

# HB0339S01 compared with HB0339

~~text~~ shows text that was in HB0339 but was deleted in HB0339S01.

inserted text shows text that was not in HB0339 but was inserted into HB0339S01.

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Representative Jennifer Dailey-Provost proposes the following substitute bill:

## INVOLUNTARY COMMITMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jennifer ~~Dailey-Provost~~ Dailey-Provost**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill addresses involuntary civil commitment.

#### Highlighted Provisions:

This bill:

- ▶ creates, modifies, and repeals definitions;
- ▶ modifies the circumstances under which a child or adult may be temporarily civilly committed;
- ▶ clarifies provisions relating to due process requirements for civil commitment of a child;
- ▶ modifies the circumstances under which a child may be civilly committed;
- ▶ clarifies that a child's parent or legal guardian may consent to the child being placed for treatment that does not require civil commitment; and

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- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides coordination clauses.

### Utah Code Sections Affected:

AMENDS:

**62A-15-629**, as last amended by Laws of Utah 2020, Chapter 225

**62A-15-701**, as last amended by Laws of Utah 2003, Chapter 195

**62A-15-702**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,  
Chapter 8

**62A-15-703**, as last amended by Laws of Utah 2019, Chapter 256

**62A-15-705**, as last amended by Laws of Utah 2018, Chapter 322

### Utah Code Sections Affected by Coordination Clause:

**62A-15-703**, as last amended by Laws of Utah 2019, Chapter 256

**62A-15-705**, as last amended by Laws of Utah 2018, Chapter 322

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

Section 1. Section **62A-15-629** is amended to read:

**62A-15-629. Temporary commitment -- Requirements and procedures.**

(1) An [~~adult~~] individual shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by [~~a~~] another responsible individual who has reason to know, stating a belief that the [~~adult~~] individual, due to mental illness, is likely to pose substantial danger to self or others if not [~~restrained~~] committed and stating the personal knowledge of the [~~adult's~~] individual's condition or circumstances that lead to the other individual's belief; and

(ii) includes a certification by a licensed physician or designated examiner stating that the physician or designated examiner has examined the [~~adult~~] individual within a three-day period immediately preceding that certification, and that the physician or designated examiner is of the opinion that, due to mental illness, the [~~adult~~] individual poses a substantial danger to

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self or others; or

(b) a peace officer or a mental health officer:

(i) observing an ~~[adult's]~~ individual's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the ~~[adult]~~ individual has a mental illness; and

(B) because of the ~~[adult's]~~ individual's mental illness ~~[and conduct]~~, the ~~[adult]~~ individual poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the ~~[adult]~~ individual poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the ~~[adult]~~ individual to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.

(3) ~~[A]~~ (a) Except as provided in Subsection (3)(b), a patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

~~[(a)]~~ (i) as described in Section 62A-15-631, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 62A-15-631(4); or

~~[(b)]~~ (ii) the patient makes a voluntary application for admission.

(b) A child who is temporarily committed under Subsection 62A-15-703(6) and in accordance with the procedures in this section shall be released after commitment as described in Subsection 62A-15-703(6).

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the ~~[adult]~~ individual shall be:

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(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the [~~adult~~] individual meets any of the criteria described in Section 26-8a-305;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the individual to be committed is present, if the individual is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the individual is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 26-8a-102.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section. This section does not create a special duty of care.

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Section 2. Section 62A-15-701 is amended to read:

### Part 7. Commitment of Individuals Under 18 Years Old to Local Mental Health Authority

#### 62A-15-701. Definitions.

As used in this part:

(1) "Child" means ~~[a person]~~ an individual under 18 years ~~[of age]~~ old.

(2) "Commit" and "commitment" mean the transfer of physical custody in accordance with the requirements of this part.

(3) "Designated examiner" means the same as that term is defined in Section 62A-15-602.

(4) "Inpatient setting" means an acute setting for stabilization or treatment of a psychiatric emergency when the patient poses a substantial danger to self or others.

~~[(3)]~~ (5) "Legal custody" means~~[:]~~ a relationship embodying the following rights and duties:

~~[(a) the right to determine where and with whom the child shall live;]~~

~~[(b) the right to participate in all treatment decisions and to consent or withhold consent for treatment in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery; and]~~

~~[(c) the right to authorize surgery or other extraordinary medical care.]~~

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the right to determine where and with whom the minor shall live; and

(d) the right, in an emergency, to authorize surgery or other extraordinary care.

(6) "Mental illness" means the same as that term is defined in Section 62A-15-602.

~~[(4)]~~ (7) "Physical custody" means a relationship embodying the following rights and duties:

(a) ~~[placement of]~~ the right to place a child in [any residential or] an inpatient setting or in residential treatment;

~~[(b) the right to physical custody of a child;]~~

~~[(c)]~~ (b) the right and duty to protect the child; and

~~[(d)]~~ (c) the duty to provide, or [insure] ensure that the child is provided with, adequate

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food, clothing, shelter, and ordinary medical care.

~~[(5) "Residential" means any out-of-home placement made by a local mental health authority, but does not include out-of-home respite care.]~~

~~[(6) "Respite care" means temporary, periodic relief provided to parents or guardians from the daily care of children with serious emotional disorders for the limited time periods designated by the division.]~~

~~(8) "Residential treatment" means the same as that term is defined in Section 62A-2-101.~~

~~(9) "Substantial danger" means the same as that term is defined in Section 62A-15-602.~~

Section 3. Section **62A-15-702** is amended to read:

### **62A-15-702. Treatment and commitment of children -- Due process.**

A child is entitled to due process proceedings, in accordance with the requirements of this part, ~~[whenever]~~ if the child ~~[(1) may receive or receives services through the public mental health system and]~~ is placed, by a local mental health authority, in a physical setting where his liberty interests are restricted ~~[, including residential and inpatient placements; or (2) receives treatment in which]~~ or receives treatment that may affect a constitutionally protected privacy or liberty interest ~~[may be affected]~~, including the administration of antipsychotic medication, electroshock therapy, ~~[and]~~ or psychosurgery.

Section 4. Section **62A-15-703** is amended to read:

**62A-15-703. Commitment proceeding outside of juvenile court -- Criteria -- Child in physical custody of local mental health authority -- Placement by parent or legal guardian.**

(1) A child may ~~[receive services from]~~ be committed to the physical custody of a local mental health authority ~~[in an inpatient or residential setting]~~ only after a commitment proceeding ~~[,]~~ for the purpose of transferring physical custody ~~[, has been]~~ to the local mental health authority is conducted in accordance with the requirements of this section.

(2) ~~[That]~~ A commitment proceeding for the purpose described in Subsection (1) shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, ~~[pursuant to]~~ in accordance with the procedures and requirements of this section. ~~[If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority,~~

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~~and the child may be placed in an inpatient or residential setting.]~~

(3) The neutral and detached fact finder who conducts the inquiry described in Subsection (2):

(a) shall be a designated examiner~~[, as defined in Section 62A-15-602];~~ and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child ~~[in that setting].~~

(4) ~~[Upon determination by a fact finder that the following circumstances clearly exist,]~~  
If the neutral and detached fact finder determines by clear and convincing evidence that the following circumstances exist, the fact finder ~~[may]~~ shall order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness~~[, as defined in Section 62A-15-602];~~

(b) ~~[the child demonstrates a reasonable fear of the risk of]~~ because of the child's mental illness, the child poses a substantial danger to self or others;

~~[(c) the child will benefit from care and treatment by the local mental health authority; and]~~

~~[(d)]~~ (c) there is no appropriate less-restrictive alternative[-] to an order of commitment; and

(d) the local mental health authority can provide the child with treatment that is adequate and appropriate to the child's condition and needs.

(5) (a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:

(i) shall receive informal notice of the date and time of the proceeding; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.

(d) (i) The neutral and detached fact finder may allow a child to waive the child's right to be present at the commitment proceeding, for good cause shown. ~~[If that right is waived,]~~

(ii) If the child's waiver is granted under this Subsection (5)(d), the purpose of the

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waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, ~~[its]~~ the local mental health authority's designee, or the psychiatrist who ~~[has been]~~ is in charge of the child's care ~~[prior to]~~ before the day on which the commitment proceeding begins, shall provide the neutral and detached fact finder with the following information, as ~~[it]~~ the information relates to the period of current admission:

- (i) the petition for commitment;
- (ii) ~~[the]~~ admission notes;
- (iii) the child's diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

(f) The local mental health authority, the local mental health authority's designee, or the psychiatrist described in Subsection (5)(e) shall provide the information described in Subsection (5)(e) [shall also be provided] to the child's parent or legal guardian upon written request.

(g) (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. ~~[Any]~~

(ii) (A) A commitment to the physical custody of a local mental health authority may not exceed 180 days. [Prior to expiration of the commitment, and if]

(B) Before the day on which the commitment expires, and if further commitment of the child is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

~~[(ii)]~~ (iii) At the conclusion of the hearing described in Subsection (5)(g)(ii)(B) and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of ~~[that]~~ the decision for commitment and ~~[of]~~ the reasons for ordering commitment.

~~[(iii)]~~ (iv) The neutral and detached fact finder shall state in writing the basis of the decision for commitment, with specific reference to each of the criteria described in Subsection (4), as a matter of record.



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(6) ~~[A]~~ (a) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 62A-15-629 and upon satisfaction of the ~~[risk factors]~~ criteria described in Subsection (4).

(b) A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of ~~[a]~~ the child are satisfied.

(7) (a) A local mental health authority shall have physical custody of ~~[each]~~ a child committed to ~~[it]~~ the local mental health authority under this section.

(b) (i) The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody ~~[has been]~~ is otherwise modified by a court of competent jurisdiction. ~~[In cases when the]~~

(ii) If the Division of Child and Family Services or the Division of Juvenile Justice Services has legal custody of a child, that division shall retain legal custody of the child for purposes of this part.

(8) (a) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to ~~[their]~~ the parents' ability to pay. ~~[For purposes of this section,]~~

(b) (i) If a child is in the legal custody of the Division of Child and Family Services or the Division of Juvenile Justice Services ~~[shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section,]~~ at the time the child is committed to the physical custody of a local mental health authority under this section, that division, in addition to the child's parents, is financially responsible for the cost of caring for and maintaining the child in physical custody, unless Medicaid regulation or contract provisions specify otherwise.

(ii) The Office of Recovery Services shall assist ~~[those divisions]~~ the Division of Child and Family Services and the Division of Juvenile Justice Services in collecting the costs assessed ~~[pursuant to]~~ under this section.

(9) Whenever application is made for commitment of a minor to a local mental health

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authority under ~~[any provision of]~~ this section by a person other than the child's parent or guardian, the local mental health authority or ~~[its]~~ the local mental health authority's designee shall notify the child's parent or guardian~~[- The parents]~~ of the application and the child's parent or guardian shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10) (a) ~~[Each]~~ (i) A child committed ~~[pursuant to]~~ under this section is entitled to an appeal within 30 days after ~~[any]~~ the day on which an order for commitment is entered.

(ii) The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. ~~[With regard to a]~~

(iii) (A) Except as provided in Subsection (10)(a)(iii)(B), the appropriate county attorney is responsible for appeals brought under this Subsection (10)(a).

(B) If the child is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney general's office shall handle the appeal~~;~~ ~~otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a)].~~

(b) (i) Upon receipt of the petition for appeal, the juvenile court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the juvenile court. ~~[The court shall then]~~

(ii) Upon receipt of the report from the designated examiner, the juvenile court shall conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) ~~[Prior to the time of]~~ Before the time at which the appeal hearing is held, the appropriate local mental health authority, ~~[its]~~ the local mental health authority's designee, or the mental health professional who ~~[has been]~~ is in charge of the child's care ~~[prior to]~~ before the day on which the child's commitment is ordered, shall provide the court and the designated examiner for the appeal hearing with the ~~[following]~~ information described in Subsection (5)(e), as ~~[it]~~ the information relates to the period of current admission~~[-].~~

~~[(i) the original petition for commitment;]~~

~~[(ii) admission notes;]~~

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~~[(iii) diagnosis;]~~

~~[(iv) physicians' orders;]~~

~~[(v) progress notes;]~~

~~[(vi) nursing notes; and]~~

~~[(vii) medication records.]~~

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) ~~[prior to]~~ before the time at which the appeal hearing is held.

~~[(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing.]~~

(e) (i) The juvenile court shall notify and provide the following persons an opportunity to appear at the appeal hearing:

(A) the child;

(B) the child's parent or legal guardian;

(C) the person who submitted the original petition for commitment of the child; and

(D) a representative of the appropriate local mental health authority.

(ii) In reaching [its] the juvenile court's decision, the juvenile court shall review the record and findings of the neutral and detached fact finder[;] and the report of the designated examiner appointed ~~[pursuant to]~~ under Subsection (10)(b), and may, in [its] the juvenile court's discretion, allow or require the testimony of:

(A) the neutral and detached fact finder[;];

(B) the designated examiner[;];

(C) the child[;];

(D) the child's parent or legal guardian[;];

(E) the person who brought the initial petition for commitment[;]; or

(F) any other person whose testimony the court deems relevant.

(iii) (A) The juvenile court may allow the child to waive the right to appear at the appeal hearing, for good cause shown.

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(B) If ~~[that]~~ the child's waiver is granted under this Subsection (10)(e)(iii), the purpose of the waiver shall be made a part of the court's record.

(11) ~~[Each]~~ A local mental health authority has an affirmative duty to:

(a) conduct periodic ~~[evaluations]~~ reviews of the mental health and treatment progress of ~~[every]~~ a child committed to ~~[its]~~ the local mental health authority's physical custody under this section~~[-, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.]; and~~

(b) release a child from commitment who no longer meets the criteria described in Subsection (4).

(12) (a) As used in this Subsection (12), "current treating mental health professional" means, if the child is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital.

(b) A local mental health authority or ~~[its]~~ the local mental health authority's designee, in conjunction with the child's current treating mental health professional, may release an improved child to a less restrictive environment, as ~~[they]~~ the local mental health authority or the local mental health authority's designee and the mental health professional determine appropriate. ~~[Whenever]~~

(c) If the local mental health authority or [its] the local mental health authority's designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the [child shall be discharged and released] local mental health authority shall release the child to the child's parent or legal guardian. [With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.]

~~[(b)]~~ (d) A local mental health authority or ~~[its]~~ the local mental health authority's designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local mental health authority or ~~[its]~~ the local mental health authority's designee and the child's current treating mental health professional ~~[has]~~ have reason to believe that the less restrictive environment in which the child ~~[has been]~~ is placed is exacerbating the child's mental illness,

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or increasing the risk of harm to self or others.

~~[(c)]~~ (e) The written order described in Subsection (12)~~[(b)]~~(d) shall:

(i) include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional~~[- Prior to admission];~~ and

(ii) be personally delivered before the day on which the child is admitted to the more restrictive environment, [copies of the order shall be personally delivered] to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

~~[(d)]~~ (f) (i) If the child ~~[has been]~~ is in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days ~~[of the change]~~ after the day on which the change is made, by a neutral and detached fact finder as described in Subsection (3).

(ii) The neutral and detached fact finder described in Subsection (12)(f)(i) shall determine whether~~[-(f)]~~ the less restrictive environment in which the child ~~[has been]~~ is placed is exacerbating the child's mental illness or increasing the risk of harm to self or others~~[-or]~~.

~~[(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the]~~

(iii) If the neutral and detached fact finder makes the determination described in Subsection (12)(f)(ii), the fact finder shall designate that the child remain in the less restrictive environment.

~~[(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.]~~

~~[(13) Each]~~ (g) (i) Except as provided in Section 78A-6-120, a local mental health authority or ~~[its]~~ the local mental health authority's designee, in conjunction with the child's current treating mental health professional, shall ~~[discharge any]~~ release a child from commitment who, in the opinion of ~~[that]~~ the local mental health authority, or ~~[its]~~ the local

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mental health authority's designee, and the child's current treating mental health professional, no longer meets the criteria [specified] described in Subsection (4)[, except as provided by Section 78A-6-120. The].

(ii) Before the day on which the child is released under Subsection (12)(g)(i), the local mental health authority and the child's current treating mental health professional shall [assure] ensure that any further supportive services required to meet the child's needs upon release will be provided.

(h) This section does not prevent a local mental health authority or the local mental health authority's designee, in conjunction with the child's current treating mental health professional, from releasing a child from commitment or from placing a child in an environment that is less-restrictive than that designated by the neutral and detached fact finder described in Subsection (12)(f).

~~[(14) Even though a child has been]~~

(13) A child who is committed to the physical custody of a local mental health authority under this section, [the child is still] is entitled to additional due process proceedings, in accordance with Section 62A-15-704, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered[. Those treatments include, but are not limited to], including antipsychotic medication, electroshock therapy, [and] or psychosurgery.

(14) This section does not prohibit a child's parent or legal guardian from otherwise placing a child in treatment that does not require commitment under this section.

Section 5. Section **62A-15-705** is amended to read:

**62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Child in physical custody of local mental health authority.**

(1) (a) Subject to Subsection (1)(b), commitment proceedings for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section 62A-15-631.

(b) Commitment proceedings under this section may be commenced only after a commitment proceeding under Section 62A-15-703 [~~has concluded~~] concludes without the child being committed.

(2) The juvenile court shall order commitment to the physical custody of a local mental health authority if, upon completion of the hearing and consideration of the record, [it] the

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juvenile court finds by clear and convincing evidence that:

(a) the child has a mental illness[~~as defined in Section 62A-15-602;~~

~~[(b) the child demonstrates a risk of harm to himself or others;]~~

~~[(c) the child is experiencing significant impairment in the child's ability to perform socially;]~~

~~[(d) the child will benefit from the proposed care and treatment; and]~~

~~[(e) there is no appropriate less restrictive alternative.]~~

(b) because of the child's mental illness, the child poses a substantial danger to self or others;

(c) there is no appropriate less restrictive alternative to an order of commitment; and

(d) the local mental health authority can provide the child with treatment that is adequate and appropriate to the child's condition and needs.

(3) [The] A local mental health authority has an affirmative duty to:

(a) conduct periodic reviews of [children committed to its custody pursuant to this section, and to release any child who has sufficiently improved so that the local mental health authority or its designee determines that commitment is no longer appropriate.] a child committed to the local mental health authority's physical custody under this section; and

(b) release a child from commitment who no longer meets the criteria described in Subsection (2).

### Section 6. Coordinating H.B. 339 with H.B. 285 -- Superseding amendment.

If this H.B. 339 and H.B. 285, Juvenile Recodification, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Section 62A-15-705 to read:

#### "62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Custody.

(1) (a) Subject to Subsection (1)(b), commitment proceedings for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section 62A-15-631.

(b) Commitment proceedings under this section may be commenced only after a commitment proceeding under Section 62A-15-703 [has concluded] concludes without the child being committed.

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(2) The juvenile court shall order commitment to the physical custody of a local mental health authority if, upon completion of the hearing and consideration of the record, [it] the juvenile court finds by clear and convincing evidence that:

(a) the child has a mental illness[, as defined in Section 62A-15-602];

[(b) the child demonstrates a risk of harm to himself or others;]

[(c) the child is experiencing significant impairment in the child's ability to perform socially;]

[(d) the child will benefit from the proposed care and treatment; and]

[(e) there is no appropriate less restrictive alternative.]

(b) because of the child's mental illness, the child poses a substantial danger to self or others;

(c) there is no appropriate less restrictive alternative to an order of commitment; and

(d) the local mental health authority can provide the child with treatment that is adequate and appropriate to the child's condition and needs.

(3) The juvenile court may not commit a child under Subsection (2) directly to the Utah State Hospital.

[(3)] (4) [The] A local mental health authority has an affirmative duty to:

(a) conduct periodic reviews of [children committed to its custody pursuant to this section, and to release any child who has sufficiently improved so that the local mental health authority or its designee determines that commitment is no longer appropriate.] a child committed to the local mental health authority's physical custody under this section; and

(b) release a child from commitment who no longer meets the criteria described in Subsection (2).

(5) If a child is committed to the custody of a local mental health authority, or the local mental health authority's designee, by a juvenile court, the local mental health authority, or the local mental health authority's designee, shall give the juvenile court written notice of the intention to release the child not fewer than five days before the day on which the child is released."

### Section 7. Coordinating H.B. 339 with H.B. 286 -- Technical amendment.

If this H.B. 339 and H.B. 286, Juvenile Code Recodification Cross References, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of



## HB0339S01 compared with HB0339

Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 62A-15-703(12)(g)(i) in this bill to read:

"~~[(13) Each]~~ (g) (i) Except as provided in Section 62A-15-705, a local mental health authority or ~~[its]~~ the local mental health authority's designee, in conjunction with the child's current treating mental health professional, shall ~~[discharge any]~~ release a child from ~~commitment who, in the opinion of [that] the local mental health authority, or [its] the local mental health authority's designee, and the child's current treating mental health professional, no longer meets the criteria [specified] described in Subsection (4)[, except as provided by Section 78A-6-120. The]."~~