

CIVIL COMMITMENT AND COMPETENCY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to involuntary civil commitment and competency to stand trial.

Highlighted Provisions:

This bill:

- ▶ creates, modifies, and repeals definitions;
- ▶ adds members to the Forensic Mental Health Coordinating Council;
- ▶ modifies provisions relating to compensation of members of the Forensic Mental Health Coordinating Council;
- ▶ prohibits a health insurance provider from denying benefits solely because services are provided under a civil commitment order;
- ▶ modifies procedures and requirements for involuntary civil commitment of an individual, including provisions related to:
 - a local mental health authority's duty to ensure supportive services are provided to an individual released from civil commitment;
 - notice of expiration of a court order for civil commitment;
 - the qualifications of an individual who may evaluate an individual for civil commitment;
 - access to medical and mental health records in a civil commitment proceeding;
 - periodic review of an individual's civil commitment;



- 28 • the circumstances under which certain individuals who are committed after or
- 29 during a criminal proceeding may be discharged or released from commitment;
- 30 • the safety assessment that must be completed before certain individuals may be
- 31 released from civil commitment;
- 32 ▶ clarifies that a court may order assisted outpatient treatment of an individual who
- 33 does not meet the conditions for civil commitment;
- 34 ▶ modifies the circumstances under which certain records and reports relating to an
- 35 order for civil commitment or assisted outpatient treatment may be disclosed;
- 36 ▶ modifies procedures and requirements for finding a defendant incompetent to stand
- 37 trial in a criminal proceeding, including provisions related to:
 - 38 • the contents of a petition to determine competency;
 - 39 • the court in which a petition to determine competency may be filed;
 - 40 • the information and circumstances on which the forensic evaluation of a
 - 41 defendant may be based;
 - 42 • the number of forensic evaluators that may evaluate a defendant;
 - 43 • the court's findings regarding a defendant's competency; and
 - 44 • commitment of an incompetent defendant for restoration treatment; and
 - 45 ▶ makes technical changes.

46 **Money Appropriated in this Bill:**

47 None

48 **Other Special Clauses:**

49 None

50 **Utah Code Sections Affected:**

51 AMENDS:

- 52 [17-43-301](#), as last amended by Laws of Utah 2020, Chapter 303
- 53 [31A-22-651](#), as enacted by Laws of Utah 2019, Chapter 256
- 54 [53-10-208.1](#), as last amended by Laws of Utah 2020, Chapter 142
- 55 [62A-15-602](#), as last amended by Laws of Utah 2019, Chapters 189 and 256
- 56 [62A-15-605](#), as last amended by Laws of Utah 2020, Chapter 304
- 57 [62A-15-626](#), as last amended by Laws of Utah 2019, Chapter 419
- 58 [62A-15-631](#), as last amended by Laws of Utah 2019, Chapters 256 and 419

- 59 [62A-15-632](#), as last amended by Laws of Utah 2019, Chapter 419
- 60 [62A-15-636](#), as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
- 61 Chapter 8
- 62 [62A-15-637](#), as last amended by Laws of Utah 2019, Chapter 419
- 63 [62A-15-643](#), as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
- 64 Chapter 8
- 65 [77-15-2](#), as last amended by Laws of Utah 2018, Chapter 147
- 66 [77-15-3](#), as last amended by Laws of Utah 2018, Chapter 147
- 67 [77-15-3.5](#), as enacted by Laws of Utah 2018, Chapter 147
- 68 [77-15-4](#), as last amended by Laws of Utah 2018, Chapter 147
- 69 [77-15-5](#), as last amended by Laws of Utah 2018, Chapter 147
- 70 [77-15-6](#), as last amended by Laws of Utah 2018, Chapter 147

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

73 Section 1. Section **17-43-301** is amended to read:

74 **17-43-301. Local mental health authorities -- Responsibilities.**

75 (1) As used in this section:

- 76 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
- 77 [62A-15-602](#).
- 78 (b) "Crisis worker" means the same as that term is defined in Section [62A-15-1301](#).
- 79 (c) "Local mental health crisis line" means the same as that term is defined in Section
- 80 [62A-15-1301](#).
- 81 (d) "Mental health therapist" means the same as that term is defined in Section
- 82 [58-60-102](#).
- 83 (e) "Public funds" means the same as that term is defined in Section [17-43-303](#).
- 84 (f) "Statewide mental health crisis line" means the same as that term is defined in
- 85 Section [62A-15-1301](#).

86 (2) (a) (i) In each county operating under a county executive-council form of

87 government under Section [17-52a-203](#), the county legislative body is the local mental health

88 authority, provided however that any contract for plan services shall be administered by the

89 county executive.

90 (ii) In each county operating under a council-manager form of government under
91 Section 17-52a-204, the county manager is the local mental health authority.

92 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the
93 county legislative body is the local mental health authority.

94 (b) Within legislative appropriations and county matching funds required by this
95 section, under the direction of the division, each local mental health authority shall:

96 (i) provide mental health services to individuals within the county; and

97 (ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to
98 promote integrated programs that address an individual's substance abuse, mental health, and
99 physical healthcare needs, as described in Section 62A-15-103.

100 (c) Within legislative appropriations and county matching funds required by this
101 section, each local mental health authority shall cooperate with the efforts of the Department of
102 Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with
103 or at risk for complex emotional and behavioral needs, as described in Section [62A-1-111]
104 62A-1-104.

105 (3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
106 Cooperation Act, two or more counties may join to:

107 (i) provide mental health prevention and treatment services; or

108 (ii) create a united local health department that combines substance abuse treatment
109 services, mental health services, and local health department services in accordance with
110 Subsection (4).

111 (b) The legislative bodies of counties joining to provide services may establish
112 acceptable ways of apportioning the cost of mental health services.

113 (c) Each agreement for joint mental health services shall:

114 (i) (A) designate the treasurer of one of the participating counties or another person as
115 the treasurer for the combined mental health authorities and as the custodian of money
116 available for the joint services; and

117 (B) provide that the designated treasurer, or other disbursing officer authorized by the
118 treasurer, may make payments from the money available for the joint services upon audit of the
119 appropriate auditing officer or officers representing the participating counties;

120 (ii) provide for the appointment of an independent auditor or a county auditor of one of

121 the participating counties as the designated auditing officer for the combined mental health
122 authorities;

123 (iii) (A) provide for the appointment of the county or district attorney of one of the
124 participating counties as the designated legal officer for the combined mental health
125 authorities; and

126 (B) authorize the designated legal officer to request and receive the assistance of the
127 county or district attorneys of the other participating counties in defending or prosecuting
128 actions within their counties relating to the combined mental health authorities; and

129 (iv) provide for the adoption of management, clinical, financial, procurement,
130 personnel, and administrative policies as already established by one of the participating
131 counties or as approved by the legislative body of each participating county or interlocal board.

132 (d) An agreement for joint mental health services may provide for:

133 (i) joint operation of services and facilities or for operation of services and facilities
134 under contract by one participating local mental health authority for other participating local
135 mental health authorities; and

136 (ii) allocation of appointments of members of the mental health advisory council
137 between or among participating counties.

138 (4) A county governing body may elect to combine the local mental health authority
139 with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,
140 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health
141 Department Act, to create a united local health department under Section [26A-1-105.5](#). A local
142 mental health authority that joins with a united local health department shall comply with this
143 part.

144 (5) (a) Each local mental health authority is accountable to the department, the
145 Department of Health, and the state with regard to the use of state and federal funds received
146 from those departments for mental health services, regardless of whether the services are
147 provided by a private contract provider.

148 (b) Each local mental health authority shall comply, and require compliance by its
149 contract provider, with all directives issued by the department and the Department of Health
150 regarding the use and expenditure of state and federal funds received from those departments
151 for the purpose of providing mental health programs and services. The department and

152 Department of Health shall ensure that those directives are not duplicative or conflicting, and
153 shall consult and coordinate with local mental health authorities with regard to programs and
154 services.

155 (6) (a) Each local mental health authority shall:

156 (i) review and evaluate mental health needs and services, including mental health needs
157 and services for:

158 (A) an individual incarcerated in a county jail or other county correctional facility;
159 [~~and~~]

160 (B) an individual who is a resident of the county and who is court ordered to receive
161 assisted outpatient treatment under Section [62A-15-630.5](#); and

162 (C) an individual who is a resident of the county who is committed to the custody or
163 jurisdiction of the local mental health authority under Section [62A-15-631](#);

164 (ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a
165 plan approved by the county legislative body for mental health funding and service delivery,
166 either directly by the local mental health authority or by contract;

167 (iii) establish and maintain, either directly or by contract, programs licensed under Title
168 62A, Chapter 2, Licensure of Programs and Facilities;

169 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
170 programs and prescribe the director's duties;

171 (v) provide input and comment on new and revised rules established by the division;

172 (vi) establish and require contract providers to establish administrative, clinical,
173 personnel, financial, procurement, and management policies regarding mental health services
174 and facilities, in accordance with the rules of the division, and state and federal law;

175 (vii) establish mechanisms allowing for direct citizen input;

176 (viii) annually contract with the division to provide mental health programs and
177 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and
178 Mental Health Act;

179 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
180 contract requirements, and any directives resulting from those audits and contract requirements;

181 (x) provide funding equal to at least 20% of the state funds that it receives to fund
182 services described in the plan;

183 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
184 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title
185 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
186 Other Local Entities Act; and

187 (xii) take and retain physical custody of minors committed to the physical custody of
188 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,
189 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

190 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and
191 children, which shall include:

- 192 (i) inpatient care and services;
- 193 (ii) residential care and services;
- 194 (iii) outpatient care and services;
- 195 (iv) 24-hour crisis care and services;
- 196 (v) psychotropic medication management;
- 197 (vi) psychosocial rehabilitation, including vocational training and skills development;
- 198 (vii) case management;
- 199 (viii) community supports, including in-home services, housing, family support
200 services, and respite services;

201 (ix) consultation and education services, including case consultation, collaboration
202 with other county service agencies, public education, and public information; and

203 (x) services to persons incarcerated in a county jail or other county correctional facility.

204 (7) (a) If a local mental health authority provides for a local mental health crisis line
205 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local
206 mental health authority shall:

- 207 (i) collaborate with the statewide mental health crisis line described in Section
208 [62A-15-1302](#);
- 209 (ii) ensure that each individual who answers calls to the local mental health crisis line:
210 (A) is a mental health therapist or a crisis worker; and
211 (B) meets the standards of care and practice established by the Division of Substance
212 Abuse and Mental Health, in accordance with Section [62A-15-1302](#); and
213 (iii) ensure that when necessary, based on the local mental health crisis line's capacity,

214 calls are immediately routed to the statewide mental health crisis line to ensure that when an
215 individual calls the local mental health crisis line, regardless of the time, date, or number of
216 individuals trying to simultaneously access the local mental health crisis line, a mental health
217 therapist or a crisis worker answers the call without the caller first:

218 (A) waiting on hold; or

219 (B) being screened by an individual other than a mental health therapist or crisis
220 worker.

221 (b) If a local mental health authority does not provide for a local mental health crisis
222 line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the
223 local mental health authority shall use the statewide mental health crisis line as a local crisis
224 line resource.

225 (8) Before disbursing any public funds, each local mental health authority shall require
226 that each entity that receives any public funds from a local mental health authority agrees in
227 writing that:

228 (a) the entity's financial records and other records relevant to the entity's performance
229 of the services provided to the mental health authority shall be subject to examination by:

230 (i) the division;

231 (ii) the local mental health authority director;

232 (iii) (A) the county treasurer and county or district attorney; or

233 (B) if two or more counties jointly provide mental health services under an agreement
234 under Subsection (3), the designated treasurer and the designated legal officer;

235 (iv) the county legislative body; and

236 (v) in a county with a county executive that is separate from the county legislative
237 body, the county executive;

238 (b) the county auditor may examine and audit the entity's financial and other records
239 relevant to the entity's performance of the services provided to the local mental health
240 authority; and

241 (c) the entity will comply with the provisions of Subsection (5)(b).

242 (9) A local mental health authority may receive property, grants, gifts, supplies,
243 materials, contributions, and any benefit derived therefrom, for mental health services. If those
244 gifts are conditioned upon their use for a specified service or program, they shall be so used.

245 (10) Public funds received for the provision of services pursuant to the local mental
 246 health plan may not be used for any other purpose except those authorized in the contract
 247 between the local mental health authority and the provider for the provision of plan services.

248 (11) (a) A local mental health authority shall provide [~~assisted outpatient treatment~~
 249 ~~services, as described in Section 62A-15-630.4,~~] mental health services to a resident of the
 250 county who [~~has been~~]:

251 (i) is ordered under Section 62A-15-630.5 to receive assisted outpatient treatment[-]; or

252 (ii) is committed to the custody or jurisdiction of the local mental health authority
 253 under Section 62A-15-631.

254 (b) The mental health services described in Subsection (11)(a) shall include:

255 (i) case management; and

256 (ii) an individualized treatment plan created with, if possible, input from the resident of
 257 the county.

258 (c) An order for assisted outpatient treatment under Section 62A-15-630.5 does not
 259 authorize the local mental health authority to forcibly medicate the resident of the county.

260 Section 2. Section **31A-22-651** is amended to read:

261 **31A-22-651. Insurance coverage for assisted outpatient treatment and**
 262 **involuntary civil commitment.**

263 [~~(1) As used in this section, "assisted outpatient treatment" means the same as that term~~
 264 ~~is defined in Section 62A-15-602.~~]

265 [(2)] A health insurance provider may not deny an insured the benefits of the insured's
 266 policy solely because the health care that the insured receives is provided under a court order
 267 for assisted outpatient treatment, as provided in Section 62A-15-630.5, or under a court order
 268 for civil commitment, as provided in Section 62A-15-631.

269 Section 3. Section **53-10-208.1** is amended to read:

270 **53-10-208.1. Magistrates and court clerks to supply information.**

271 (1) Every magistrate or clerk of a court responsible for court records in this state shall,
 272 within 30 days of the disposition and on forms and in the manner provided by the division,
 273 furnish the division with information pertaining to:

274 (a) all dispositions of criminal matters, including:

275 (i) guilty pleas;

- 276 (ii) convictions;
- 277 (iii) dismissals;
- 278 (iv) acquittals;
- 279 (v) pleas held in abeyance;
- 280 (vi) judgments of not guilty by reason of insanity;
- 281 (vii) judgments of guilty with a mental illness;
- 282 (viii) finding of mental incompetence to stand trial; and
- 283 (ix) probations granted;
- 284 (b) orders of civil commitment under the terms of Section [62A-15-631](#) and orders of
- 285 assisted outpatient treatment under the terms of Section [62A-15-630.5](#);
- 286 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
- 287 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section [78B-6-303](#),
- 288 within one day of the action and in a manner provided by the division; and
- 289 (d) protective orders issued after notice and hearing, pursuant to:
- 290 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
- 291 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
- 292 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; or
- 293 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.
- 294 (2) The court in the county where a determination or finding was made shall transmit a
- 295 record of the determination or finding to the bureau no later than 48 hours after the
- 296 determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:
- 297 (a) adjudicated as a mental defective; or
- 298 (b) involuntarily committed to a mental institution in accordance with [~~Subsection~~
- 299 ~~62A-15-631(16)~~] Section [62A-15-631](#).
- 300 (3) The record described in Subsection (2) shall include:
- 301 (a) an agency record identifier;
- 302 (b) the individual's name, sex, race, and date of birth; and
- 303 (c) the individual's social security number, government issued driver license or
- 304 identification number, alien registration number, government passport number, state
- 305 identification number, or FBI number.

306 Section 4. Section **62A-15-602** is amended to read:

307 **62A-15-602. Definitions.**

308 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of
 309 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah
 310 Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part
 311 12, Essential Treatment and Intervention Act:

312 (1) "Adult" means an individual 18 years [~~of age~~] old or older.

313 (2) "Approved treatment facility or program" means a treatment provider that meets the
 314 standards described in Subsection [62A-15-103\(2\)\(a\)\(v\)](#).

315 (3) "Assisted outpatient treatment" means involuntary outpatient mental health
 316 treatment ordered under Section [62A-15-630.5](#).

317 (4) [~~"Commitment~~] "Committed to the custody of a local mental health authority"
 318 means that an adult is committed to the custody or jurisdiction of the local mental health
 319 authority that governs the mental health catchment area where the adult resides or is found.

320 (5) "Community mental health center" means an entity that provides treatment and
 321 services to a resident of a designated geographical area, that operates by or under contract with
 322 a local mental health authority, and that complies with state standards for community mental
 323 health centers.

324 (6) "Community placement safety evaluation" means an evaluation that considers:

325 (a) whether a patient, because of the patient's mental illness, is likely to become a
 326 danger to self or others if discharged;

327 (b) any pending criminal charges against the patient;

328 (c) the patient's criminal history;

329 (d) the risk the patient poses to the community if discharged;

330 (e) the availability of treatment for the patient in the community; and

331 (f) whether a local mental health authority is able to provide appropriate treatment to
 332 the patient.

333 [~~(6)~~] (7) "Designated examiner" means:

334 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as
 335 specially qualified by training or experience in the diagnosis of mental or related illness; or

336 (b) a licensed mental health professional designated by the division as specially
 337 qualified by training and who has at least five years' continual experience in the treatment of

338 mental illness.

339 ~~[(7)]~~ (8) "Designee" means a physician who has responsibility for medical functions
340 including admission and ~~[discharge]~~ release, an employee of a local mental health authority, or
341 an employee of a person that has contracted with a local mental health authority to provide
342 mental health services under Section [17-43-304](#).

343 (9) "Discharge" means:

344 (a) to release an individual from the Utah State Hospital or another secure facility; or

345 (b) to dismiss a court order requiring commitment of a forensic-track patient.

346 ~~[(8)]~~ (10) "Essential treatment" and "essential treatment and intervention" mean
347 court-ordered treatment at a local substance abuse authority or an approved treatment facility or
348 program for the treatment of an adult's substance use disorder.

349 (11) "Forensic-track patient" means a patient who is civilly committed to a secure
350 facility and whose civil commitment is ordered after a court:

351 (a) finds the patient is incompetent to proceed without a substantial probability that the
352 patient will become competent in the foreseeable future under Section [77-15-6](#); or

353 (b) terminates the patient's commitment for restoration treatment under Section
354 [77-15-6](#).

355 ~~[(9)]~~ (12) "Harmful sexual conduct" means the following conduct upon an individual
356 without the individual's consent, including the nonconsensual circumstances described in
357 Subsections [76-5-406](#) (2)(a) through (l):

358 (a) sexual intercourse;

359 (b) penetration, however slight, of the genital or anal opening of the individual;

360 (c) any sexual act involving the genitals or anus of the actor or the individual and the
361 mouth or anus of either individual, regardless of the gender of either participant; or

362 (d) any sexual act causing substantial emotional injury or bodily pain.

363 ~~[(10)]~~ (13) "Institution" means a hospital or a health facility licensed under Section
364 [26-21-8](#).

365 ~~[(11)]~~ (14) "Local substance abuse authority" means the same as that term is defined in
366 Section [62A-15-102](#) and described in Section [17-43-201](#).

367 ~~[(12)]~~ (15) "Mental health facility" means the Utah State Hospital or other facility that
368 provides mental health services under contract with the division, a local mental health

369 authority, a person that contracts with a local mental health authority, or a person that provides
370 acute inpatient psychiatric services to a patient.

371 ~~[(13)]~~ (16) "Mental health officer" means an individual who is designated by a local
372 mental health authority as qualified by training and experience in the recognition and
373 identification of mental illness, to:

374 (a) apply for and provide certification for a temporary commitment; or
375 (b) assist in the arrangement of transportation to a designated mental health facility.

376 ~~[(14)]~~ (17) "Mental illness" means:

377 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
378 behavioral, or related functioning; or

379 (b) the same as that term is defined in:

380 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
381 published by the American Psychiatric Association; or

382 (ii) the current edition of the International Statistical Classification of Diseases and
383 Related Health Problems.

384 ~~[(15)]~~ (18) "Patient" means an individual who is:

385 (a) ~~[under commitment]~~ civilly committed to the custody or to the treatment services of
386 a local mental health authority; or

387 (b) undergoing essential treatment and intervention.

388 ~~[(16)]~~ (19) "Physician" means an individual who is:

389 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

390 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical
391 Practice Act.

392 (20) "Qualified examiner" means an individual licensed under Title 58, Chapter 60,
393 Mental Health Professional Practice Act, who is qualified by training and education to conduct
394 a community placement safety evaluation.

395 (21) "Qualified mental health therapist" means an individual licensed under Title 58,
396 Chapter 60, Mental Health Professional Practice Act, who is qualified by training and
397 education in the diagnosis of mental illness or related illnesses.

398 ~~[(17)]~~ (22) "Serious bodily injury" means bodily injury that involves a substantial risk
399 of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or

400 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

401 ~~[(18)]~~ (23) "Substantial danger" means that due to mental illness, an individual is at
402 serious risk of:

403 (a) suicide;

404 (b) serious bodily self-injury;

405 (c) serious bodily injury because the individual is incapable of providing the basic
406 necessities of life, including food, clothing, or shelter;

407 (d) causing or attempting to cause serious bodily injury to another individual; or

408 (e) engaging in harmful sexual conduct.

409 ~~[(19)]~~ (24) "Treatment" means psychotherapy, medication, including the administration
410 of psychotropic medication, or other medical treatments that are generally accepted medical or
411 psychosocial interventions for the purpose of restoring the patient to an optimal level of
412 functioning in the least restrictive environment.

413 Section 5. Section **62A-15-605** is amended to read:

414 **62A-15-605. Forensic Mental Health Coordinating Council -- Establishment and**
415 **purpose.**

416 (1) There is established the Forensic Mental Health Coordinating Council composed of
417 the following members:

418 (a) the director of the Division of Substance Abuse and Mental Health or the director's
419 appointee;

420 (b) the superintendent of the state hospital or the superintendent's appointee;

421 (c) the executive director of the Department of Corrections or the executive director's
422 appointee;

423 (d) a member of the Board of Pardons and Parole or ~~[its]~~ the board's appointee;

424 (e) the attorney general or the attorney general's appointee;

425 (f) a county or district attorney or the county attorney or district attorney's appointee

426 from:

427 (i) a county of the first class, as classified in Section [17-50-501](#); and

428 (ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section
429 [17-50-501](#);

430 (g) an attorney practicing criminal defense recommended by the Utah Association of

431 Criminal Defense Lawyers;

432 ~~[(f)]~~ (h) the director of the Division of Services for People with Disabilities or the
433 director's appointee;

434 ~~[(g)]~~ (i) the director of the Division of Juvenile Justice Services or the director's
435 appointee;

436 ~~[(h)]~~ (j) the director of the Commission on Criminal and Juvenile Justice or the
437 director's appointee;

438 ~~[(i)]~~ (k) the state court administrator or the administrator's appointee;

439 ~~[(j)]~~ (l) the state juvenile court administrator or the administrator's appointee;

440 ~~[(k)]~~ (m) a representative from a local mental health authority or an organization,
441 excluding the state hospital that provides mental health services under contract with the
442 Division of Substance Abuse and Mental Health or a local mental health authority, as
443 appointed by the director of the division;

444 ~~[(l)]~~ (n) the executive director of the Utah Developmental Disabilities Council or the
445 director's appointee; and

446 ~~[(m)]~~ (o) other individuals, including individuals from appropriate advocacy
447 organizations with an interest in the mission described in Subsection (3), as appointed by the
448 members described in Subsections (1)(a) through (l).

449 (2) ~~[A member]~~ Except for compensation or benefits provided to the member in the
450 member's ordinary course of employment, a member who is not employed by the state may not
451 receive compensation or benefits for the member's service, but may receive per diem and travel
452 expenses in accordance with:

453 (a) Section [63A-3-106](#);

454 (b) Section [63A-3-107](#); and

455 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
456 [63A-3-107](#).

457 (3) The purpose of the Forensic Mental Health Coordinating Council is to:

458 (a) advise the director regarding the state hospital admissions policy for individuals in
459 the custody of the Department of Corrections;

460 (b) develop policies for coordination between the division and the Department of
461 Corrections;

462 (c) advise the executive director of the Department of Corrections regarding
463 department policy related to the care of individuals in the custody of the Department of
464 Corrections who are mentally ill;

465 (d) promote communication between and coordination among all agencies dealing with
466 individuals with an intellectual disability or mental illness who become involved in the civil
467 commitment system or in the criminal or juvenile justice system;

468 (e) study, evaluate, and recommend changes to laws and procedures relating to
469 individuals with an intellectual disability or mental illness who become involved in the civil
470 commitment system or in the criminal or juvenile justice system;

471 (f) identify and promote the implementation of specific policies and programs to deal
472 fairly and efficiently with individuals with an intellectual disability or mental illness who
473 become involved in the civil commitment system or in the criminal or juvenile justice system;

474 (g) promote judicial education relating to individuals with an intellectual disability or
475 mental illness who become involved in the civil commitment system or in the criminal or
476 juvenile justice system; and

477 (h) in consultation with the Utah Substance Abuse Advisory Council created in Section
478 [63M-7-301](#), study the long-term need for adult patient beds at the state hospital, including:

479 (i) the total number of beds currently in use in the adult general psychiatric unit of the
480 state hospital;

481 (ii) the current bed capacity at the state hospital;

482 (iii) the projected total number of beds needed in the adult general psychiatric unit of
483 the state hospital over the next three, five, and 10 years based on:

484 (A) the state's current and projected population growth;

485 (B) current access to mental health resources in the community; and

486 (C) any other factors the Forensic Mental Health Coordinating Council finds relevant
487 to projecting the total number of beds; and

488 (iv) the cost associated with the projected total number of beds described in Subsection
489 (3)(h)(iii).

490 (4) The Forensic Mental Health Coordinating Council shall report the results of the
491 study described in Subsection (3)(h) and any recommended changes to laws or procedures
492 based on the results to the Health and Human Services Interim Committee before November 30

493 of each year.

494 Section 6. Section **62A-15-626** is amended to read:

495 **62A-15-626. Release from commitment.**

496 (1) (a) Subject to Subsection (1)(b), a local mental health authority or the local mental
497 health authority's designee shall release a patient from commitment [~~any individual who, in the~~
498 ~~opinion of the local mental health authority or the mental health authority's designee, has~~
499 ~~recovered or no longer meets the criteria specified in Section 62A-15-631~~] in accordance with
500 Section 62A-15-631 and make an effort to ensure that any supportive services required to meet
501 the patient's needs upon release are provided.

502 (b) A local mental health authority's inability to locate a [~~committed individual~~] patient
503 may not be the basis for the [~~individual's~~] patient's release, unless the court orders the release of
504 the [~~individual~~] patient after a hearing at which the court makes an individualized
505 determination that good cause exists to release the patient.

506 (2) A local mental health authority may conditionally release a patient to a less
507 restrictive environment in accordance with Section 62A-15-637.

508 [~~(2) A local mental health authority or the mental health authority's designee may~~
509 ~~release from commitment any patient whose commitment is determined to be no longer~~
510 ~~advisable except as provided by Section 78A-6-120, but an effort shall be made to assure that~~
511 ~~any further supportive services required to meet the patient's needs upon release will be~~
512 ~~provided.]~~

513 [~~(3) When a patient has been committed to a local mental health authority by judicial~~
514 ~~process, the local mental health authority shall follow the procedures described in Sections~~
515 ~~62A-15-636 and 62A-15-637.]~~

516 Section 7. Section **62A-15-631** is amended to read:

517 **62A-15-631. Civil commitment under court order -- Examination -- Hearing --**
518 **Power of court -- Findings required -- Release from commitment -- Assisted outpatient**
519 **treatment -- Costs.**

520 (1) A responsible individual who has credible knowledge of an adult's mental illness
521 and the condition or circumstances that have led to the adult's need to be involuntarily
522 committed to the custody or jurisdiction of a local mental health authority may initiate an
523 involuntary commitment court proceeding by filing, in the district court in the county where the

524 adult proposed patient resides or is found, a written application that includes:

525 (a) unless the court finds that the information is not reasonably available, the proposed
526 patient's:

527 (i) name;

528 (ii) date of birth; and

529 (iii) social security number;

530 (b) (i) a certificate of a licensed physician or a designated examiner stating that within
531 the seven-day period immediately preceding the certification, the physician or designated
532 examiner examined the proposed patient and is of the opinion that the proposed patient has a
533 mental illness and should be involuntarily committed to the custody or jurisdiction of a local
534 mental health authority; or

535 (ii) a written statement by the applicant that:

536 (A) the proposed patient has been requested to, but has refused to, submit to an
537 examination of mental condition by a licensed physician or designated examiner;

538 (B) is sworn to under oath; and

539 (C) states the facts upon which the application is based; [~~and~~]

540 (c) a statement whether the proposed patient has previously been under an order for
541 commitment or an assisted outpatient treatment order, if known by the applicant[-]; and

542 (d) an explanation of the mental health services provided to the proposed patient under
543 an order described in Subsection (1)(c), if known by the applicant.

544 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may
545 require the applicant to consult with the appropriate local mental health authority or the local
546 mental health authority's designee, and the court may direct a qualified mental health
547 [~~professional~~] therapist from [~~that~~] the local mental health authority to interview the applicant
548 and the proposed patient to determine the existing facts and report [~~them~~] the facts to the court.

549 (b) The consultation described in Subsection (2)(a):

550 (i) may take place at or before the hearing; and

551 (ii) is required if the local mental health authority or the local mental health authority's
552 designee appears at the hearing.

553 (3) (a) [~~If the court finds from the application, from any other statements under oath, or~~
554 ~~from any reports from a mental health professional that there is a reasonable basis to believe~~

555 ~~that the proposed patient has a mental illness that poses a substantial danger to self or others~~
 556 ~~requiring involuntary commitment pending examination and hearing; or, if the proposed patient~~
 557 ~~has refused to submit to an interview with a mental health professional as directed by the court~~
 558 ~~or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental~~
 559 ~~health officer or peace officer, to immediately place] The court may order the proposed patient~~
 560 ~~be placed in the custody or under the jurisdiction of a local mental health authority [or] and be~~
 561 ~~detained for the purpose of examination in a temporary emergency facility [as provided in] as~~
 562 ~~described in Section 62A-15-634 [to be detained for the purpose of examination.] if:~~

563 (i) the court finds from the application, any other statements under oath, or any reports
 564 from a mental health professional that there is a reasonable basis to believe that the proposed
 565 patient has a mental illness that poses a substantial danger to self or others requiring
 566 involuntary commitment pending examination and hearing; or

567 (ii) the proposed patient refuses to submit to an interview with a qualified mental
 568 health therapist as directed by the court or go to a treatment facility voluntarily.

569 (b) An order issued under Subsection (3)(a) shall direct a mental health officer or peace
 570 officer to immediately take physical custody of the proposed patient and place the proposed
 571 patient in the temporary emergency facility.

572 (4) (a) Notice of commencement of proceedings for involuntary commitment, setting
 573 forth the allegations of the application and any reported facts, together with a copy of any
 574 official order of detention, shall:

575 (i) be provided by the court to [a] the proposed patient;

576 (A) before, or upon, placement of the proposed patient in the custody or under the
 577 jurisdiction of a local mental health authority under Subsection (3); or[;]

578 (B) with respect to [any] a proposed patient presently [in] committed to the custody or
 579 jurisdiction of a local mental health authority whose status is being changed from voluntary to
 580 involuntary, upon the filing of an application for that purpose with the court[; A copy of that
 581 order of detention shall be maintained at the place of detention.];

582 ~~[(5) Notice of commencement of those proceedings shall]~~

583 (ii) be provided by the court as soon as practicable to:

584 (A) the applicant[;];

585 (B) any legal guardian[;] of the proposed patient;

586 (C) any immediate adult family members~~[;]~~ of the proposed patient;

587 (D) legal counsel for the parties involved~~[;]~~;

588 (E) the local mental health authority or ~~[its]~~ the local mental health authority's

589 designee~~[;]~~; and

590 (F) any other persons whom the proposed patient or the court ~~[shall designate. That~~

591 ~~notice shall]~~ designates; and

592 (iii) advise ~~[those persons]~~ that a hearing may be held within the time provided by law.

593 [~~If]~~

594 (b) A copy of any official order of detention shall be maintained at the proposed

595 patient's place of detention.

596 (c) The court shall determine the extent of the notice that is required if the proposed

597 patient has refused to permit release of information necessary for provisions of notice under

598 this [subsection, the extent of notice shall be determined by the court] Subsection (4).

599 ~~[(6)]~~ (5) ~~[Proceedings]~~ A proceeding for commitment of an individual under ~~[the age~~

600 ~~of]~~ 18 years old to a local mental health authority may be commenced in accordance with Part

601 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

602 ~~[(7)]~~ (6) The district court may, in ~~[its]~~ the district court's discretion, transfer the case

603 to any other district court within ~~[this]~~ the state, provided that the transfer ~~[will not be]~~ is not

604 adverse to the interest of the proposed patient.

605 ~~[(8)]~~ (7) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, ~~[of]~~ after

606 the [issuance of] the court issues a judicial order, or after [commitment of] the day on which a

607 proposed patient is committed to the custody of a local mental health authority or [its] the local

608 mental health authority's designee under [court order for detention or examination] Subsection

609 (3), the court shall appoint two designated examiners:

610 (a) who did not sign the civil commitment application nor the civil commitment

611 certification under Subsection (1);

612 (b) one of whom is a licensed physician; and

613 (c) one of whom may be designated by the proposed patient or the proposed patient's

614 counsel, if ~~[that]~~ the designated examiner is reasonably available.

615 ~~[(9)]~~ (8) The court shall schedule a hearing to be held within 10 ~~[calendar]~~ days ~~[of]~~

616 after the day on which the designated examiners are appointed.

617 ~~[(10)]~~ (9) (a) The designated examiners shall:
618 ~~[(a)]~~ (i) conduct their examinations separately;
619 ~~[(b)]~~ (ii) conduct the examinations at the home of the proposed patient, at a hospital or
620 other medical facility, or at any other suitable place that is not likely to have a harmful effect on
621 the proposed patient's health;
622 ~~[(c)]~~ (iii) inform the proposed patient, if not represented by an attorney:
623 ~~[(i)]~~ (A) that the proposed patient does not have to say anything;
624 ~~[(ii)]~~ (B) of the nature and reasons for the examination;
625 ~~[(iii)]~~ (C) that the examination was ordered by the court;
626 ~~[(iv)]~~ (D) that any information volunteered could form part of the basis for the
627 proposed patient's involuntary commitment;
628 ~~[(v)]~~ (E) that findings resulting from the examination will be made available to the
629 court; and
630 ~~[(vi)]~~ (F) that the designated examiner may, under court order or subpoena, obtain the
631 proposed patient's medical or mental health records; and
632 ~~[(d)]~~ (iv) within 24 hours ~~[of]~~ after examining the proposed patient, report to the court,
633 orally or in writing, whether the proposed patient is mentally ill, ~~[has agreed]~~ agrees to
634 voluntary commitment, as described in Section 62A-15-625, or has acceptable treatment
635 programs available to the proposed patient without court proceedings.
636 (b) If the designated examiner reports orally, the designated examiner shall
637 immediately send a written report to the clerk of the court.
638 ~~[(11)]~~ (10) If a designated examiner is unable to complete an examination on the first
639 attempt because the proposed patient refuses to submit to the examination, the court shall fix a
640 reasonable compensation to be paid to the examiner.
641 ~~[(12)]~~ (11) If the local mental health authority, ~~[its]~~ the local mental health authority's
642 designee, or a ~~[medical]~~ designated examiner determines before the court hearing that the
643 conditions justifying the findings leading to a commitment hearing no longer exist, the local
644 mental health authority, ~~[its]~~ the local mental health authority's designee, or the ~~[medical]~~
645 designated examiner shall immediately report ~~[that]~~ the determination to the court.
646 ~~[(13)]~~ (12) The court may terminate the proceedings and dismiss the application at any
647 time, including ~~[prior to the hearing]~~ before the day on which the hearing is held, if ~~[the]~~ both

648 designated examiners or the local mental health authority or ~~[its]~~ the local mental health
649 authority's designee informs the court that the proposed patient:

650 (a) is not mentally ill;

651 (b) ~~[has agreed]~~ agrees to voluntary commitment, as described in Section 62A-15-625;

652 or

653 (c) has acceptable ~~[options for]~~ treatment programs ~~[that are]~~ available without court
654 proceedings.

655 ~~[(14)]~~ (13) (a) Before the hearing, the court shall afford the proposed patient an
656 opportunity to be represented by counsel ~~[shall be afforded to the proposed patient]~~, and if
657 neither the proposed patient nor others provide counsel, the court shall appoint counsel and
658 allow counsel sufficient time to consult with the proposed patient before the hearing.

659 (b) In the case of an indigent proposed patient, the county in which the proposed
660 patient resides or is found shall make payment of reasonable attorney fees for counsel, as
661 determined by the court~~[- shall be made by the county in which the proposed patient resides or~~
662 ~~is found]~~.

663 ~~[(15)(a)]~~ (14) (a) (i) The court shall afford a proposed patient, the applicant, and all
664 other persons to whom notice is required to be given ~~[shall be afforded]~~ an opportunity to
665 appear at the hearing, to testify, and to present and cross-examine witnesses.

666 (ii) The court may, in ~~[its]~~ the court's discretion, receive the testimony of any other
667 interested person.

668 (iii) The court may allow a waiver of the proposed patient's right to appear only for an
669 individualized showing of good cause ~~[shown, and that cause shall be made a matter of court]~~
670 on the record.

671 (b) The court is authorized to exclude all ~~[persons]~~ individuals not necessary for the
672 conduct of the proceedings and may, upon motion of counsel for the proposed patient or upon
673 request by the local mental health authority or the local mental health authority's designee,
674 require the testimony of each designated examiner ~~[to]~~ be given out of the presence of any
675 other designated examiners.

676 (c) The court shall conduct the hearing ~~[shall be conducted]~~ in as informal a manner as
677 may be consistent with orderly procedure, and in a physical setting that is not likely to have a
678 harmful effect on the mental health of the proposed patient.

679 (d) The court shall consider all relevant historical and material information that is
680 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah
681 Rules of Evidence.

682 (e) (i) A local mental health authority [~~or its~~], the local mental health authority's
683 designee, the applicant, or the [physician] other individual in charge of the proposed patient's
684 [care] treatment shall, at the time of the hearing, provide the court with the following
685 information, if known or available:

686 (A) the detention order;

687 (B) admission notes;

688 (C) the diagnosis;

689 (D) any doctors' orders;

690 (E) progress notes;

691 (F) nursing notes;

692 (G) medication records pertaining to the current commitment; [~~and~~]

693 (H) whether the proposed patient has previously been [~~civily committed or~~] under an
694 order for commitment or an order for assisted outpatient treatment[-]; and

695 (I) an explanation of the mental health services provided to the proposed patient under
696 an order described in Subsection (14)(e)(i)(H).

697 (ii) (A) Subject to the requirements of the Health Insurance Portability and
698 Accountability Act of 1996, the court may, on a showing of good cause, issue a subpoena that
699 requires medical or mental health records of a proposed patient be provided to the local mental
700 health authority in charge of the proposed patient's treatment.

701 (B) Good cause exists under Subsection (14)(e)(ii)(A) if the court finds additional
702 medical or mental health records are necessary for a designated examiner to complete an
703 examination or report under this section or the court to determine whether commitment of the
704 proposed patient is justified.

705 (C) The court may issue a protective order that limits a person from producing or
706 sharing information in the proposed patient's medical or mental health records and the use of
707 the records to purposes related to the commitment proceedings for the proposed patient.

708 (D) If the court issues a subpoena under this Subsection (14)(e)(ii), the hearing may be
709 continued for up to 14 days to allow for production of the medical or mental health records.

710 ~~[(11)]~~ (iii) ~~[That]~~ The information described in Subsections (14)(e)(i) and (ii) shall
711 [also] be [supplied] provided to the proposed patient's counsel;

712 (A) at the time of the hearing[;]; and

713 (B) at any time [prior to] before the hearing upon request.

714 ~~[(16)]~~ (15) (a) The court shall order [commitment of a] an adult proposed patient [who
715 is 18 years of age or older to] be committed to the custody of a local mental health authority if,
716 upon completion of the hearing and consideration of the information presented, the court finds
717 by clear and convincing evidence that:

718 ~~[(a)]~~ (i) the proposed patient has a mental illness;

719 ~~[(b)]~~ (ii) because of the proposed patient's mental illness, the proposed patient poses a
720 substantial danger to self or others;

721 ~~[(c)]~~ (iii) the proposed patient lacks the ability to engage in a rational decision-making
722 process regarding the acceptance of mental treatment as demonstrated by evidence of inability
723 to weigh the possible risks of accepting or rejecting treatment;

724 ~~[(d)]~~ (iv) there is no appropriate [less-restrictive] less restrictive alternative to a court
725 order of commitment; and

726 ~~[(e)]~~ (v) the local mental health authority can provide the proposed patient with
727 treatment that is adequate and appropriate to the proposed patient's conditions and needs. [~~In~~
728 the absence of the required findings of the court after the hearing, the court shall dismiss the
729 proceedings.]

730 (b) (i) If, at the hearing described in Subsection (15)(a), the court determines that the
731 proposed patient has a mental illness but does not meet the other conditions described in
732 Subsection (15)(a), the court may consider whether the proposed patient meets the conditions
733 for assisted outpatient treatment under Section [62A-15-630.5](#).

734 (ii) The court shall order the proposed patient receive assisted outpatient treatment if,
735 at the hearing described in Subsection (15)(a), the court finds the proposed patient meets the
736 conditions for assisted outpatient treatment under Section [62A-15-630.5](#).

737 (c) If the court determines that neither the conditions for commitment under Subsection
738 (15)(a) or assisted outpatient treatment under Section [62A-15-630.5](#) are met, the court shall
739 dismiss the proceedings after the hearing described in Subsection (15)(a).

740 ~~[(17)]~~ (16) (a) (i) The order of commitment shall designate the period for which the

741 patient shall be treated.

742 (ii) When the patient is not under an order of commitment at the time of the hearing,
743 ~~[that]~~ the period for which the patient shall be treated may not exceed six months without
744 ~~[benefit of]~~ a review hearing.

745 (iii) Upon ~~[such]~~ a review hearing, ~~[to be]~~ commenced ~~[prior to the expiration of the~~
746 ~~previous order]~~ before the day on which the previous order of commitment expires, an order
747 ~~[for]~~ of commitment may be for an indeterminate period, if the court finds by clear and
748 convincing evidence that the required conditions described in Subsection ~~[(16)]~~ (15)(a) will last
749 for an indeterminate period.

750 (b) The court shall:

751 (i) maintain a current list of all patients under [its] the court's order of commitment~~[-~~
752 ~~That list shall be reviewed]~~;

753 (ii) review the list to determine those patients who have been under an order of
754 commitment for the ~~[designated period. At least two weeks prior to the expiration of the~~
755 ~~designated]~~ period of commitment designated in the order; and

756 (iii) at least 30 days before the day on which the period [of any order] of commitment
757 ~~[still in effect, the court that entered the original order shall]~~ designated in an order expires,
758 inform the appropriate local mental health authority or ~~[its]~~ the local mental health authority's
759 designee of the expiration.

760 (c) (i) The local mental health authority or [its] the local mental health authority's
761 designee that is responsible for a patient under an order of commitment for a designated period
762 of time shall [immediately reexamine] examine the reasons upon which the order of
763 commitment ~~[was]~~ is based~~[- If the local mental health authority or its designee determines~~
764 ~~that the conditions justifying that commitment no longer exist, it shall discharge the patient~~
765 ~~from involuntary commitment and immediately report the discharge to the court. Otherwise,~~
766 ~~the court shall immediately appoint two designated examiners and proceed under Subsections~~
767 ~~(8) through (14):]~~ in accordance with Section [62A-15-636](#) and immediately upon determining a
768 patient has been under an order of commitment for the period of commitment designated in the
769 order.

770 (ii) The local mental health authority or the local mental health authority's designee
771 responsible for a patient under an order of commitment for an indeterminate period shall

772 examine the reasons upon which the order of commitment is based in accordance with Section
773 62A-15-636 and at least every six months.

774 ~~[(c) The local mental health authority or its designee responsible for the care of a~~
775 ~~patient under an order of commitment for an indeterminate period shall, at six-month intervals,~~
776 ~~reexamine the reasons upon which the order of indeterminate commitment was based. If the~~
777 ~~local mental health authority or its designee determines that the conditions justifying that~~
778 ~~commitment no longer exist, that local mental health authority or its designee shall discharge~~
779 ~~the patient from its custody and immediately report the discharge to the court. If the local~~
780 ~~mental health authority or its designee determines that the conditions justifying that~~
781 ~~commitment continue to exist, the local mental health authority or its designee shall send a~~
782 ~~written report of those findings to the court. The patient and the patient's counsel of record~~
783 ~~shall be notified in writing that the involuntary commitment will be continued, the reasons for~~
784 ~~that decision, and that the patient has the right to a review hearing by making a request to the~~
785 ~~court. Upon receiving the request, the court shall immediately appoint two designated~~
786 ~~examiners and proceed under Subsections (8) through (14).]~~

787 (d) (i) If, after examination, the local mental health authority or the local mental health
788 authority's designee determines that continued commitment of a patient is justified, the local
789 mental health authority or the local mental health authority's designee shall send a written
790 report of the determination to the court that issued the original order of commitment.

791 (ii) The local mental health authority or the local mental health authority's designee
792 shall notify, in writing, the patient and all counsel of record:

793 (A) of the reasons for the determination under Subsection (16)(d)(i); and

794 (B) that the patient may request a review hearing by making the request to the court.

795 (iii) Upon receipt of the request described in Subsection (16)(d)(ii)(B), the court shall
796 immediately:

797 (A) appoint two designated examiners; and

798 (B) proceed in accordance with Subsections (7) through (13).

799 (e) If the local mental health authority or the local mental health authority's designee
800 determines after examination of a patient that the conditions justifying commitment of the
801 patient no longer exist, the local mental health authority or the local mental health authority's
802 designee shall release the patient from the custody or jurisdiction of the local mental health

803 authority and immediately report the release to the court that issued the original order of
804 commitment.

805 (f) (i) If the local mental health authority or the local mental health authority's designee
806 determines after examination of a forensic-track patient that the forensic-track patient will be
807 eligible for discharge at a future date, the local mental health authority or the local mental
808 health authority's designee shall notify the following persons that the forensic-track patient will
809 be discharged at least 60 days before the day on which the local mental health authority or the
810 local mental health authority's designee anticipates the forensic-track patient will be
811 discharged:

812 (A) the court that adjudicated the forensic-track patient incompetent to proceed;

813 (B) the court that originally ordered the forensic-track patient be civilly committed; and

814 (C) all counsel of record in the cases described in Subsections (16)(f)(i)(A) and (B).

815 (ii) (A) After receiving the notice described in Subsection (16)(f)(i), the court that
816 originally ordered the forensic-track patient be civilly committed or, if the forensic-track
817 patient's criminal case is not dismissed, the court that adjudicated the forensic-track patient
818 incompetent to proceed, or any counsel of record may request a community placement safety
819 evaluation of the forensic-track patient be completed by a designated examiner or a qualified
820 examiner at the requesting court's or counsel's expense.

821 (B) If a court or counsel of record requests a community placement safety evaluation of
822 the forensic-track patient, the court or counsel shall, within 15 days after the day on which the
823 court or counsel receives the notice described in Subsection (16)(f)(i), notify all other persons
824 described in Subsection (16)(f)(i) of the request.

825 (iii) (A) The designated examiner or a qualified examiner shall complete and submit
826 the community placement safety evaluation to the court or counsel who requested the
827 evaluation within 30 days after the day on which the designated examiner or qualified examiner
828 is retained by the court or counsel of record.

829 (B) The community placement safety evaluation shall include the designated
830 examiner's or qualified examiner's name and qualifications, a brief summary of all data and
831 other information the designated examiner or qualified examiner relied upon in completing the
832 evaluation, and the compensation to be paid to the designated examiner or qualified examiner
833 for the evaluation.

834 (iv) After receiving the community placement safety evaluation, the court or counsel of
835 record shall:

836 (A) immediately notify the persons described in Subsection (16)(f)(i) of receipt of the
837 evaluation; and

838 (B) provide each of the persons described in Subsection (16)(f)(i) a copy of the
839 evaluation.

840 (v) (A) The court shall conduct a hearing on the issue of discharge of the forensic-track
841 patient within 15 days after the day on which the court receives a copy of the community
842 placement safety evaluation.

843 (B) Subject to Subsection (16)(f)(viii), the court may reschedule the hearing for good
844 cause if the rescheduling does not unreasonably extend the forensic-track patient's anticipated
845 date of discharge.

846 (vi) (A) If, after the hearing described in Subsection (16)(f)(v), the court determines
847 that the conditions justifying placement of the forensic-track patient in a secure facility no
848 longer exist, the court shall order the forensic-track patient be discharged and, if applicable,
849 appropriate treatment be continued in a less restrictive environment.

850 (B) If, after the hearing described in Subsection (16)(f)(v), the court determines that the
851 conditions justifying placement of the forensic-track patient in a secure facility will not exist on
852 the forensic-track patient's anticipated date of discharge, the court shall order the forensic-track
853 patient be discharged on the forensic-track patient's anticipated date of discharge and, if
854 applicable, appropriate treatment be continued in a less restrictive environment.

855 (C) If, after the hearing described in Subsection (16)(f)(v), the court determines that
856 placement of the forensic-track patient in a secure facility is justified because the forensic-track
857 patient meets the conditions described in Subsections (15)(a)(i) and (ii) and the necessary
858 treatment cannot be provided to the forensic-track patient in a less restrictive environment, the
859 court shall identify the treatment the court finds necessary to protect the forensic-track patient
860 or others upon discharge, and order commitment continue and the forensic-track patient remain
861 in a secure facility until the day on which the treatment can be provided or the forensic-track
862 patient is otherwise discharged in accordance with this Subsection (16).

863 (vii) (A) If counsel of record for a forensic-track patient does not enter a renewed
864 appearance within 10 days after the day on which the notice described in Subsection (16)(f)(i)

865 is sent, the court shall appoint counsel for the forensic-track patient in accordance with
866 Subsection (13).

867 (B) For purposes of Subsections (16)(f)(ii) through (vi), counsel appointed under this
868 Subsection (16)(f)(vii) is deemed to have received the notice described in Subsection (16)(f)(i)
869 on the day on which the counsel is appointed by the court.

870 (viii) The process described in this Subsection (16)(f) may not prohibit or delay a
871 forensic-track patient's discharge under Subsection (16)(e).

872 ~~[(18)]~~ (17) (a) [Any] A patient committed as a result of an original hearing or a
873 patient's legally designated representative who is aggrieved by the findings, conclusions, and
874 order of the court entered in the original hearing has the right to a new hearing upon a petition
875 filed with the court within 30 days [of the entry of the court order] after the day on which the
876 court enters the order.

877 (b) The petition described in Subsection (17)(a) must allege error or mistake in the
878 findings, in which case the court shall appoint three [impartial] designated examiners
879 previously unrelated to the case to conduct an additional examination of the patient.

880 (c) The new hearing shall, in all other respects, be conducted in the manner otherwise
881 permitted under this section.

882 ~~[(19)]~~ (18) [Costs] Unless otherwise specified, the county in which the proposed
883 patient resides or is found shall pay the costs of all proceedings under this section [shall be paid
884 by the county in which the proposed patient resides or is found].

885 (19) As provided in Section [31A-22-651](#), a health insurance provider may not deny an
886 insured the benefits of the insured's policy solely because the health care that the insured
887 receives is provided under a court order for civil commitment.

888 Section 8. Section **62A-15-632** is amended to read:

889 **62A-15-632. Circumstances under which conditions justifying initial involuntary**
890 **commitment shall be considered to continue to exist.**

891 (1) After an individual is involuntarily committed to the custody of a local mental
892 health authority under ~~[Subsection [62A-15-631](#)(16)]~~ Section [62A-15-631](#), the conditions
893 justifying commitment under ~~[that subsection]~~ Subsection [62A-15-631](#) shall be considered to
894 continue to exist, for purposes of continued treatment under Subsection [62A-15-631](#) ~~[(17)]~~ or
895 conditional release to a less restrictive environment under Section [62A-15-637](#), unless:

896 (a) the court terminates the civil commitment through a review hearing; or
897 (b) the local mental health authority or a designee of the local mental health authority
898 with custody over the patient [~~discharges~~] releases the patient and provides notice of the
899 [~~discharge~~] release to the court, as described in [~~Subsections 62A-15-631(17)(c) and~~
900 ~~62A-15-637(2)~~] Subsection 62A-15-631(16)(e).

901 (2) A patient whose treatment is continued or who is conditionally released to a less
902 restrictive environment under Section 62A-15-637 shall be maintained in the least restrictive
903 environment available that can provide the patient with the treatment that is adequate and
904 appropriate.

905 (3) Except for on an individualized showing of good cause, a court may not terminate a
906 civil commitment through a review hearing if the patient:

907 (a) is under a conditional release agreement; and

908 (b) does not appear at the review hearing.

909 Section 9. Section **62A-15-636** is amended to read:

910 **62A-15-636. Periodic review.**

911 (1) [~~Each~~] A local mental health authority or [~~its~~] the local mental health authority's
912 designee shall, as frequently as practicable, examine or cause to be examined every [person
913 ~~who has been committed to it. Whenever the local mental health authority or its designee~~
914 determines that the conditions justifying involuntary commitment no longer exist, it shall
915 discharge the patient. If the patient has been committed through judicial proceedings, a report
916 describing that determination shall be sent to the clerk of the court where the proceedings were
917 held] patient who is committed to the local mental health authority.

918 (2) A local mental health authority or the local mental health authority's designee shall
919 proceed in accordance with Subsection 62A-15-631(16) if the local mental health authority or
920 the local mental health authority's designee:

921 (a) determines after examination that the conditions justifying a patient's commitment
922 no longer exist; or

923 (b) anticipates after examination that a forensic-track patient will be eligible for
924 discharge at a future date.

925 Section 10. Section **62A-15-637** is amended to read:

926 **62A-15-637. Release of patient to receive other treatment -- Placement in more or**

927 **less restrictive environment -- Procedures.**

928 (1) A local mental health authority or ~~[a designee of a]~~ the local mental health
929 ~~[authority]~~ authority's designee may conditionally release an improved patient to a less
930 restrictive ~~[treatment]~~ environment when:

931 (a) the local mental health authority specifies the less restrictive treatment; and

932 (b) the patient agrees in writing to the less restrictive ~~[treatment]~~ environment.

933 ~~[(2) (a) Whenever a local mental health authority or a designee of a local mental health~~
934 ~~authority determines that the conditions justifying commitment no longer exist, the local~~
935 ~~mental health authority or the designee shall discharge the patient.]~~

936 ~~[(b) If the discharged patient has been committed through judicial proceedings, the~~
937 ~~local mental health authority or the designee shall prepare a report describing the determination~~
938 ~~and shall send the report to the clerk of the court where the proceedings were held.]~~

939 ~~[(3)]~~ (2) (a) A local mental health authority or ~~[a designee of a]~~ the local mental health
940 ~~[authority]~~ authority's designee is authorized to issue an order for the immediate placement of a
941 ~~[current]~~ patient into a more restrictive environment, if:

942 (i) the local mental health authority or ~~[a designee of a local mental health authority]~~
943 the local mental health authority's designee has reason to believe that the patient's current
944 environment is aggravating the patient's mental illness; or

945 (ii) the patient has failed to comply with the specified treatment plan to which the
946 patient agreed in writing.

947 (b) An order for a more restrictive environment shall:

948 (i) state the reasons for the order;

949 (ii) authorize any peace officer to take the patient into physical custody and transport
950 the patient to a facility designated by the local mental health authority;

951 (iii) inform the patient of the right to a hearing, the right to appointed counsel, and the
952 other procedures described in Subsection [62A-15-631](#)~~[(14)]~~(13); and

953 (iv) ~~[prior to]~~ before or upon admission to the more restrictive environment, or upon
954 imposition of additional or different requirements as conditions for continued conditional
955 release from inpatient care, ~~[copies of the order shall]~~ be delivered to:

956 (A) the patient;

957 (B) the person in whose care the patient is placed;

958 (C) the patient's counsel of record; and

959 (D) the court that entered the original order of commitment.

960 (c) (i) If the patient [~~was~~] is in a less restrictive environment for more than 30 days and
961 is aggrieved by the change to a more restrictive environment, the patient or the patient's
962 representative may request a hearing within 30 days [~~of the change~~] after the day on which the
963 change is made.

964 (ii) Upon receiving the request described in Subsection (2)(c)(i), the court shall
965 immediately appoint two designated examiners and proceed [~~pursuant to~~] in accordance with
966 Section 62A-15-631, with the exception of Subsection 62A-15-631[(16)](15), unless, by the
967 time set for the hearing, the patient is returned to the less restrictive environment or the patient
968 withdraws the request for a hearing, in writing.

969 (d) The court shall:

970 (i) make findings regarding whether the conditions described in Subsections [(3)]
971 (2)(a) and (b) [~~were~~] are met and whether the patient is in the least restrictive environment that
972 is appropriate for the patient's needs; and

973 (ii) designate, by order, the environment for the patient's care and the period for which
974 the patient shall be treated, which may not extend beyond expiration of the original order of
975 commitment.

976 [(4)] (3) [~~Nothing contained in this~~] This section [~~prevents~~] does not prevent a local
977 mental health authority or [~~its~~] the local mental health authority's designee[~~, pursuant to Section~~
978 62A-15-636;] from releasing or discharging a patient from commitment [~~or~~] in accordance with
979 Section 62A-15-631 or from placing a patient in an environment that is less restrictive than that
980 ordered by the court.

981 Section 11. Section **62A-15-643** is amended to read:

982 **62A-15-643. Confidentiality of information and records -- Exceptions -- Penalty.**

983 (1) All certificates, applications, records, and reports made for the purpose of this part,
984 including those made on judicial proceedings for [~~involuntary~~] civil commitment, that directly
985 or indirectly identify a patient or former patient or an individual whose commitment has been
986 sought under this part, [~~shall be kept~~] are confidential and may not be disclosed by any person
987 [~~except insofar as~~] unless:

988 (a) the individual identified or [~~his~~] the individual's legal guardian, if any, or, if a

989 minor, ~~[his]~~ the individual's parent or legal guardian ~~[shall consent]~~, consents to disclosure;

990 (b) disclosure may be necessary to ~~[carry out the provisions of]~~:

991 (i) carry out the provisions of this part~~[-or (ii)]~~ or Section 53-10-208.1; or

992 (ii) assist a mental health officer or peace officer to locate and transport to a treatment
993 facility or behavioral health receiving center an individual who:

994 (A) is under a court order for civil commitment or assisted outpatient treatment;

995 (B) has missed two or more court-ordered review hearings relating to the order; and

996 (C) if untreated, is likely to experience deterioration in a mental condition that results

997 in the individual being a danger to self or others; or

998 (c) a court ~~[may direct, upon its]~~ directs disclosure, upon the court's determination that

999 disclosure is necessary for the conduct of proceedings before ~~[it,]~~ the court and that failure to

1000 make the disclosure would be contrary to the public interest.

1001 (2) A person who knowingly or intentionally discloses any information ~~[not authorized~~
1002 ~~by]~~ in violation of this section is guilty of a class B misdemeanor.

1003 Section 12. Section **77-15-2** is amended to read:

1004 **77-15-2. Definitions.**

1005 As used in this chapter:

1006 (1) "Brain injury" means the same as that term is defined in Section 62A-5-101.

1007 ~~[(1)]~~ (2) "Competency evaluation" means an evaluation conducted by a forensic
1008 evaluator to determine if an individual is competent to stand trial.

1009 ~~[(2)]~~ (3) "Competent to stand trial" means that a defendant has:

1010 (a) a rational and factual understanding of the criminal proceedings against the
1011 defendant and of the punishment specified for the offense charged; and

1012 (b) the ability to consult with the defendant's legal counsel with a reasonable degree of
1013 rational understanding in order to assist in the defense.

1014 ~~[(3)]~~ (4) "Department" means the Department of Human Services.

1015 ~~[(4)]~~ (5) "Forensic evaluator" means a licensed mental health professional who ~~[is]~~:

1016 (a) is not involved in the defendant's treatment; ~~[and]~~

1017 (b) is trained and qualified ~~[by the department]~~ to conduct a competency evaluation~~[-a~~
1018 ~~restoration screening,]~~ and a progress toward competency evaluation~~[-]~~ based on knowledge,

1019 experience, or education relating to:

1020 (i) intellectual functioning or other similar conditions or psychopathology; and
1021 (ii) the legal system and the rights of a defendant in a criminal trial; and
1022 (c) if under contract with the department, demonstrates ongoing education and training
1023 relating to forensic mental health in accordance with rules established by the department in
1024 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1025 ~~[(5)]~~ (6) "Incompetent to proceed" means that a defendant is not competent to stand
1026 trial as a result of a mental illness, intellectual disability, brain injury, or a related condition.

1027 (7) "Intellectual disability" means a disorder with onset during an individual's period of
1028 development that includes both intellectual and adaptive functioning deficits in conceptual,
1029 social, and practical domains.

1030 (8) "Mental illness" means the same as that term is defined in Section [62A-15-602](#).

1031 ~~[(6)]~~ (9) "Petition" means a petition to request a court to determine whether a defendant
1032 is competent to stand trial.

1033 ~~[(7)]~~ (10) "Progress toward competency evaluation" means an evaluation to determine
1034 whether an individual who is receiving restoration treatment is:

1035 (a) competent to stand trial;

1036 (b) incompetent to proceed but has a substantial probability of becoming competent to
1037 stand trial in the foreseeable future; or

1038 (c) incompetent to proceed and does not have a substantial probability of becoming
1039 competent to stand trial in the foreseeable future.

1040 (11) "Related condition" means the same as that term is defined in Section [78A-6-105](#).

1041 ~~[(8)]~~ ~~"Restoration screening" means an assessment of an individual determined to be~~
1042 ~~incompetent to stand trial for the purpose of determining the appropriate placement and~~
1043 ~~restoration treatment for the individual.]~~

1044 ~~[(9)]~~ (12) "Restoration treatment" means training and treatment that is:

1045 (a) provided to an individual who is incompetent to proceed;

1046 (b) tailored to the individual's particular impairment to competency; and

1047 (c) limited to the purpose of restoring the individual to competency.

1048 Section 13. Section **77-15-3** is amended to read:

1049 **77-15-3. Petition for inquiry regarding defendant -- Filing -- Contents.**

1050 (1) When a defendant charged with a public offense ~~[or serving a sentence of~~

1051 ~~imprisonment is]~~ may be incompetent to proceed, [an individual described in Subsection (2)(b)
 1052 ~~may file a petition]~~ a petition shall be filed in the district court of the county where the charge
 1053 is pending [or where the defendant is confined].

1054 (2) (a) The petition shall contain:

1055 (i) a certificate that ~~[it]~~ the petition is filed in good faith and on ~~[reasonable grounds to~~
 1056 ~~believe]~~ reasonable belief that the defendant is incompetent to proceed~~[- The petition shall~~
 1057 ~~contain]~~ on the offense charged;

1058 (ii) a recital of the facts, observations, and conversations with the defendant that have
 1059 formed the basis for the petition~~[-]; and~~

1060 (iii) each charged offense for which the petitioner reasonably believes the defendant is
 1061 incompetent to proceed.

1062 (b) If filed by defense counsel, the petition may not disclose information in violation of
 1063 the attorney-client privilege.

1064 ~~[(b)]~~ (c) The petition may be based upon knowledge or information and belief and may
 1065 be filed by the defendant, any person acting on behalf of the defendant, the prosecuting
 1066 attorney, or any person having custody or supervision over the defendant.

1067 Section 14. Section ~~77-15-3.5~~ is amended to read:

1068 **77-15-3.5. Incompetent to proceed in misdemeanor cases.**

1069 (1) When a defendant charged with a misdemeanor ~~[is]~~ may be incompetent to
 1070 proceed, a petition ~~[may]~~ shall be filed ~~[in the district court of the county where the charge is~~
 1071 ~~pending or where the defendant is confined]~~ in accordance with Section [77-15-3](#).

1072 (2) If the most severe charge against a defendant is a misdemeanor and the defendant is
 1073 adjudicated by a court as incompetent to proceed:

1074 (a) the department shall provide restoration treatment to the defendant; and

1075 (b) the court may refer the defendant to pretrial diversion services, upon agreement of
 1076 the prosecution and defense counsel.

1077 (3) Unless the prosecutor or another individual indicates that civil commitment
 1078 proceedings will be initiated under Subsection [77-15-6\(5\)\(c\)](#), ~~[a]~~ the court shall release a
 1079 defendant who is incompetent to proceed if:

1080 (a) the most severe charge against the defendant is ~~[no more severe than]~~ a class B
 1081 misdemeanor;

1082 (b) more than ~~[60]~~ 30 days have passed after the day on which the court adjudicated the
1083 defendant incompetent to proceed; and

1084 (c) restoration treatment has been provided to the defendant and the defendant ~~[has not~~
1085 ~~been]~~ is not restored to competency.

1086 (4) ~~[A]~~ The court may dismiss the charges against a defendant who ~~[was]~~ is released
1087 under Subsection (3).

1088 Section 15. Section ~~77-15-4~~ is amended to read:

1089 **77-15-4. Court may raise issue of competency at any time -- Findings regarding**
1090 **competency.**

1091 (1) The court in which a charge is pending may raise the issue of a defendant's
1092 competency at any time.

1093 (2) If the issue of the defendant's competency is raised by the court, the court shall:

1094 (a) permit counsel for each party to address the issue of competency~~[-];~~ and

1095 (b) make a finding regarding whether there is a bona fide doubt as to the defendant's
1096 competency to stand trial.

1097 Section 16. Section ~~77-15-5~~ is amended to read:

1098 **77-15-5. Order for hearing -- Stay of other proceedings -- Examinations of**
1099 **defendant -- Scope of examination and report.**

1100 (1) A court in which criminal proceedings are pending shall stay all criminal
1101 proceedings, if:

1102 (a) a petition is filed under Section ~~77-15-3~~ or ~~77-15-3.5~~; or

1103 (b) the court raises the issue of the defendant's competency ~~[under Section ~~77-15-4.~~~~
1104 and makes a finding that there is a bona fide doubt as to the defendant's competency to stand
1105 trial under Section ~~77-15-4.~~

1106 (2) The court in which the petition described in Subsection (1)(a) is filed:

1107 (a) shall inform the court in which criminal proceedings are pending of the petition, if
1108 the petition is not filed in the court in which criminal proceedings are pending;

1109 (b) shall review the allegations of incompetency;

1110 (c) may hold a limited hearing solely for the purpose of determining the sufficiency of
1111 the petition, if the court finds the petition is not clearly sufficient on ~~[its]~~ the petition's face;

1112 (d) shall hold a hearing, if the petition is opposed by either party; and

1113 (e) may not order an examination of the defendant or order a hearing on the mental
 1114 condition of the defendant unless the court finds that the allegations in the petition raise a bona
 1115 fide doubt as to the defendant's competency to stand trial~~[-and].~~

1116 (3) The parties' stipulation to a bona fide doubt about the defendant's competency to
 1117 stand trial may not take the place of a petition under this section.

1118 ~~[(f)]~~ (4) (a) ~~[if]~~ If the court finds that ~~[the allegations raise]~~ there is a bona fide doubt as
 1119 to the defendant's competency to stand trial, the court shall order~~[-(i)]~~ the department to have
 1120 ~~[the defendant evaluated by]~~ one or two forensic evaluators complete a competency evaluation
 1121 for the defendant in accordance with Subsection (4)(b) and provide a report to the court
 1122 concerning the competency of the defendant to stand trial.

1123 (b) The court shall order the department to have the defendant evaluated by one
 1124 forensic evaluator~~[-if: (A) the most severe charge against the defendant is a misdemeanor; or]~~
 1125 unless:

1126 ~~[(B) the defendant is charged with a felony but is not charged with a capital felony, and~~
 1127 ~~the court determines, based upon the allegations in the petition, that a second competency~~
 1128 ~~evaluation is not necessary;]~~

1129 ~~[(ii) the department to have the defendant evaluated by two forensic evaluators, if:]~~

1130 ~~[(A)]~~ (i) the defendant is charged with a capital felony; or

1131 ~~[(B)]~~ (ii) the defendant is charged with a felony ~~[but is not charged with]~~ that is not a
 1132 capital felony, and the court determines, based ~~[upon]~~ on the allegations in the petition, that ~~[a~~
 1133 ~~second competency evaluation is necessary; and]~~ good cause exists to order two competency
 1134 evaluations.

1135 ~~[(iii) the defendant to be evaluated by an additional forensic evaluator, if requested by a~~
 1136 ~~party, who shall:]~~

1137 ~~[(A) select the additional forensic evaluator; and]~~

1138 ~~[(B) pay for the costs of the additional forensic evaluator:]~~

1139 (c) (i) This section does not prohibit a party from seeking an additional forensic
 1140 evaluator to conduct a competency evaluation of the defendant.

1141 (ii) If a party seeks an additional competency evaluation under this Subsection (4)(c),
 1142 the party shall:

1143 (A) select the additional forensic evaluator; and

- 1144 (B) pay the costs of the additional forensic evaluator.
- 1145 (d) The parties' stipulation to a bona fide doubt as to the defendant's competency to
1146 stand trial may not take the place of a competency evaluation ordered under this Subsection (4).
- 1147 ~~[(3)]~~ (5) (a) If the petition or other information sufficiently raises concerns that the
1148 defendant may have ~~[intellectual or developmental disabilities]~~ an intellectual disability or
1149 related condition, or a brain injury, at least one forensic evaluator who is experienced in
1150 ~~[intellectual or developmental disability]~~ assessments of intellectual disabilities or related
1151 conditions, or brain injuries shall conduct a competency evaluation.
- 1152 (b) The petitioner or other party, as directed by the court or requested by the
1153 department, shall provide to the forensic evaluator nonmedical information and materials
1154 relevant to a determination of the defendant's competency, including the charging document,
1155 arrest or incident reports pertaining to the charged offense, and known criminal history
1156 information~~[-, and known prior mental health evaluations and treatments].~~
- 1157 (c) For purposes of a competency evaluation, a ~~[court may order that custodians]~~
1158 custodian of mental health records pertaining to the defendant ~~[provide those records],~~
1159 including the defendant's prior mental health evaluations or records relating to the defendant's
1160 substance use disorder, may provide the records to:
- 1161 (i) with the defendant's consent, [to] a forensic evaluator ~~[without the need for consent~~
1162 of the defendant.] or the department upon the department's request; or
- 1163 (ii) a forensic evaluator by court order.
- 1164 (d) A court order under Subsection (5)(c) shall include a protective order that expires
1165 180 days after the day on which:
- 1166 (i) the defendant is found guilty;
- 1167 (ii) the defendant enters a guilty plea;
- 1168 (iii) the court sentences the defendant; or
- 1169 (iv) if the case is appealed, the day on which the final appeal is resolved.
- 1170 (e) (i) Except as otherwise provided by law and in Subsections (5)(e)(ii) and (f), the
1171 court shall order the forensic evaluator to destroy all records subject to the protective order
1172 within the 180-day period described in Subsection (5)(d).
- 1173 (ii) A forensic evaluator is not required to destroy the records subject to the protective
1174 order if destroying the records is a violation of the ethical standards the forensic evaluator is

1175 subject to for occupational licensing.

1176 (f) The court may extend the protective order described in Subsection (5)(d) if:

1177 (i) the court finds the defendant incompetent to proceed without a substantial
1178 probability that the defendant will become competent in the foreseeable future;

1179 (ii) the prosecutor or another individual indicates to the court that the prosecutor or
1180 individual will seek civil commitment of the defendant under Section 77-15-6; and

1181 (iii) the court orders the records be maintained and used only for purposes of
1182 examining the defendant in connection with a petition for civil commitment.

1183 ~~[(4)]~~ (g) An order for a competency evaluation may not contain an order for any other
1184 inquiry into the mental state of the defendant that is not described in Subsection (5)(a).

1185 ~~[(4)]~~ (6) Pending a competency evaluation, unless the court or the department directs
1186 otherwise, the defendant shall be retained in the same custody or status that the defendant was
1187 in at the time the ~~[examination]~~ competency evaluation was ordered.

1188 ~~[(5)]~~ (7) (a) In ~~[the conduct of]~~ conducting a competency evaluation~~[, a progress~~
1189 ~~toward competency evaluation,]~~ and in [a] the report to the court, [a] the forensic evaluator
1190 shall consider and address, in addition to any other factors determined to be relevant by the
1191 forensic evaluator:

1192 ~~[(a)]~~ (i) the impact of the defendant's mental illness, intellectual disability or related
1193 condition, or brain injury on the defendant's present ability to:

1194 ~~[(i)]~~ (A) rationally and factually understand the criminal proceedings against the
1195 defendant; and

1196 ~~[(ii)]~~ (B) consult with the defendant's legal counsel with a reasonable degree of rational
1197 understanding in order to assist in the defense~~;~~];

1198 (b) In making the determinations described in Subsection (7)(a), the forensic evaluator
1199 may consider:

1200 (i) the defendant's present ability to:

1201 ~~[(iii)]~~ (A) understand the charges or allegations against the defendant;

1202 ~~[(iv)]~~ (B) communicate facts, events, and states of mind;

1203 ~~[(v)]~~ (C) understand the range of possible penalties associated with the charges or
1204 allegations against the defendant;

1205 ~~[(vi)]~~ (D) engage in reasoned choice of legal strategies and options;

1206 ~~[(vii)]~~ (E) understand the adversarial nature of the proceedings against the defendant;

1207 ~~[(viii)]~~ (F) manifest behavior sufficient to allow the court to proceed; and

1208 ~~[(ix)]~~ (G) testify relevantly, if applicable; and

1209 ~~[(b) the impact of the mental disorder or intellectual disability, if any, on the nature and~~

1210 ~~quality of the defendant's relationship with counsel;]~~

1211 ~~[(c) if psychoactive medication is currently being administered:]~~

1212 ~~[(i) whether the medication is necessary to maintain the defendant's competency; and]~~

1213 ~~[(ii) whether the medication may have an effect on the defendant's demeanor, affect,~~

1214 ~~and ability to participate in the proceedings; and]~~

1215 ~~[(d)]~~ (ii) whether the defendant is exhibiting false or exaggerated physical or

1216 psychological symptoms relevant to the defendant's capacity to stand trial.

1217 (c) The forensic evaluator shall consider the totality of the circumstances when

1218 determining whether the defendant is competent to stand trial and may not consider a factor

1219 described in Subsection (7)(a) or (b) as solely determinative of whether the defendant is

1220 competent to stand trial.

1221 ~~[(6)]~~ (8) ~~[If the forensic evaluator's opinion is]~~ Upon a determination that the defendant

1222 is incompetent to proceed, the forensic evaluator shall indicate in ~~[the]~~ a report to the court:

1223 (a) the factors that contribute to the defendant's incompetency, including the nature of

1224 the defendant's mental ~~[disorder or]~~ illness, intellectual ~~[or developmental]~~ disability; or

1225 related condition, or brain injury, if any, and its relationship to the factors contributing to the

1226 defendant's incompetency; ~~[and]~~

1227 (b) whether there is a substantial probability that:

1228 (i) restoration treatment may~~[-, in the foreseeable future,]~~ bring the defendant to

1229 competency to stand trial~~[-, or that]~~ in the foreseeable future; or

1230 (ii) the defendant cannot become competent to stand trial in the foreseeable future~~[-];~~

1231 and

1232 (c) whether the defendant would benefit from restoration treatment; and

1233 (d) if the forensic evaluator makes the determination under Subsection (8)(b)(i) or (c),

1234 an explanation of the reason for the determination and a summary of the treatment provided to

1235 the defendant in the past.

1236 ~~[(7)]~~ (9) (a) A forensic evaluator shall provide ~~[an]~~ the initial report regarding the

1237 evaluator's opinion of whether the defendant is competent to stand trial to the court and the
1238 prosecuting and defense attorneys within 30 days ~~[of the receipt of the court's order. The report~~
1239 ~~shall inform the court of the examiner's opinion concerning the competency of the defendant to~~
1240 ~~stand trial]~~ after the day on which the forensic evaluator receives the court's order under
1241 Subsection (4)(a).

1242 (b) (i) If the forensic evaluator is unable to complete the report in the time specified in
1243 Subsection ~~[(7)]~~ (9)(a), the forensic evaluator shall give written notice to the court.

1244 (ii) A forensic evaluator who provides the notice described in Subsection ~~[(7)]~~ (9)(b)(i)
1245 shall receive a 15-day extension, giving the forensic evaluator a total of 45 days after the day
1246 on which the forensic evaluator received the court's order to conduct a competency evaluation
1247 and file a report.

1248 (iii) The court may further extend the deadline for completion of the evaluation and
1249 report if the court determines that there is good cause for the extension.

1250 (iv) Upon receipt of an extension described in Subsection ~~[(7)]~~ (9)(b)(iii), the forensic
1251 evaluator shall file the report as soon as reasonably possible.

1252 ~~[(8)]~~ (10) ~~[Any]~~ A written report submitted by a forensic evaluator shall:

1253 (a) identify the case ordered for evaluation by the case number;

1254 (b) state the forensic evaluator's name and qualifications;

1255 ~~[(b)]~~ (c) describe the procedures, techniques, and tests used in the examination ~~[and]~~,
1256 the purpose ~~[or purposes]~~ for each, and the time spent by the forensic evaluator with the
1257 defendant for purposes of the examination;

1258 ~~[(c)]~~ (d) state the forensic evaluator's clinical observations, findings, and opinions on
1259 each ~~[issue referred for examination by the court, and indicate specifically those issues, if any,~~
1260 ~~on which the forensic evaluator could not give an opinion; and]~~ factor described in Subsection
1261 (7);

1262 ~~[(d)]~~ (e) identify the sources of information used by the forensic evaluator and present
1263 the basis for the forensic evaluator's clinical findings and opinions~~[-];~~ and

1264 (f) state the compensation to be paid to the forensic evaluator for the report.

1265 ~~[(9)]~~ (11) (a) Any statement made by the defendant in the course of any competency
1266 examination, ~~[whether the examination is with or without the consent of the defendant,]~~ any
1267 testimony by a forensic evaluator based upon the statement, and any other fruits of the

1268 statement may not be admitted in evidence against the defendant in any criminal proceeding
1269 except on an issue respecting mental condition on which the defendant has introduced
1270 evidence~~[. The evidence may be admitted, however, where]~~, unless the evidence is relevant to
1271 a determination of the defendant's competency.

1272 (b) Before examining the defendant, the forensic evaluator shall specifically advise the
1273 defendant of the limits of confidentiality ~~[as provided]~~ under Subsection ~~[(9)]~~ (11)(a).

1274 ~~[(10)]~~ (12) (a) Upon receipt of the forensic evaluators' reports, the court shall set a date
1275 for a competency hearing~~[. The hearing shall be held]~~ not less than [5] five and not more than
1276 15 days after the day on which the court received the forensic evaluators' reports, unless for
1277 good cause the court sets a later date.

1278 (b) ~~[Any]~~ A person directed by the department to conduct the competency evaluation
1279 may be subpoenaed to testify at the hearing.

1280 (c) (i) The court may call ~~[any]~~ a forensic evaluator to testify at the hearing who is not
1281 called by the parties.

1282 (ii) If the court calls a forensic evaluator to testify, counsel for the parties may
1283 cross-examine the forensic evaluator.

1284 (d) (i) If the forensic evaluators are in conflict as to the competency of the defendant,
1285 all forensic evaluators should be called to testify at the hearing if reasonably available.

1286 (ii) A conflict in the opinions of the forensic evaluators does not require the
1287 appointment of an additional forensic evaluator unless the court ~~[determines]~~ finds good cause
1288 for the appointment ~~[to be necessary]~~.

1289 ~~[(11)]~~ (13) (a) (i) A defendant shall be presumed competent to stand trial unless the
1290 court, by a preponderance of the evidence, finds the defendant incompetent to proceed.

1291 (ii) The burden of proof is ~~[upon]~~ on the proponent of incompetency at the hearing.

1292 (b) An adjudication of incompetent to proceed does not operate as an adjudication of
1293 incompetency to give informed consent for medical treatment or for any other purpose, unless
1294 specifically set forth in the court order.

1295 ~~[(12)]~~ (14) In determining the defendant's competency to stand trial, the court shall
1296 consider the totality of the circumstances, which may include the testimony of lay witnesses,
1297 ~~[in addition to]~~ the forensic evaluator's ~~[report, testimony, and studies]~~ testimony and report
1298 and the materials on which the report is based, and any other relevant considerations.

- 1299 ~~[(13)]~~ (15) If the court finds the defendant incompetent to proceed:
- 1300 (a) the court shall issue ~~[the]~~ an order [described in] in accordance with Subsection
- 1301 77-15-6(1), which shall:
- 1302 (i) include findings addressing each of the factors in Subsection ~~[(5)]~~ (7)(a);
- 1303 (ii) include a transportation order, if necessary;
- 1304 (iii) be accompanied by the forensic evaluators' reports, any psychiatric, psychological,
- 1305 or social work reports submitted to the court relative to the mental condition of the defendant,
- 1306 and any other documents made available to the court by either the defense or the prosecution,
- 1307 pertaining to the defendant's current or past mental condition; and
- 1308 (iv) be sent by the court to the department; and
- 1309 (b) the prosecuting attorney shall provide to the department:
- 1310 (i) the charging document and probable cause statement, if any;
- 1311 (ii) arrest or incident reports prepared by law enforcement and pertaining to the
- 1312 charged offense; and
- 1313 (iii) additional supporting documents.
- 1314 ~~[(14)]~~ (16) The court may make any reasonable order to ensure compliance with this
- 1315 section.
- 1316 ~~[(15)]~~ (17) Failure to comply with this section does not result in the dismissal of
- 1317 criminal charges.
- 1318 Section 17. Section **77-15-6** is amended to read:
- 1319 **77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent**
- 1320 **hearings -- Notice to prosecuting attorneys.**
- 1321 (1) (a) Except as provided in Subsection (5), if after a hearing a court finds a defendant
- 1322 ~~[to be]~~ incompetent to proceed, the court shall ~~[order the defendant committed to the~~
- 1323 ~~department for restoration treatment.]~~ determine, by a preponderance of the evidence, whether
- 1324 the defendant is:
- 1325 (i) incompetent to proceed, with a substantial probability that the defendant will
- 1326 become competent in the foreseeable future; or
- 1327 (ii) incompetent to proceed, without a substantial probability that the defendant will
- 1328 become competent in the foreseeable future.
- 1329 (b) (i) If the court finds a defendant is incompetent to proceed under Subsection

1330 (1)(a)(i), the court shall order the defendant be committed to the department for restoration
1331 treatment.

1332 (ii) If the court finds a defendant is incompetent to proceed under Subsection (1)(a)(ii),
1333 the court shall proceed in accordance with Subsections (7) through (12).

1334 ~~[(b)]~~ (c) (i) (A) Except as provided in Subsection (1)(c)(i)(B), the [The] court may
1335 recommend but may not order placement of [the] a defendant[-The] who is found incompetent
1336 to proceed under Subsection (1)(a)(i).

1337 (B) The court may[; however,] order that the defendant be placed in a secure setting
1338 rather than a nonsecure setting.

1339 (ii) Following restoration screening, the department's designee shall designate and
1340 inform the court of the specific placement and restoration treatment program for the defendant.

1341 ~~[(c)]~~ (d) Restoration treatment shall be of sufficient scope and duration to:

1342 (i) restore the [individual] defendant to competency; or

1343 (ii) determine whether the [individual] defendant can be restored to competency in the
1344 foreseeable future.

1345 ~~[(d)]~~ (e) A defendant whom a court determines is incompetent to proceed under
1346 Subsection (1)(a)(i) may not be held for restoration treatment longer than:

1347 (i) the time reasonably necessary to determine [~~whether there is a substantial~~
1348 ~~probability that the defendant will become competent to stand trial in the foreseeable future, or]~~
1349 that the defendant cannot become competent to stand trial in the foreseeable future; and

1350 (ii) the maximum period of incarceration that the defendant could receive if the
1351 defendant were convicted of the most severe offense of the offenses charged.

1352 (2) (a) A defendant who is receiving restoration treatment shall receive a progress
1353 toward competency evaluation, by:

1354 (i) a forensic evaluator, designated by the department; and

1355 (ii) an additional forensic evaluator, if requested by a party and paid for by the
1356 [requesting] party.

1357 (b) A forensic evaluator shall complete a progress toward competency evaluation and
1358 submit a report within 90 days after the day on which the forensic evaluator receives the
1359 commitment order[. If the forensic evaluator is unable to complete the report within 90 days,
1360 the forensic evaluator shall provide to the court and counsel a summary progress statement that

1361 informs the court that additional time is necessary to complete the report, in which case the
1362 examiner shall have up to an additional 45 days to provide the full report] from the department.

1363 (c) The report shall:

1364 [~~(i) assess whether the defendant is exhibiting false or exaggerated physical or~~
1365 ~~psychological symptoms;~~]

1366 [~~(ii)~~] (i) describe any diagnostic instruments, methods, and observations used by the
1367 [examiner] evaluator to make the determination;

1368 (ii) describe the defendant's current mental illness, intellectual disability or related
1369 condition, or brain injury, if any;

1370 [~~(iii) state the forensic evaluator's opinion as to the effect of any false or exaggerated~~
1371 ~~symptoms on the defendant's competency to stand trial;~~]

1372 [~~(iv) assess the facility's or program's capacity to provide appropriate restoration~~
1373 ~~treatment for the defendant;~~]

1374 [~~(v) assess the nature of restoration treatment provided to the defendant;~~]

1375 [~~(vi)~~] (iii) assess what progress the defendant has made toward competency restoration,
1376 with respect to the factors described in Subsection 77-15-5(7) or identified by the court in [its]
1377 the court's initial order;

1378 [~~(vii) describe the defendant's current level of intellectual or developmental disability~~
1379 ~~and need for treatment, if any, and]~~

1380 (iv) assess whether the defendant can reasonably be restored to competency in the
1381 foreseeable future given the restoration treatment currently being provided and the facility or
1382 program's capacity to provide appropriate restoration treatment for the defendant;

1383 [~~(viii)~~] (v) assess [~~the likelihood of restoration to competency;~~] the amount of time
1384 estimated to achieve competency, or the amount of time estimated to determine whether
1385 restoration to competency may be achieved[-]; and

1386 (vi) assess whether the defendant is exhibiting false or exaggerated physical or
1387 psychological symptoms and state the evaluator's opinion on the impact of any false or
1388 exaggerated symptoms on the defendant's competency to stand trial.

1389 (3) (a) The court on [its] the court's own motion or upon motion by either party or the
1390 department may appoint an additional forensic evaluator to conduct a progress toward
1391 competency evaluation.

1392 (b) If the court appoints an additional forensic evaluator upon motion of a party, that
1393 party shall pay the costs of the additional forensic evaluator.

1394 (4) (a) Within 15 days after the day on which the court receives ~~the~~ a forensic
1395 evaluator's report of the progress toward competency evaluation, the court shall hold a hearing
1396 to review the defendant's competency.

1397 (b) At the hearing described in Subsection (4)(a), the burden of proving that the
1398 defendant is ~~competent~~ incompetent to stand trial is on the proponent of ~~competency~~
1399 incompetency.

1400 (c) Following the hearing described in Subsection (4)(a), the court shall determine by a
1401 preponderance of evidence whether the defendant is:

1402 ~~(a)~~ (i) competent to stand trial;

1403 ~~(b)~~ (ii) incompetent to proceed, with a substantial probability that the defendant
1404 ~~may~~ will become competent in the foreseeable future; or

1405 ~~(c)~~ (iii) incompetent to proceed, without a substantial probability that the defendant
1406 ~~may~~ will become competent in the foreseeable future.

1407 (5) (a) If, at any time, the court determines that the defendant is competent to stand
1408 trial, the court shall:

1409 (i) proceed with the trial or other procedures as may be necessary to adjudicate the
1410 charges; and

1411 (ii) order that the defendant be returned to the placement and status that the defendant
1412 was in at the time ~~when~~ the petition for the adjudication of competency was filed or raised by
1413 the court, unless the court determines that ~~a different~~ placement of the defendant in a less
1414 restrictive environment is more appropriate.

1415 (b) If the court determines that the defendant is ~~not competent~~ incompetent to
1416 proceed ~~but that there is~~ with a substantial probability that the defendant ~~may~~ will become
1417 competent in the foreseeable future, the court may order that the defendant remain committed
1418 to the department or the department's designee for the purpose of restoration treatment.

1419 (c) (i) If the court determines that the defendant is incompetent to proceed ~~and that~~
1420 ~~there is not~~ without a substantial probability that the defendant ~~may~~ will become competent
1421 in the foreseeable future, the court shall order the defendant released from commitment to the
1422 department, unless the prosecutor or another individual informs the court that civil

1423 commitment proceedings ~~[pursuant to]~~ in accordance with Title 62A, Chapter 5, Services for
 1424 People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act,
 1425 will be initiated.

1426 (ii) ~~[These]~~ The civil commitment proceedings described in this Subsection (5)(c) must
 1427 be initiated by a petition filed within seven days after the day on which the court makes the
 1428 determination described in Subsection (4)(c), unless the court finds that there is good cause to
 1429 delay the initiation of the civil commitment proceedings.

1430 (iii) The court may order the defendant to remain ~~[in the commitment of]~~ committed to
 1431 the department until the civil commitment proceedings described in this Subsection (5)(c)
 1432 conclude.

1433 (iv) If the defendant is civilly committed and admitted to the Utah State Hospital, the
 1434 department shall ~~[notify]~~ provide notice to the ~~[court that adjudicated the defendant~~
 1435 ~~incompetent to proceed]~~ persons described in Subsection 62A-15-631(16)(f)(i) that the
 1436 defendant will be discharged at least ~~[+0]~~ 60 days before ~~[any release of the committed~~
 1437 ~~individual]~~ the day on which the department anticipates the defendant will be discharged.

1438 (6) If a court, under Subsection (5)(b), extends a defendant's commitment, the court
 1439 shall schedule a competency review hearing for the earlier of:

1440 (a) the department's best estimate of when the defendant may be restored to
 1441 competency; or

1442 (b) three months after the day on which the court determined under Subsection (5)(b)
 1443 to extend the defendant's commitment.

1444 (7) ~~[If]~~ Unless the defendant is charged with a crime listed in Subsection (8), if a
 1445 defendant is ~~[not competent]~~ incompetent to proceed by the day of the competency review
 1446 hearing that follows the extension of a defendant's commitment, ~~[a]~~ the court shall:

1447 (a) ~~[except for a defendant charged with crimes listed in Subsection (8);]~~ order ~~[a]~~ the
 1448 defendant be:

1449 (i) released~~[-; or (ii)]~~ or temporarily detained pending civil commitment proceedings
 1450 ~~[under the same terms]~~ as described in Subsection (5)(c); and

1451 ~~[(b)]~~ (ii) terminate the defendant's commitment ~~[to the department]~~ for restoration
 1452 treatment~~[-]; or~~

1453 (b) if the forensic evaluator reports to the court that there is a substantial possibility

1454 that restoration treatment will bring the defendant to competency to stand trial in the
1455 foreseeable future, extend the defendant's commitment for restoration treatment for up to 45
1456 days.

1457 (8) If the defendant [~~has been~~] is charged with aggravated murder, murder, attempted
1458 murder, manslaughter, or a first degree felony and the court determines that the defendant is
1459 making reasonable progress towards restoration of competency at the time of the hearing held
1460 [~~pursuant to~~] under Subsection (6), the court may extend the commitment for a period not to
1461 exceed [9] nine months for the purpose of restoration treatment, with a mandatory review
1462 hearing at the end of the [~~9-month~~] nine-month period.

1463 (9) [~~If~~] Unless the defendant is charged with aggravated murder or murder, if, at the
1464 [~~9-month~~] nine-month review hearing described in Subsection (8), the court determines that the
1465 defendant is [~~not competent~~] incompetent to proceed, the court shall:

1466 (a) (i) order the defendant[~~, except for a defendant charged with aggravated murder or~~
1467 ~~murder, to be: (i) released; or (ii) be released or temporarily detained pending civil~~
1468 ~~commitment proceedings [under the same terms as provided] as described in Subsection (5)(c);~~
1469 and

1470 [~~(b)~~] (ii) terminate the defendant's commitment to the department for restoration
1471 treatment[~~;~~]; or

1472 (b) if the forensic evaluator reports to the court that there is a substantial possibility
1473 that restoration treatment will bring the defendant to competency to stand trial in the
1474 foreseeable future, extend the defendant's commitment for restoration treatment for up to 135
1475 days.

1476 (10) If the defendant [~~has been~~] is charged with aggravated murder or murder and the
1477 court determines that the defendant is making reasonable progress towards restoration of
1478 competency at the time of the [~~9-month~~] nine-month review hearing described in Subsection
1479 (8), the court may extend the commitment for a period not to exceed 24 months for the purpose
1480 of restoration treatment.

1481 (11) If the court extends the defendant's commitment term under Subsection (10), the
1482 court shall hold a hearing no less frequently than at 12-month intervals following the extension
1483 for the purpose of determining the defendant's competency status.

1484 (12) If, at the end of the 24-month commitment period described in Subsection (10),

1485 the court determines that the defendant is [~~not competent~~] incompetent to proceed, the court
1486 shall:

1487 (a) (i) order the defendant [~~to be: (i) released; or (ii) be released or temporarily~~
1488 detained pending civil commitment proceedings [~~under the same terms as provided~~] as
1489 described in Subsection (5)(c); and

1490 [~~(b)~~] (ii) terminate the defendant's commitment [~~to the department~~] for restoration
1491 treatment[-]; or

1492 (b) if the forensic evaluator reports to the court that there is a substantial possibility
1493 that restoration treatment will bring the defendant to competency to stand trial in the
1494 foreseeable future, extend the defendant's commitment for restoration treatment for up to one
1495 year.

1496 (13) Neither release from a pretrial incompetency commitment under the provisions of
1497 this section nor civil commitment requires dismissal of criminal charges. The court may retain
1498 jurisdiction over the criminal case and may order periodic reviews.

1499 (14) A defendant who is civilly committed [~~pursuant to~~] under Title 62A, Chapter 5,
1500 Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental
1501 Health Act, may still be adjudicated competent to stand trial under this chapter.

1502 (15) (a) The remedy for a violation of the time periods specified in this section, other
1503 than those specified in [~~Subsection~~] Subsections (5)(c), (7), (9), [~~or~~] and (12), shall be a motion
1504 to compel the hearing, or mandamus, but not release from detention or dismissal of the
1505 criminal charges.

1506 (b) The remedy for a violation of [~~the time periods~~] a time period specified in
1507 Subsection (5)(c), (7), (9), or (12), [~~or~~] is not dismissal of the criminal charges.

1508 (16) In cases in which the treatment of the defendant is precluded by court order for a
1509 period of time, [~~that~~] the time period may not be considered in computing time limitations
1510 under this section.

1511 (17) (a) [~~At any time that the~~] If, at any time, the defendant becomes competent to
1512 stand trial while the defendant is committed to the department, the clinical director of the
1513 [~~hospital~~] Utah State Hospital, the department, or the department's designee shall certify that
1514 fact to the court.

1515 (b) The court shall conduct a competency review hearing:

1516 (i) within 15 working days after the day on which the court receives the certification
1517 described in Subsection (17)(a); or

1518 (ii) within 30 working days after the day on which the court receives the certification
1519 described in Subsection (17)(a), if the court determines that more than 15 working days are
1520 necessary for good cause related to the defendant's competency.

1521 (18) The court may order a hearing [~~or rehearing~~] at any time on [~~its~~] the court's own
1522 motion or upon recommendations of the clinical director of the [~~hospital~~] Utah State Hospital
1523 or other facility or the department.

1524 (19) Notice of a hearing on competency to stand trial shall be given to the prosecuting
1525 attorney and all counsel of record as described in Subsection 62A-15-631(16)(f)(i)(C). [~~If the~~
1526 ~~hearing is held in the county where the defendant is confined, notice shall also be given to the~~
1527 ~~prosecuting attorney for that county.~~]