

**62A-1-108.5 Mental illness and intellectual disability examinations -- Responsibilities of the department.**

- (1) In accomplishing its duties to conduct mental illness and intellectual disability examinations under Title 77, Utah Code of Criminal Procedure, and juvenile competency evaluations pursuant to Title 78A, Chapter 6, Juvenile Court Act, the department shall proceed as outlined in this section and within appropriations authorized by the Legislature. The executive director may delegate the executive director's responsibilities under this section to one or more divisions within the department.
- (2) When the department is ordered by the district court to conduct a mental illness or intellectual disability examination the executive director shall:
  - (a) direct that the examination be performed at the Utah State Hospital; or
  - (b) designate at least one examiner, selected under Subsection (4), to examine the defendant in the defendant's current custody or status.
- (3) When the department is ordered by the juvenile court to conduct a juvenile competency evaluation pursuant to Title 78A, Chapter 6, Juvenile Court Act, the executive director shall:
  - (a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor; and
  - (b) upon a finding of good cause and order of the court, designate a second examiner to evaluate the minor.
- (4) The department shall establish criteria, in consultation with the Commission on Criminal and Juvenile Justice, and shall contract with persons or organizations to conduct mental illness and intellectual disability or related condition, and juvenile competency evaluations under Subsections (2)(b) and (3)(b). In making this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code.
- (5) Nothing in this section prohibits the executive director, at the request of defense counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal Procedure, and for good cause shown, from proposing a person who has not been previously selected under Subsection (4) to contract with the department to conduct the evaluation. In selecting that person, the criteria of the department established under Subsection (4) and the provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

Amended by Chapter 316, 2012 General Session

Amended by Chapter 347, 2012 General Session