action plan shall integrate an individualized, evidence-based, and
1063 evidence-informed treatment and program plan with clearly defined completion requirements;

1064 [(iii)] (iv) the department shall share each newly established case action plan with the
1065 sentencing and release authority within 30 days after the day on which the case action plan is
1066 established; and

1067 [(iv)] (v) the department shall share any changes to a case action plan, including any
1068 change in an offender's risk assessment, with the sentencing and release authority within 30
1069 days after the day of the change; and

1070 (n) ensure that any training or certification required of a public official or public
1071 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
1072 22, State Training and Certification Requirements, if the training or certification is required:

1073 (i) under this title;

1074 (ii) by the department; or

1075 (iii) by an agency or division within the department.

1076 (2) The department may in the course of supervising probationers and parolees:

1077 (a) respond in accordance with the graduated and evidence-based processes established
1078 by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's
1079 violation of one or more terms of the probation or parole; and

1080 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
1081 sanction for an individual's violation of the terms of probation or parole a period of
1082 incarceration of not more than three consecutive days and not more than a total of five days
1083 within a period of 30 days.

1084 (3) (a) By following the procedures in Subsection (3)(b), the department may
1085 investigate the following occurrences at state correctional facilities:

- 1086 (i) criminal conduct of departmental employees;
- 1087 (ii) felony crimes resulting in serious bodily injury;
- 1088 (iii) death of any person; or
- 1089 (iv) aggravated kidnaping.

1090 (b) Before investigating any occurrence specified in Subsection (3)(a), the department
1091 shall:

1092 (i) notify the sheriff or other appropriate law enforcement agency promptly after
1093 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has
1094 occurred; and

1095 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
1096 conduct an investigation involving an occurrence specified in Subsection (3)(a).

1097 (4) Upon request, the department shall provide copies of investigative reports of
1098 criminal conduct to the sheriff or other appropriate law enforcement agencies.

1099 (5) (a) The executive director of the department, or the executive director's designee if
1100 the designee possesses expertise in correctional programming, shall consult at least annually
1101 with cognitive and career-readiness staff experts from the Utah system of higher education and
1102 the State Board of Education to review the department's evidence-based and evidence-informed
1103 treatment and program opportunities.

1104 (b) Beginning in the 2022 interim, the department shall provide an annual report to the
1105 Law Enforcement and Criminal Justice Interim Committee regarding the department's
1106 implementation of and offender participation in evidence-based and evidence-informed
1107 treatment and program opportunities designed to reduce the criminogenic and recidivism risks
1108 of offenders over time.

1109 (6) (a) As used in this Subsection (6):

1110 (i) "Accounts receivable" means any amount owed by an offender arising from a

1111 criminal judgment that has not been paid.

1112 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
1113 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,
1114 reimbursement of a reward, and damages that an offender is ordered to pay.

1115 (b) The department shall collect and disburse, with any interest and any other costs
1116 assessed under Section 64-13-21, an accounts receivable for an offender during:

1117 (i) the parole period and any extension of that period in accordance with Subsection
1118 (6)(c); and

1119 (ii) the probation period for which the court orders supervised probation and any
1120 extension of that period by the department in accordance with Subsection 77-18-105(7).

1121 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the
1122 time that the offender's sentence expires or terminates, the department shall be referred to the
1123 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil
1124 accounts receivable as described in Section 77-18-114.

1125 (ii) If the board makes an order for restitution within 60 days from the day on which
1126 the offender's sentence expires or terminates, the board shall refer the order for restitution to
1127 the sentencing court to be entered as a civil judgment of restitution as described in Section
1128 77-18-114.

1129 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.
1130 Section 10. Section 64-13-21 is amended to read:

1131 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
1132 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
1133 **fee.**

1134 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced
1135 offenders placed in the community on probation by the courts, on parole by the Board of
1136 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate
1137 Compact for the Supervision of Parolees and Probationers.

1138 (b) If substance use treatment is a condition of a sentenced offender's probation or
1139 parole, the department shall monitor the offender's compliance with the treatment.

1140 [~~(b)~~] (c) The department shall establish standards for:

1141 (i) the supervision of offenders in accordance with sentencing guidelines and

1142 supervision length guidelines, including the graduated and evidence-based responses,
1143 established by the Utah Sentencing Commission, giving priority, based on available resources,
1144 to felony offenders and offenders sentenced ~~[pursuant to Subsection]~~ under Subsections
1145 58-37-8(2)(b)(i)(B) and (2)(b)(ii)[-]; and

1146 (ii) the treatment monitoring described in Subsection (1)(b).

1147 (2) The department shall apply the graduated and evidence-based responses established
1148 by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an
1149 individual's violation of the terms of probation or parole, including:

1150 (a) sanctions to be used in response to a violation of the terms of probation or parole;
1151 and

1152 (b) requesting approval from the court or Board of Pardons and Parole to impose a
1153 sanction for an individual's violation of the terms of probation or parole, for a period of
1154 incarceration of not more than three consecutive days and not more than a total of five days
1155 within a period of 30 days.

1156 (3) The department shall implement a program of graduated incentives as established
1157 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate
1158 response to an offender's:

1159 (a) compliance with the terms of probation or parole; or

1160 (b) positive conduct that exceeds those terms.

1161 (4) (a) The department shall, in collaboration with the State Commission on Criminal
1162 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards
1163 and procedures for the collection of information, including cost savings related to recidivism
1164 reduction and the reduction in the number of inmates, related to the use of the graduated and
1165 evidence-based responses and graduated incentives, and offenders' outcomes.

1166 (b) The collected information shall be provided to the State Commission on Criminal
1167 and Juvenile Justice not less frequently than annually on or before August 31.

1168 (5) Employees of the department who are POST certified as law enforcement officers
1169 or correctional officers and who are designated as parole and probation officers by the
1170 executive director have the following duties:

1171 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
1172 with the conditions of the parole or probation agreement;

1173 (b) investigating or apprehending any offender who has escaped from the custody of
1174 the department or absconded from supervision;

1175 (c) supervising any offender during transportation; or

1176 (d) collecting DNA specimens when the specimens are required under Section
1177 [53-10-404](#).

1178 (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on
1179 probation or parole.

1180 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the
1181 department upon a showing by the offender that imposition would create a substantial hardship
1182 or if the offender owes restitution to a victim.

1183 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
1184 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the
1185 supervision fee and the circumstances under which an offender may request a hearing.

1186 (ii) In determining whether the imposition of the supervision fee would constitute a
1187 substantial hardship, the department shall consider the financial resources of the offender and
1188 the burden that the fee would impose, with regard to the offender's other obligations.

1189 (7) (a) For offenders placed on probation under Section [77-18-105](#) or parole under
1190 Subsection [76-3-202\(2\)\(a\)](#) on or after October 1, 2015, but before January 1, 2019, the
1191 department shall establish a program allowing an offender to earn credits for the offender's
1192 compliance with the terms of the offender's probation or parole, which shall be applied to
1193 reducing the period of probation or parole as provided in this Subsection (7).

1194 (b) The program shall provide that an offender earns a reduction credit of 30 days from
1195 the offender's period of probation or parole for each month the offender completes without any
1196 violation of the terms of the offender's probation or parole agreement, including the case action
1197 plan.

1198 (c) The department shall maintain a record of credits earned by an offender under this
1199 Subsection (7) and shall request from the court or the Board of Pardons and Parole the
1200 termination of probation or parole not fewer than 30 days prior to the termination date that
1201 reflects the credits earned under this Subsection (7).

1202 (d) This Subsection (7) does not prohibit the department from requesting a termination
1203 date earlier than the termination date established by earned credits under Subsection (7)(c).

1204 (e) The court or the Board of Pardons and Parole shall terminate an offender's
1205 probation or parole upon completion of the period of probation or parole accrued by time
1206 served and credits earned under this Subsection (7) unless the court or the Board of Pardons
1207 and Parole finds that termination would interrupt the completion of a necessary treatment
1208 program, in which case the termination of probation or parole shall occur when the treatment
1209 program is completed.

1210 (f) The department shall report annually to the State Commission on Criminal and
1211 Juvenile Justice on or before August 31:

1212 (i) the number of offenders who have earned probation or parole credits under this
1213 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the
1214 offenders on probation or parole during that time that this number represents;

1215 (ii) the average number of credits earned by those offenders who earned credits;

1216 (iii) the number of offenders who earned credits by county of residence while on
1217 probation or parole;

1218 (iv) the cost savings associated with sentencing reform programs and practices; and

1219 (v) a description of how the savings will be invested in treatment and

1220 early-intervention programs and practices at the county and state levels.

1221 Section 11. Section **64-13-26** is amended to read:

1222 **64-13-26. Private providers of services.**

1223 (1) [~~The~~] Subject to Subsection 64-13-21(1)(b), the department may contract with
1224 [~~private providers or other agencies~~] a private provider or another agency for the provision of
1225 care, treatment, and supervision of [offenders] an offender committed to the care and custody
1226 of the department.

1227 (2) (a) The department shall:

1228 (i) establish standards for the operation of the programs;

1229 (ii) establish standards [~~pursuant to~~] under Section **64-13-25** regarding program
1230 standards; and

1231 (iii) annually review the programs for compliance.

1232 (b) The reviews described in Subsection (2)(a) shall be classified as confidential
1233 internal working papers.

1234 (c) Access to records regarding the reviews is available upon the discretion of the

1235 executive director or the governor, or upon court order.

1236 Section 12. Section **64-13e-103** is amended to read:

1237 **64-13e-103. Contracts for housing state inmates.**

1238 (1) Subject to Subsection (6), the department may contract with a county to house state
1239 inmates in a county or other correctional facility.

1240 (2) The department shall give preference for placement of state inmates, over private
1241 entities, to county correctional facility bed spaces for which the department has contracted
1242 under Subsection (1).

1243 (3) (a) The compensation rate for housing state inmates pursuant to a contract
1244 described in Subsection (1) shall be:

1245 (i) except as provided in Subsection (3)(a)(ii), 83.19% of the actual state daily
1246 incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a
1247 treatment program for state inmates, if the treatment program is approved by the department
1248 under Subsection (3)(c);

1249 (ii) 74.18% of the actual state daily incarceration rate for beds in a county that, pursuant
1250 to the contract, are dedicated to an alternative treatment program for state inmates, if the
1251 alternative treatment program is approved by the department under Subsection (3)(c); and

1252 (iii) 66.23% of the actual state daily incarceration rate for beds in a county other than
1253 the beds described in Subsections (3)(a)(i) and (ii).

1254 (b) The department shall:

1255 (i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
1256 Rulemaking Act, that establish standards that a treatment program is required to meet before
1257 the treatment program is considered for approval for the purpose of a county receiving payment
1258 based on the rate described in Subsection (3)(a)(i) or (ii); and

1259 (ii) determine on an annual basis, based on appropriations made by the Legislature for
1260 the contracts described in this section, whether to approve a treatment program that meets the
1261 standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment
1262 based on the rate described in Subsection (3)(a)(i) or (ii).

1263 (c) The department may not approve a treatment program for the purpose of a county
1264 receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

1265 (i) the program meets the standards established under Subsection (3)(b)(i);

1266 (ii) the department determines that the Legislature has appropriated sufficient funds to:
1267 (A) pay the county that provides the treatment program at the rate described in
1268 Subsection (3)(a)(i) or (ii); and

1269 (B) pay each county that does not provide a treatment program an amount per state
1270 inmate that is not less than the amount per state inmate received for the preceding fiscal year by
1271 a county that did not provide a treatment program; and

1272 (iii) the department determines that the treatment program is needed by the department
1273 at the location where the treatment program will be provided.

1274 (4) Compensation to a county for state inmates incarcerated under this section shall be
1275 made by the department.

1276 (5) Counties that contract with the department under Subsection (1) shall, on or before
1277 June 30 of each year, submit a report to the department that includes:

1278 (a) the number of state inmates the county housed under this section; and

1279 (b) the total number of state inmate days of incarceration that were provided by the
1280 county.

1281 (6) Except as provided under Subsection (7), the department may not enter into a
1282 contract described under Subsection (1), unless:

1283 (a) the county jail within the county is in compliance with the reporting requirements
1284 described in Subsection 17-22-32(2); and

1285 (b) the Legislature has previously passed a joint resolution that includes the following
1286 information regarding the proposed contract:

1287 [~~(a)~~] (i) the approximate number of beds to be contracted;

1288 [~~(b)~~] (ii) the daily rate at which the county is paid to house a state inmate;

1289 [~~(c)~~] (iii) the approximate amount of the county's long-term debt; and

1290 [~~(d)~~] (iv) the repayment time of the debt for the facility where the inmates are to be
1291 housed.

1292 (7) The department may enter into a contract with a county government to house
1293 inmates without complying with the approval process described in Subsection (6) only if the
1294 county facility was under construction, or already in existence, on March 16, 2001.

1295 (8) Any resolution passed by the Legislature under Subsection (6) does not bind or
1296 obligate the Legislature or the department regarding the proposed contract.

1297 Section 13. Section 77-40-102 is amended to read:

1298 **77-40-102. Definitions.**

1299 As used in this chapter:

1300 (1) "Administrative finding" means a decision upon a question of fact reached by an
1301 administrative agency following an administrative hearing or other procedure satisfying the
1302 requirements of due process.

1303 (2) "Agency" means a state, county, or local government entity that generates or
1304 maintains records relating to an investigation, arrest, detention, or conviction for an offense for
1305 which expungement may be ordered.

1306 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
1307 Safety established in Section 53-10-201.

1308 (4) "Certificate of eligibility" means a document issued by the bureau stating that the
1309 criminal record and all records of arrest, investigation, and detention associated with a case that
1310 is the subject of a petition for expungement is eligible for expungement.

1311 (5) (a) "Clean slate eligible case" means a case:

1312 (i) where, except as provided in Subsection (5)(c), each conviction within the case is:

1313 (A) a misdemeanor conviction for possession of a controlled substance in violation of
1314 Subsection 58-37-8(2)(a)(i);

1315 (B) a class B or class C misdemeanor conviction; or

1316 (C) an infraction conviction;

1317 (ii) that involves an individual:

1318 (A) whose total number of convictions in Utah state courts, not including infractions,
1319 traffic offenses, or minor regulatory offenses, does not exceed the limits described in

1320 Subsections 77-40-105(6) and (7) without taking into consideration the exception in Subsection
1321 77-40-105(9); and

1322 (B) against whom no criminal proceedings are pending in the state; and

1323 (iii) for which the following time periods have elapsed from the day on which the case
1324 is adjudicated:

1325 (A) at least five years for a class C misdemeanor or an infraction;

1326 (B) at least six years for a class B misdemeanor; and

1327 (C) at least seven years for a class A conviction for possession of a controlled

1328 substance in violation of Subsection 58-37-8(2)(a)(i).

1329 (b) "Clean slate eligible case" includes a case that is dismissed as a result of a
1330 successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)
1331 if:

1332 (i) except as provided in Subsection (5)(c), each charge within the case is:

1333 (A) a misdemeanor for possession of a controlled substance in violation of Subsection
1334 58-37-8(2)(a)(i);

1335 (B) a class B or class C misdemeanor; or

1336 (C) an infraction;

1337 (ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

1338 (iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed
1339 from the day on which the case is dismissed.

1340 (c) "Clean slate eligible case" does not include a case:

1341 (i) where the individual is found not guilty by reason of insanity;

1342 (ii) where the case establishes a criminal accounts receivable, as defined in Section
1343 77-32b-102, that:

1344 (A) has been entered as a civil accounts receivable or a civil judgment of restitution, as
1345 those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt
1346 Collection under Section 77-18-114; or

1347 (B) has not been satisfied according to court records; or

1348 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
1349 offenses:

1350 (A) any of the offenses listed in Subsection 77-40-105(2)(a);

1351 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
1352 the Person;

1353 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

1354 (D) sexual battery in violation of Section 76-9-702.1;

1355 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

1356 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
1357 and Reckless Driving;

1358 (G) damage to or interruption of a communication device in violation of Section

- 1359 76-6-108;
- 1360 (H) a domestic violence offense as defined in Section 77-36-1; or
- 1361 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
- 1362 other than a class A misdemeanor conviction for possession of a controlled substance in
- 1363 violation of Subsection 58-37-8(2)(a)(i).
- 1364 (6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
- 1365 after trial, a plea of guilty, or a plea of nolo contendere.
- 1366 (7) "Department" means the Department of Public Safety established in Section
- 1367 53-1-103.
- 1368 (8) "Drug possession offense" means an offense under:
- 1369 (a) Subsection 58-37-8(2), except any offense under Subsection [58-37-8(2)(b)(i)]
- 1370 58-37-8(2)(b)(i)(A), possession of 100 pounds or more of marijuana, any offense enhanced
- 1371 under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g),
- 1372 driving with a controlled substance illegally in the person's body and negligently causing
- 1373 serious bodily injury or death of another;
- 1374 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;
- 1375 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or
- 1376 (d) any local ordinance which is substantially similar to any of the offenses described
- 1377 in this Subsection (8).
- 1378 (9) "Expunge" means to seal or otherwise restrict access to the individual's record held
- 1379 by an agency when the record includes a criminal investigation, detention, arrest, or conviction.
- 1380 (10) "Jurisdiction" means a state, district, province, political subdivision, territory, or
- 1381 possession of the United States or any foreign country.
- 1382 (11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any
- 1383 local ordinance, except:
- 1384 (a) any drug possession offense;
- 1385 (b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
- 1386 (c) Sections 73-18-13 through 73-18-13.6;
- 1387 (d) those offenses defined in Title 76, Utah Criminal Code; or
- 1388 (e) any local ordinance that is substantially similar to those offenses listed in
- 1389 Subsections (11)(a) through (d).

1390 (12) "Petitioner" means an individual applying for expungement under this chapter.

1391 (13) (a) "Traffic offense" means:

1392 (i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41,

1393 Chapter 6a, Traffic Code;

1394 (ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

1395 (iii) Title 73, Chapter 18, State Boating Act; and

1396 (iv) all local ordinances that are substantially similar to those offenses.

1397 (b) "Traffic offense" does not mean:

1398 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

1399 (ii) Sections 73-18-13 through 73-18-13.6; or

1400 (iii) any local ordinance that is substantially similar to the offenses listed in

1401 Subsections (13)(b)(i) and (ii).

1402 Section 14. **Appropriation.**

1403 The following sums of money are appropriated for the fiscal year beginning July 1,
1404 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for
1405 fiscal year 2023.

1406 Subsection 13(a). **Operating and Capital Budgets.**

1407 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
1408 Legislature appropriates the following sums of money from the funds or accounts indicated for
1409 the use and support of the government of the state of Utah.

1410 ITEM 1

1411 To Department of Health and Human Services -- Integrated Health Care Services

1412 From General Fund Restricted -- Behavioral Health

1413 Crisis Response Account \$1,000,000

1414 Schedule of Programs:

1415 Non-Medicaid Behavioral Health

1416 Treatment and Crisis Response \$1,000,000

1417 The Legislature intends that the appropriations under this item be used to build and
1418 operate one or more behavioral health receiving centers in a rural area of the state.

1419 Subsection 13(b). **Restricted Fund and Account Transfers.**

1420 The Legislature authorizes the State Division of Finance to transfer the following

1421 amounts between the following funds or accounts as indicated. Expenditures and outlays from
1422 the funds to which the money is transferred must be authorized by an appropriation.

1423 ITEM 2

1424 To General Fund Restricted -- Behavioral Health Crisis Response Account

1425 From General Fund \$1,000,000

1426 Schedule of Programs:

1427 General Fund Restricted -- Behavioral

1428 Health Crisis Response Account \$1,000,000

1429 Section 15. **Repealer.**

1430 This bill repeals:

1431 Section **62A-15-103.5, Provider certification.**

1432 Section 16. **Coordinating S.B. 179 with H.B. 324 -- Superseding and substantive**
1433 **amendments.**

1434 If this S.B. 179 and H.B. 324, Criminal Justice Coordinating Councils, both pass and
1435 become law, it is the intent of the Legislature that Sections [17-55-101](#) and [17-55-201](#) in this
1436 S.B. 179 supersede Sections [17-55-101](#) and [17-55-102](#) in H.B. 324 and that the Office of
1437 Legislative Research and General Counsel, in preparing the Utah Code database for
1438 publication, not enact Sections [17-55-101](#) and [17-55-102](#) in H.B. 324.