

Civil Commitment Revisions

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill addresses involuntary civil commitment.

Highlighted Provisions:

This bill:

- requires a designated examiner to conduct an examination of a proposed patient by telehealth except in certain circumstances;
- requires a court to hold a hearing on an application for involuntary commitment remotely unless the court finds good cause not to hold the hearing remotely;
- requires a court to dismiss a petition for involuntary civil commitment if both designated examiners determine that the proposed patient does not meet the criteria for involuntary commitment; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-5-332, as last amended by Laws of Utah 2024, Chapters 287, 299 and 314

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

Section 1. Section **26B-5-332** is amended to read:

**26B-5-332 . Involuntary commitment under court order -- Examination --
Hearing -- Power of court -- Findings required -- Costs.**

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application

- 31 that includes:
- 32 (a) unless the court finds that the information is not reasonably available, the proposed
- 33 patient's:
- 34 (i) name;
- 35 (ii) date of birth; and
- 36 (iii) social security number;
- 37 (b)(i) a certificate of a licensed physician or a designated examiner stating that within
- 38 the seven-day period immediately preceding the certification, the physician or
- 39 designated examiner examined the proposed patient and is of the opinion that the
- 40 proposed patient has a mental illness and should be involuntarily committed; or
- 41 (ii) a written statement by the applicant that:
- 42 (A) the proposed patient has been requested to, but has refused to, submit to an
- 43 examination of mental condition by a licensed physician or designated
- 44 examiner;
- 45 (B) is sworn to under oath; and
- 46 (C) states the facts upon which the application is based; and
- 47 (c) a statement whether the proposed patient has previously been under an assisted
- 48 outpatient treatment order, if known by the applicant.
- 49 (2) Before issuing a judicial order, the court:
- 50 (a) shall require the applicant to consult with the appropriate local mental health
- 51 authority at or before the hearing; and
- 52 (b) may direct a mental health professional from the local mental health authority to
- 53 interview the applicant and the proposed patient to determine the existing facts and
- 54 report the existing facts to the court.
- 55 (3) The court may issue an order, directed to a mental health officer or peace officer, to
- 56 immediately place a proposed patient in the custody of a local mental health authority or
- 57 in a temporary emergency facility, as described in Section 26B-5-334, to be detained for
- 58 the purpose of examination if:
- 59 (a) the court finds from the application, any other statements under oath, or any reports
- 60 from a mental health professional that there is a reasonable basis to believe that the
- 61 proposed patient has a mental illness that poses a danger to self or others and requires
- 62 involuntary commitment pending examination and hearing; or
- 63 (b) the proposed patient refuses to submit to an interview with a mental health
- 64 professional as directed by the court or to go to a treatment facility voluntarily.

- 65 (4)(a) The court shall provide notice of commencement of proceedings for involuntary
66 commitment, setting forth the allegations of the application and any reported facts,
67 together with a copy of any official order of detention, to a proposed patient before,
68 or upon, placement of the proposed patient in the custody of a local mental health
69 authority or, with respect to any proposed patient presently in the custody of a local
70 mental health authority whose status is being changed from voluntary to involuntary,
71 upon the filing of an application for that purpose with the court.
- 72 (b) The place of detention shall maintain a copy of the order of detention.
- 73 (5)(a) The court shall provide notice of commencement of proceedings for involuntary
74 commitment as soon as practicable to the applicant, any legal guardian, any
75 immediate adult family members, legal counsel for the parties involved, the local
76 mental health authority or the local mental health authority's designee, and any other
77 persons whom the proposed patient or the court designates.
- 78 (b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall
79 advise the persons that a hearing may be held within the time provided by law.
- 80 (c) If the proposed patient refuses to permit release of information necessary for
81 provisions of notice under this subsection, the court shall determine the extent of
82 notice.
- 83 (6) Proceedings for commitment of an individual under 18 years old to a local mental health
84 authority may be commenced in accordance with Part 4, Commitment of Persons Under
85 Age 18.
- 86 (7)(a) The court may, in the court's discretion, transfer the case to any other district court
87 within this state, if the transfer will not be adverse to the interest of the proposed
88 patient.
- 89 (b) If a case is transferred under Subsection (7)(a), the parties to the case may be
90 transferred and the local mental health authority may be substituted in accordance
91 with Utah Rules of Civil Procedure, Rule 25.
- 92 (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a
93 judicial order, or after commitment of a proposed patient to a local mental health
94 authority or the local mental health authority's designee under court order for detention
95 or examination, the court shall appoint two designated examiners:
- 96 (a) who did not sign the civil commitment application nor the civil commitment
97 certification under Subsection (1);
- 98 (b) one of whom is:

- 99 (i) a licensed physician; or
100 (ii) a psychiatric mental health nurse practitioner or a psychiatric mental health
101 clinical nurse specialist who:
102 (A) is nationally certified;
103 (B) is doctorally trained; and
104 (C) has at least two years of inpatient mental health experience, regardless of the
105 license the individual held at the time of that experience; and
106 (c) one of whom may be designated by the proposed patient or the proposed patient's
107 counsel, if that designated examiner is reasonably available.
- 108 (9) The court shall schedule a hearing to be held within 10 calendar days after the day on
109 which the designated examiners are appointed.
- 110 (10)(a) The designated examiners shall:
- 111 (i) conduct the examinations separately;
112 (ii) conduct the examinations~~[at the home of the proposed patient, at a hospital or~~
113 ~~other medical facility, or at any other suitable place, including] :~~
114 (A) through telehealth[;] unless the designated examiner determines, after
115 attempting to conduct the examination through telehealth, that a telehealth
116 examination would not be sufficient to properly assess the proposed patient;
117 and
118 (B) if the designated examiner determines that a telehealth examination would not
119 be sufficient to properly assess the proposed patient under Subsection
120 (10)(a)(ii)(A), at the home of the proposed patient, at a hospital or other
121 medical facility, or at any other suitable place that is not likely to have a
122 harmful effect on the proposed patient's health;
- 123 (iii) inform the proposed patient, if not represented by an attorney:
124 (A) that the proposed patient does not have to say anything;
125 (B) of the nature and reasons for the examination;
126 (C) that the examination was ordered by the court;
127 (D) that any information volunteered could form part of the basis for the proposed
128 patient's involuntary commitment;
129 (E) that findings resulting from the examination will be made available to the
130 court; and
131 (F) that the designated examiner may, under court order, obtain the proposed
132 patient's mental health records; and

133 (iv) within 24 hours of examining the proposed patient, report to the court, orally or
134 in writing, whether the proposed patient is mentally ill, has agreed to voluntary
135 commitment, as described in Section 26B-5-360, or has acceptable programs
136 available to the proposed patient without court proceedings.

137 (b) If a designated examiner reports orally under Subsection (10)(a), the designated
138 examiner shall immediately send a written report to the clerk of the court.

139 (11) If a designated examiner is unable to complete an examination on the first attempt
140 because the proposed patient refuses to submit to the examination, the court shall fix a
141 reasonable compensation to be paid to the examiner.

142 (12) If the local mental health authority, the local mental health authority's designee, or a
143 medical examiner determines before the court hearing that the conditions justifying the
144 findings leading to a commitment hearing no longer exist, the local mental health
145 authority, the local mental health authority's designee, or the medical examiner shall
146 immediately report the determination to the court.

147 (13)(a) The court shall terminate the proceedings and dismiss the application before the
148 hearing if both designated examiners inform the court that the proposed patient does
149 not meet the criteria in Subsection (16).

150 (b) The court may terminate the proceedings and dismiss the application at any time,
151 including before the hearing, if the designated examiners or the local mental health
152 authority or the local mental health authority's designee informs the court that the
153 proposed patient:

154 [~~(a)~~ ~~does not meet the criteria in Subsection (16);~~]

155 [~~(b)~~ (i) has agreed to voluntary commitment, as described in Section 26B-5-360;

156 [~~(c)~~ (ii) has acceptable options for treatment programs that are available without
157 court proceedings; or

158 [~~(d)~~ (iii) meets the criteria for assisted outpatient treatment described in Section
159 26B-5-351.

160 (14)(a) Before the hearing, the court shall provide the proposed patient an opportunity to
161 be represented by counsel, and if neither the proposed patient nor others provide
162 counsel, the court shall appoint counsel and allow counsel sufficient time to consult
163 with the proposed patient before the hearing.

164 (b) In the case of an indigent proposed patient, the county in which the proposed patient
165 resides or is found shall make payment of reasonable attorney fees for counsel, as
166 determined by the court.

- 167 (15)(a)(i) The court shall afford the proposed patient, the applicant, and any other
168 person to whom notice is required to be given an opportunity to appear at the
169 hearing, to testify, and to present and cross-examine witnesses.
- 170 (ii) The court may, in the court's discretion, receive the testimony of any other person.
171 (iii) The court may allow a waiver of the proposed patient's right to appear for good
172 cause, which cause shall be set forth in the record, or an informed waiver by the
173 patient, which shall be included in the record.
- 174 (b) The court is authorized to exclude any person not necessary for the conduct of the
175 proceedings and may, upon motion of counsel, require the testimony of each
176 designated examiner to be given out of the presence of any other designated
177 examiners.
- 178 (c) The court shall:
- 179 (i) conduct the hearing in as informal a manner as may be consistent with orderly
180 procedure[~~, and~~]; and
- 181 (ii) while preserving the due process rights of the proposed patient:
- 182 (A) conduct the hearing remotely, in accordance with Utah Rules of Civil
183 Procedure, Rule 87, unless the court finds good cause not to conduct the
184 hearing remotely; or
- 185 (B) if the court finds good cause not to conduct the hearing remotely, conduct the
186 hearing in a physical setting that is not likely to have a harmful effect on the
187 mental health of the proposed patient[~~, while preserving the due process rights~~
188 of the proposed patient].
- 189 (d) The court shall consider any relevant historical and material information that is
190 offered, subject to the rules of evidence, including reliable hearsay under Utah Rules
191 of Evidence, Rule 1102.
- 192 (e)(i) A local mental health authority or the local mental health authority's designee
193 or the physician in charge of the proposed patient's care shall, at the time of the
194 hearing, provide the court with the following information:
- 195 (A) the detention order;
196 (B) admission notes;
197 (C) the diagnosis;
198 (D) any doctors' orders;
199 (E) progress notes;
200 (F) nursing notes;

- 201 (G) medication records pertaining to the current commitment; and
202 (H) whether the proposed patient has previously been civilly committed or under
203 an order for assisted outpatient treatment.
- 204 (ii) The local mental health authority or the local mental health authority's designee
205 or the physician in charge of the proposed patient's care shall also supply the
206 information described in Subsection (15)(e)(i) [shall also be supplied] to the
207 proposed patient's counsel at the time of the hearing, and at any time prior to the
208 hearing upon request by the proposed patient's counsel.
- 209 (16)(a) The court shall order commitment of an adult proposed patient to a local mental
210 health authority if, upon completion of the hearing and consideration of the
211 information presented, the court finds by clear and convincing evidence that:
- 212 (i)(A) the proposed patient has a mental illness;
213 (B) because of the proposed patient's mental illness the proposed patient poses a
214 substantial danger to self or others;
215 (C) the proposed patient lacks the ability to engage in a rational decision-making
216 process regarding the acceptance of mental treatment as demonstrated by
217 evidence of inability to weigh the possible risks of accepting or rejecting
218 treatment;
219 (D) there is no appropriate less-restrictive alternative to a court order of
220 commitment; and
221 (E) the local mental health authority can provide the proposed patient with
222 treatment that is adequate and appropriate to the proposed patient's conditions
223 and needs; or
- 224 (ii)(A) the proposed patient has been charged with a criminal offense;
225 (B) with respect to the charged offense, the proposed patient is found incompetent
226 to proceed as a result of a mental illness;
227 (C) the proposed patient has a mental illness;
228 (D) the proposed patient has a persistent unawareness of their mental illness and
229 the negative consequences of that illness, or within the preceding six months
230 has been requested or ordered to undergo mental health treatment but has
231 unreasonably refused to undergo that treatment;
232 (E) there is no appropriate less-restrictive alternative to a court order of
233 commitment; and
234 (F) the local mental health authority can provide the proposed patient with

235 treatment that is adequate and appropriate to the proposed patient's conditions
236 and needs.

237 (b)(i) If, at the hearing, the court determines that the proposed patient has a mental
238 illness but does not meet the other criteria described in Subsection (16)(a), the
239 court may consider whether the proposed patient meets the criteria for assisted
240 outpatient treatment under Section 26B-5-351.

241 (ii) The court may order the proposed patient to receive assisted outpatient treatment
242 in accordance with Section 26B-5-351 if, at the hearing, the court finds the
243 proposed patient meets the criteria for assisted outpatient treatment under Section
244 26B-5-351.

245 (iii) If the court determines that neither the criteria for commitment under Subsection
246 (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351
247 are met, the court shall dismiss the proceedings after the hearing.

248 (17)(a)(i) The order of commitment shall designate the period for which the patient
249 shall be treated.

250 (ii) If the patient is not under an order of commitment at the time of the hearing, the
251 patient's treatment period may not exceed six months without a review hearing.

252 (iii) Upon a review hearing, to be commenced before the expiration of the previous
253 order of commitment, an order for commitment may be for an indeterminate
254 period, if the court finds by clear and convincing evidence that the criteria
255 described in Subsection (16) will last for an indeterminate period.

256 (b)(i) The court shall maintain a current list of all patients under the court's order of
257 commitment and review the list to determine those patients who have been under
258 an order of commitment for the court designated period.

259 (ii) At least two weeks before the expiration of the designated period of any order of
260 commitment still in effect, the court that entered the original order of commitment
261 shall inform the appropriate local mental health authority or the local mental
262 health authority's designee of the expiration.

263 (iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local
264 mental health authority or the local mental health authority's designee shall
265 immediately reexamine the reasons upon which the order of commitment was
266 based.

267 (iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health
268 authority or the local mental health authority's designee determines that the

- 269 conditions justifying commitment no longer exist, the local mental health
270 authority or the local mental health authority's designee shall discharge the patient
271 from involuntary commitment and immediately report the discharge to the court.
- 272 (v) If, after reexamination under Subsection (17)(b)(iii), the local mental health
273 authority or the local mental health authority's designee determines that the
274 conditions justifying commitment continue to exist, the court shall immediately
275 appoint two designated examiners and proceed under Subsections (8) through (14).
- 276 (c)(i) The local mental health authority or the local mental health authority's designee
277 responsible for the care of a patient under an order of commitment for an
278 indeterminate period shall, at six-month intervals, reexamine the reasons upon
279 which the order of indeterminate commitment was based.
- 280 (ii) If the local mental health authority or the local mental health authority's designee
281 determines that the conditions justifying commitment no longer exist, the local
282 mental health authority or the local mental health authority's designee shall
283 discharge the patient from the local mental health authority's or the local mental
284 health authority designee's custody and immediately report the discharge to the
285 court.
- 286 (iii) If the local mental health authority or the local mental health authority's designee
287 determines that the conditions justifying commitment continue to exist, the local
288 mental health authority or the local mental health authority's designee shall send a
289 written report of the findings to the court.
- 290 (iv) [A] The local mental health authority or the local mental health authority's
291 designee shall notify the patient and the patient's counsel of record ~~[shall be~~
292 ~~notified]~~ in writing that the involuntary commitment will be continued under
293 Subsection (17)(c)(iii), the reasons for the decision to continue, and that the
294 patient has the right to a review hearing by making a request to the court.
- 295 (v) Upon receiving a request under Subsection (17)(c)(iv), the court shall
296 immediately appoint two designated examiners and proceed under Subsections (8)
297 through (14).
- 298 (18)(a) Any patient committed as a result of an original hearing or a patient's legally
299 designated representative who is aggrieved by the findings, conclusions, and order of
300 the court entered in the original hearing has the right to a new hearing upon filing a
301 petition ~~[filed]~~ with the court within 30 days after the day on which the court entered
302 the order ~~[is entered]~~.

- 303 (b) The petition shall allege error or mistake in the findings, in which case the court shall
304 appoint three impartial designated examiners previously unrelated to the case to
305 conduct an additional examination of the patient.
- 306 (c) Except as provided in Subsection (18)(b), the court shall, in all other respects,
307 conduct the new hearing in the manner otherwise permitted.
- 308 (19) The county in which the proposed patient resides or is found shall pay the costs of all
309 proceedings under this section.
- 310 (20)(a) A local mental health authority shall provide discharge instructions to each
311 individual committed under this section at or before the time the individual is
312 discharged from the local mental health authority's custody, regardless of the
313 circumstances under which the individual is discharged.
- 314 (b) Discharge instructions provided under Subsection (20)(a) shall include:
- 315 (i) a summary of why the individual was committed to the local mental health
316 authority;
- 317 (ii) detailed information about why the individual is being discharged from the local
318 mental health authority's custody;
- 319 (iii) a safety plan for the individual based on the individual's mental illness or mental
320 or emotional state;
- 321 (iv) notification to the individual's primary care provider, if applicable;
- 322 (v) if the individual is discharged without food, housing, or economic security, a
323 referral to appropriate services, if such services exist in the individual's
324 community;
- 325 (vi) the phone number to call or text for a crisis services hotline, and information
326 about the availability of peer support services;
- 327 (vii) a copy of any psychiatric advance directive presented to the local mental health
328 authority, if applicable;
- 329 (viii) information about how to establish a psychiatric advance directive if one was
330 not presented to the local mental health authority;
- 331 (ix) as applicable, information about medications that were changed or discontinued
332 during the commitment;
- 333 (x) a list of any screening or diagnostic tests conducted during the commitment;
- 334 (xi) a summary of therapeutic treatments provided during the commitment;
- 335 (xii) any laboratory work, including blood samples or imaging, that was completed or
336 attempted during the commitment; and

- 337 (xiii) information about how to contact the local mental health authority if needed.
- 338 (c) If an individual's medications were changed, or if an individual was prescribed new
339 medications while committed under this section, discharge instructions provided
340 under Subsection (20)(a) shall include a clinically appropriate supply of medications,
341 as determined by a licensed health care provider, to allow the individual time to
342 access another health care provider or follow-up appointment.
- 343 (d) If an individual refuses to accept discharge instructions, the local mental health
344 authority shall document the refusal in the individual's medical record.
- 345 (e) If an individual's discharge instructions include referrals to services under Subsection
346 (20)(b)(v), the local mental health authority shall document those referrals in the
347 individual's medical record.
- 348 (f) The local mental health authority shall attempt to follow up with a discharged
349 individual at least 48 hours after discharge, and may use peer support professionals
350 when performing follow-up care or developing a continuing care plan.
- 351 (21) If any provision of Subsection (16)(a)(ii) or the application of any provision of
352 Subsection (16)(a)(ii) to any person or circumstance is held invalid by a court with
353 jurisdiction, the remainder of Subsection (16)(a)(ii) shall be given effect without the
354 invalid provision or application. The provisions of Subsection (16)(a)(ii) are severable.

355 **Section 2. Effective Date.**

356 This bill takes effect on May 7, 2025.