

FATALITY REVIEW AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies and enacts provisions relating to review of fatalities and suicides in the state.

Highlighted Provisions:

This bill:

- defines terms and modifies definitions;
- modifies the circumstances under which a custodian of vital records may permit inspection or provide a copy of a vital record;
- modifies the circumstances under which, and to whom, the medical examiner may provide a copy of the medical examiner's final report;
- allows the Department of Health to make administrative rules regarding the ability for certain governmental entities to use or disclose a medical examiner record;
- allows the medical examiner to share a medical examiner record with a hospital system in the state for purposes of researching prevention of drug-related overdose or suicide fatalities;
- creates the position of overdose fatality examiner within the Office of the Medical Examiner;
- creates the Opioid and Overdose Fatality Review Committee within the Department of Health;
- requires the Opioid and Overdose Fatality Review Committee to close a meeting in accordance with the Open and Public Meetings Act when an individual fatality is

discussed; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

▶ to Department of Health -- Disease Control and Prevention -- Disease Control and Prevention, as an ongoing appropriation:

- from General Fund, \$60,000;

▶ to Department of Health -- Disease Control and Prevention -- Office of the Medical Examiner, as an ongoing appropriation:

- from General Fund, \$115,000; and

▶ to Department of Health -- Disease Control and Prevention -- Office of the Medical Examiner, as a one-time appropriation:

- from the General Fund, One-time, \$121,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-15, as last amended by Laws of Utah 2008, Chapter 3

26-2-22, as last amended by Laws of Utah 2015, Chapter 137

26-4-17, as last amended by Laws of Utah 2019, Chapter 349

52-4-205, as last amended by Laws of Utah 2019, Chapter 417

78B-6-142, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

26-4-30, Utah Code Annotated 1953

26-7-10, Utah Code Annotated 1953

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

Section 1. Section **26-2-15** is amended to read:

26-2-15. Petition for establishment of unregistered birth or death -- Court procedure.

(1) A person holding a direct, tangible, and legitimate interest as described in Subsection ~~26-2-22~~(2)(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file ~~it~~ the petition in the Utah district court for the county where:

(a) the birth or death is alleged to have occurred;

(b) the person resides whose birth is to be established; or

(c) the decedent named in the petition resided at the date of death.

(2) In order for the court to have jurisdiction, the petition shall:

(a) allege the date, time, and place of the birth or death; and

(b) state either that no certificate of birth or death has been registered or that a copy of the registered certificate cannot be obtained.

(3) The court shall set a hearing for five to 10 days after the ~~[filing of the petition]~~ day on which the petition is filed.

(4) (a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.

(b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.

(5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.

(6) (a) For purposes of this section, the birth certificate of an adopted alien child, as defined in Section ~~78B-6-108~~, is considered to be unobtainable if the child was born in a country that is not recognized by department rule as having an established vital records

83 registration system.

84 (b) If the adopted child was born in a country recognized by department rule, but a
85 person described in Subsection (1) is unable to obtain a certified copy of the birth certificate,
86 the state registrar shall authorize the preparation of a birth certificate if ~~[he]~~ the state registrar
87 receives a written statement signed by the registrar of the child's birth country stating a certified
88 copy of the birth certificate is not available.

89 Section 2. Section **26-2-22** is amended to read:

90 **26-2-22. Inspection of vital records.**

91 (1) As used in this section:

92 (a) "Designated legal representative" means an attorney, physician, funeral service
93 director, genealogist, or other agent of the subject, or an immediate family member of the
94 subject, who has been delegated the authority to access vital records.

95 (b) "Drug use intervention or suicide prevention effort" means a program that studies
96 or promotes the prevention of drug overdose deaths or suicides in the state.

97 (c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or
98 grandchild.

99 ~~[(+)]~~ (2) (a) The vital records shall be open to inspection, but only in compliance with
100 the provisions of this chapter, department rules, and Sections 78B-6-141 and 78B-6-144.

101 (b) It is unlawful for any state or local officer or employee to disclose data contained in
102 vital records contrary to this chapter, department rule, Section 78B-6-141, or Section
103 78B-6-144.

104 (c) (i) An adoption document is open to inspection as provided in Section 78B-6-141
105 or Section 78B-6-144.

106 (ii) A birth parent may not access an adoption document under Subsection
107 78B-6-141(3).

108 (d) A custodian of vital records may permit inspection of a vital record or issue a
109 certified copy of a record or a part of a record when the custodian is satisfied that the applicant

has demonstrated a direct, tangible, and legitimate interest.

~~[(2)]~~ (3) ~~[A]~~ Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

~~[(ii) a member of the subject's immediate family;]~~

(ii) an immediate family member of the subject;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

~~[(3) For purposes of Subsection (2):]~~

~~[(a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild;]~~

~~[(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records;]~~

~~[(c)]~~ (4) (a) ~~[except]~~ Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or ~~[the]~~ an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of

parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act ~~[of 1996]~~, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest[; ~~and~~] under this section.

~~[(d)]~~ (b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

~~[(4)]~~ (5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection ~~[(4)]~~ (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

~~[(5)]~~ (6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

~~[(6)]~~ (7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for a birth parent's election to permit identifying information about the birth parent to be made available[;] under Section 78B-6-141;

(b) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144; ~~[and]~~

(c) for collecting fees and donations ~~[pursuant to]~~ under Section 78B-6-144.5[;]; and

(d) for the review and approval of a request described in Subsection (3)(d).

Section 3. Section 26-4-17 is amended to read:

26-4-17. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

- (a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;
- (b) indicate the place where the body was found;
- (c) indicate the date of death;
- (d) indicate the cause and manner of death;
- (e) indicate the occupation of the decedent, if available;
- (f) include all other relevant information concerning the death; and
- (g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) (a) Upon written request from an individual described in Subsections (2)(a)(i) through ~~[(d)]~~ (iv), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to any of the following:

- ~~[(a)]~~ (i) a decedent's immediate relative;
- ~~[(b)]~~ (ii) a decedent's legal representative;
- ~~[(c)]~~ (iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

~~[(d) as necessary for the performance of the individual's professional duties,]~~

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) Upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of the of the medical examiner's final report of examination for the decedent, including any other

reports described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:

(i) a local health department;

(ii) a local mental health authority;

(iii) a public health authority; or

(iv) another state or federal governmental agency.

(c) The medical examiner may provide a copy of the medical examiner's final report of examination, including any other reports described in Subsection (2)(a), if the final report relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the Department of Health; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26-1-6, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.

~~[(7)]~~ (8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

~~[(8)]~~ (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 4. Section **26-4-30** is enacted to read:

26-4-30. Overdose fatality examiner.

(1) Within funds appropriated by the Legislature, the department shall provide compensation, at a standard rate determined by the department, to an overdose fatality examiner.

(2) The overdose fatality examiner shall:

(a) work with the medical examiner to compile data regarding overdose and opioid related deaths, including:

(i) toxicology information;

(ii) demographics; and

(iii) the source of opioids or drugs;

(b) as relatives of the deceased are willing, gather information from relatives of the deceased regarding the circumstances of the decedent's death;

(c) maintain a database of information described in Subsections (2)(a) and (b);

(d) coordinate no less than monthly with the suicide prevention coordinator described in Section [62A-15-1101](#); and

(e) coordinate no less than quarterly with the Opioid and Overdose Fatality Review Committee created in Section [26-7-10](#).

Section 5. Section **26-7-10** is enacted to read:

26-7-10. Opioid and Overdose Fatality Review Committee.

(1) As used in this section:

(a) "Committee" means the Opioid and Overdose Fatality Review Committee created in this section.

(b) "Opioid overdose death" means a death primarily caused by opioids or another substance that closely resembles an opioid.

(2) The department shall establish the Opioid and Overdose Fatality Review Committee.

- 272 (3) (a) The committee shall consist of:
273 (i) the attorney general, or the attorney general's designee;
274 (ii) a state, county, or municipal law enforcement officer;
275 (iii) the manager of the department's Violence Injury Program, or the manager's
276 designee;
277 (iv) an emergency medical services provider;
278 (v) a representative from the Office of the Medical Examiner;
279 (vi) a representative from the Division of Substance Abuse and Mental Health;
280 (vii) a representative from the Office of Vital Records;
281 (viii) a representative from the Office of Health Care Statistics;
282 (ix) a representative from the Division of Occupational and Professional Licensing;
283 (x) a healthcare professional who specializes in the prevention, diagnosis, and
284 treatment of substance use disorders;
285 (xi) a representative from a state or local jail or detention center;
286 (xii) a representative from the Department of Corrections;
287 (xiii) a representative from Juvenile Justice Services;
288 (xiv) a representative from the Department of Public Safety;
289 (xv) a representative from the Commission on Criminal and Juvenile Justice;
290 (xvi) a physician from a Utah-based medical center; and
291 (xvii) a physician from a nonprofit vertically integrated health care organization.
292 (b) The president of the Senate may appoint one member of the Senate, and the speaker
293 of the House of Representatives may appoint one member of the House of Representatives, to
294 serve on the committee.
295 (4) The executive director of the department shall appoint a committee coordinator.
296 (5) (a) The department shall give the committee access to all reports, records, and other
297 documents that are relevant to the committee's responsibilities under Subsection (6) including
298 reports, records, or documents that are private, controlled, or protected under Title 63G,

Chapter 2, Government Records Access and Management Act.

(b) In accordance with Subsection [63G-2-206\(6\)](#), the committee is subject to the same restrictions on disclosure of a report, record, or other document received under Subsection (5)(a) as the department.

(6) The committee shall:

(a) conduct a multidisciplinary review of available information regarding a decedent of an opioid overdose death, which shall include:

(i) consideration of the decedent's points of contact with health care systems, social services systems, criminal justice systems, and other systems; and

(ii) identification of specific factors that put the decedent at risk for opioid overdose;

(b) promote cooperation and coordination among government entities involved in opioid misuse, abuse, or overdose prevention;

(c) develop an understanding of the causes and incidence of opioid overdose deaths in the state;

(d) make recommendations for changes to law or policy that may prevent opioid overdose deaths;

(e) inform public health and public safety entities of emerging trends in opioid overdose deaths;

(f) monitor overdose trends on non-opioid overdose deaths; and

(g) review non-opioid overdose deaths in the manner described in Subsection (6)(a), when the committee determines that there are a substantial number of overdose deaths in the state caused by the use of a non-opioid.

(7) A committee may interview or request information from a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the review of an opioid overdose death.

(8) A majority vote of committee members present constitutes the action of the committee.

326 (9) The committee may meet up to eight times each year.

327 (10) When an individual case is discussed in a committee meeting under Subsection
328 (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections
329 52-4-204 through 52-4-206.

330 Section 6. Section **52-4-205** is amended to read:

331 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
332 **meetings.**

333 (1) A closed meeting described under Section 52-4-204 may only be held for:

334 (a) except as provided in Subsection (3), discussion of the character, professional
335 competence, or physical or mental health of an individual;

336 (b) strategy sessions to discuss collective bargaining;

337 (c) strategy sessions to discuss pending or reasonably imminent litigation;

338 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
339 including any form of a water right or water shares, if public discussion of the transaction
340 would:

341 (i) disclose the appraisal or estimated value of the property under consideration; or

342 (ii) prevent the public body from completing the transaction on the best possible terms;

343 (e) strategy sessions to discuss the sale of real property, including any form of a water
344 right or water shares, if:

345 (i) public discussion of the transaction would:

346 (A) disclose the appraisal or estimated value of the property under consideration; or

347 (B) prevent the public body from completing the transaction on the best possible terms;

348 (ii) the public body previously gave public notice that the property would be offered for
349 sale; and

350 (iii) the terms of the sale are publicly disclosed before the public body approves the
351 sale;

352 (f) discussion regarding deployment of security personnel, devices, or systems;

353 (g) investigative proceedings regarding allegations of criminal misconduct;
354 (h) as relates to the Independent Legislative Ethics Commission, conducting business
355 relating to the receipt or review of ethics complaints;
356 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
357 Subsection 52-4-204(1)(a)(iii)(C);
358 (j) as relates to the Independent Executive Branch Ethics Commission created in
359 Section 63A-14-202, conducting business relating to an ethics complaint;
360 (k) as relates to a county legislative body, discussing commercial information as
361 defined in Section 59-1-404;
362 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
363 board of directors, discussing fiduciary or commercial information as defined in Section
364 53B-12-102;
365 (m) deliberations, not including any information gathering activities, of a public body
366 acting in the capacity of:
367 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
368 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
369 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
370 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
371 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
372 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
373 Procurement Appeals Board;
374 (n) the purpose of considering information that is designated as a trade secret, as
375 defined in Section 13-24-2, if the public body's consideration of the information is necessary in
376 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;
377 (o) the purpose of discussing information provided to the public body during the
378 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
379 the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);
[and]

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-10, to review and discuss an individual case, as described in Subsection 26-7-10(10); and

~~[(c)]~~ (d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is

protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 7. Section **78B-6-142** is amended to read:

78B-6-142. Adoption order from foreign country.

(1) Except as otherwise provided by federal law, an adoption order rendered to a resident of this state that is made by a foreign country shall be recognized by the courts of this state and enforced as if the order were rendered by a court in this state.

(2) A person who adopts a child in a foreign country may register the order in this state. A petition for registration of a foreign adoption order may be combined with a petition for a name change. If the court finds that the foreign adoption order meets the requirements of Subsection (1), the court shall order the state registrar to:

(a) file the order pursuant to Section [78B-6-137](#); and

(b) file a certificate of birth for the child pursuant to Section [26-2-28](#).

(3) If a clerk of the court is unable to establish the fact, time, and place of birth from the documentation provided, a person holding a direct, tangible, and legitimate interest as described in Subsection [26-2-22](#)~~[(2)]~~(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth pursuant to Subsection [26-2-15](#)(1).

Section 8. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1,

2020, and ending June 30, 2021. These are additions to amounts previously appropriated for
fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
Act, the Legislature appropriates the following sums of money from the funds or accounts
indicated for the use and support of the government of the state of Utah.

ITEM 1To Department of Health -- Disease Control and PreventionFrom General Fund\$60,000Schedule of Programs:Disease Control and Prevention\$60,000ITEM 2To Department of Health -- Disease Control and PreventionFrom General Fund\$115,000From General Fund, One-time\$121,000Schedule of Programs:Office of the Medical Examiner\$236,000