

Competency Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor:

LONG TITLE**General Description:**

This bill amends provisions related to competency evaluations.

Highlighted Provisions:

This bill:

- requires that when a court orders two competency evaluations, the evaluations must be ordered in the same order;
- permits a defendant to be transferred to a clinical or inpatient setting for a competency evaluation;
- clarifies that certain provisions do not apply to progress toward competency evaluations;
- amends a provision related to a report of a progress toward competency evaluation;
- provides for the portability of an involuntary medication order when an individual is transferred between facilities;
- defines terms; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-15-5, as last amended by Laws of Utah 2025, Chapter 46

77-15-6, as last amended by Laws of Utah 2025, Chapter 46

ENACTS:

77-15-10, Utah Code Annotated 1953

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

Section 1. Section **77-15-5** is amended to read:

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

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

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

(b) the court raises the issue of the defendant's competency under Section 77-15-4.

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

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

(b) shall review the allegations of incompetency;

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

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

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

(3)(a)(i) If the court finds that there is a bona fide doubt as to the defendant's

competency to stand trial, the court shall order the department to have one or two forensic evaluators complete a competency evaluation for the defendant in accordance with Subsection (3)(b) and provide a report to the court regarding the competency of the defendant to stand trial.

(ii) If the court orders two competency evaluations, the competency evaluations must be ordered in the same order.

(b) The court shall order the department to have the defendant evaluated by one forensic evaluator unless:

(i) the defendant is charged with a capital felony; or

(ii) the defendant is charged with a felony that is not a capital felony, and the court determines, based on the allegations in the petition, that good cause exists to order two competency evaluations.

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

(ii) If a party seeks an additional competency evaluation under this Subsection (3)(c), the party shall:

(A) select the additional forensic evaluator; and

(B) pay the costs of the additional forensic evaluator.

(d) The stipulation by parties to a bona fide doubt as to the defendant's competency to stand trial alone may not take the place of a competency evaluation ordered under this Subsection (3).

(e) In accordance with state licensing laws, the court may only order the department to provide an initial evaluation and progress toward competency evaluation for a defendant who is located within the state.

(4)(a) If the petition or other information sufficiently raises concerns that the defendant may have an intellectual disability, at least one forensic evaluator who is experienced in assessments of intellectual disabilities shall conduct a competency evaluation.

(b) The petitioner or other party, as directed by the court or requested by the department, shall provide to the forensic evaluator nonmedical information and materials relevant to a determination of the defendant's competency, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a competency evaluation, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(i) with the defendant's consent, a forensic evaluator or the department on the department's request; or

(ii) a forensic evaluator by court order.

(d) A court order under Subsection (4)(c) shall include a protective order that expires 180 days after the day on which:

(i) the defendant is found guilty;

(ii) the defendant enters a guilty plea;

(iii) the court sentences the defendant; or

(iv) if the case is appealed, the day on which the final appeal is resolved.

(e)(i) Except as otherwise provided by law and in Subsections (4)(e)(ii) and (4)(f), the court shall order the forensic evaluator to destroy all records subject to the protective order within the 180 day period described in Subsection (4)(d).

(ii) A forensic evaluator is not required to destroy the records subject to the protective order if destroying the records is a violation of ethical standards to which the forensic evaluator is subject for occupational licensing.

(f) The court may extend the protective order described in Subsection (4)(d) if:

- 99 (i) the court finds the defendant incompetent to proceed without a substantial
100 probability that the defendant will become competent in the foreseeable future;
- 101 (ii) the prosecutor or another individual indicates to the court that the prosecutor or
102 other individual will seek civil commitment of the defendant under Section
103 77-15-6; and
- 104 (iii) the court orders the records be maintained and used only for the purposes of
105 examining the defendant in connection with the petition for civil commitment.
- 106 (g) An order for a competency evaluation may not contain an order for any other inquiry
107 into the mental state of the defendant that is not described in this Subsection (4).
- 108 (5)(a) Pending a competency evaluation, unless the court or the department directs
109 otherwise, the defendant shall be retained in the same custody or status that the
110 defendant was in at the time the examination was ordered.
- 111 (b) If clinically appropriate, based on the department's recommendation and request, the
112 defendant may be transferred to a clinical or inpatient setting temporarily for the
113 purpose of the competency evaluation.
- 114 (6) In the conduct of a competency evaluation and in a report to the court, a forensic
115 evaluator shall consider and address, in addition to any other factors determined to be
116 relevant by the forensic evaluator:
- 117 (a) the impact of the defendant's mental illness or intellectual disability on the
118 defendant's present ability to:
- 119 (i) rationally and factually understand the criminal proceedings against the defendant;
120 and
- 121 (ii) consult with the defendant's legal counsel with a reasonable degree of rational
122 understanding in order to assist in the defense;
- 123 (b) in making the determinations described in Subsection (6)(a), the forensic evaluator
124 shall consider, as applicable the defendant's present ability to:
- 125 (i) understand the charges or allegations against the defendant;
126 (ii) communicate facts, events, and states of mind;
127 (iii) understand the range of possible penalties associated with the charges or
128 allegations against the defendant;
- 129 (iv) engage in reasoned choice of legal strategies and options;
130 (v) understand the adversarial nature of the proceedings against the defendant;
131 (vi) manifest behavior sufficient to allow the court to proceed; and
132 (vii) testify relevantly, if applicable; and

(c) whether the defendant is exhibiting false or exaggerated physical or psychological symptoms relevant to the defendant's capacity to stand trial.

(7) Upon a determination that the defendant is incompetent to proceed, the forensic evaluator shall indicate in the report to the court:

(a) the factors that contribute to the defendant's incompetency, including the nature of the defendant's mental illness or intellectual disability, if any, and its relationship to the factors contributing to the defendant's incompetency;

(b) whether there is a substantial probability that:

(i) restoration treatment may bring the defendant to competency to stand trial in the foreseeable future; or

(ii) the defendant cannot become competent to stand trial in the foreseeable future;

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

(d) if the forensic evaluator makes the determination under Subsection (7)(b)(i) or (7)(c), an explanation of the reason for the determination and a summary of the treatment provided to the defendant in the past.

(8)(a) A forensic evaluator shall provide an initial report to the court and the prosecuting and defense attorneys within 30 days of the receipt of the court's order. The report shall inform the court of the examiner's opinion concerning the competency of the defendant to stand trial.

(b)(i) If the forensic evaluator is unable to complete the report in the time specified in Subsection (8)(a), the forensic evaluator shall give written notice to the court.

(ii) A forensic evaluator who provides the notice described in Subsection (8)(b)(i) shall receive a 15-day extension, giving the forensic evaluator a total of 45 days after the day on which the forensic evaluator received the court's order to conduct a competency evaluation and file a report.

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

(iv) Upon receipt of an extension described in Subsection (8)(b)(iii), the forensic evaluator shall file the report as soon as reasonably possible.

(9) Any written report submitted by a forensic evaluator shall:

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

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each, the time spent by the forensic evaluator with the defendant for purposes of the examination, and the compensation to be paid to the

evaluator for the report;

(c) state the forensic evaluator's clinical observations, findings, and opinions on each factor described in Subsection (6); and

(d) identify the sources of information used by the forensic evaluator and present the basis for the forensic evaluator's clinical findings and opinions.

(10)(a) Any statement made by the defendant in the course of any competency examination, whether the examination is with or without the consent of the defendant, any testimony by a forensic evaluator based upon the statement, and any other fruits of the statement may not be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced evidence, unless the evidence is relevant to a determination of the defendant's competency.

(b) Before examining the defendant, the forensic evaluator shall specifically advise the defendant of the limits of confidentiality as provided under Subsection (10)(a).

(11)(a) Upon receipt of the forensic evaluators' reports, the court shall set a date for a competency hearing. The hearing shall be held not less than five and not more than 15 days after the day on which the court received the forensic evaluators' reports, unless for good cause the court sets a later date.

(b) Any person directed by the department to conduct the competency evaluation may be subpoenaed to testify at the hearing.

(c) The court may call any forensic evaluator to testify at the hearing who is not called by the parties. If the court calls a forensic evaluator, counsel for the parties may cross-examine the forensic evaluator.

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

(ii) A conflict in the opinions of the forensic evaluators does not require the appointment of an additional forensic evaluator unless the court finds good cause for the appointment.

(iii) If a party seeks an additional competency evaluation under this Subsection (11), that party shall:

(A) select the additional forensic evaluator; and

(B) pay the costs of the additional forensic evaluator.

(12)(a)(i) A defendant shall be presumed competent to stand trial unless the court, by

201 a preponderance of the evidence, finds the defendant incompetent to proceed.

202 (ii) The burden of proof is upon the proponent of incompetency at the hearing.

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

206 (13) In determining the defendant's competency to stand trial, the court shall consider the
207 totality of the circumstances, including:

208 (a) the petition;

209 (b) the defendant's criminal and arrest history;

210 (c) prior mental health evaluations and treatments provided to the court by the defendant;

211 (d) subject to Subsection (15), whether the defendant was found incompetent to proceed
212 in a criminal action unrelated to the charged offense for which the petition is filed;

213 (e) the testimony of lay witnesses, if any;

214 (f) the forensic evaluator's testimony and report;

215 (g) the materials on which the forensic evaluator's report is based; and

216 (h) any other relevant evidence or consideration bearing on the competency of the
217 defendant.

218 (14) If the court finds the defendant incompetent to proceed:

219 (a) the court shall issue the order described in Subsection 77-15-6(1), which shall:

220 (i) include findings addressing each of the factors in Subsection (6)(a);

221 (ii) include a transportation order, if necessary;

222 (iii) be accompanied by the forensic evaluators' reports, any psychiatric,
223 psychological, or social work reports submitted to the court relative to the mental
224 condition of the defendant, and any other documents made available to the court
225 by either the defense or the prosecution, pertaining to the defendant's current or
226 past mental condition; and

227 (iv) be sent by the court to the department; and

228 (b) the prosecuting attorney shall provide to the department:

229 (i) the charging document and probable cause statement, if any;

230 (ii) arrest or incident reports prepared by law enforcement and pertaining to the
231 charged offense; and

232 (iii) additional supporting documents.

233 (15) The court may not find the defendant incompetent to proceed based solely on a court
234 having ordered the release of the defendant under Section 77-15-3.5 or Section 77-15-6

in an unrelated criminal action if the court in the unrelated criminal action ordered the release more than one year before the day on which the petition described in Subsection (13)(a) is filed.

(16) The court may make any reasonable order to ensure compliance with this section.

(17) Failure to comply with this section does not result in the dismissal of criminal charges.

(18) This section does not apply to progress toward competency evaluations.

Section 2. Section **77-15-6** is amended to read:

77-15-6 . Commitment on finding of incompetency to stand trial -- Subsequent hearings -- Notice to prosecuting attorneys.

(1)(a) Except as provided in Subsection (5), if after a hearing a court finds a defendant to be incompetent to proceed, the court shall order the defendant committed to the department for restoration treatment.

(b)(i) Except as provided in Subsection (1)(b)(ii), the court may recommend but may not order placement of a defendant who is found incompetent to proceed.

(ii) The court may order that the defendant be placed in a secure setting rather than a nonsecure setting.

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

(d) Restoration treatment shall be of sufficient scope and duration to:

(i) restore the defendant to competency; or

(ii) determine whether the defendant can be restored to competency in the foreseeable future.

(e) A defendant who a court determines is incompetent to proceed may not be held for restoration treatment longer than:

(i) the time reasonably necessary to determine that the defendant cannot become competent to stand trial in the foreseeable future; and

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

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

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

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

- (b) A forensic evaluator shall complete a progress toward competency evaluation and submit a report within 90 days after the day on which the forensic evaluator receives the commitment order from the department.
- (c) The report shall:
- (i) assess whether the defendant is exhibiting false or exaggerated physical or psychological symptoms;
 - (ii) describe any diagnostic instruments, methods, and observations used by the evaluator to make the determination;
 - (iii) describe the defendant's current mental illness or intellectual disability, if any;
 - (iv) state the forensic evaluator's opinion as to the effect of any false or exaggerated symptoms on the defendant's competency to stand trial;
 - (v) assess the facility's or program's capacity to provide appropriate restoration treatment for the defendant;
 - (vi) assess the nature of restoration treatment provided to the defendant;
 - (vii) assess what progress the defendant has made toward competency restoration, with respect to the factors identified by the court in its initial order;
 - (viii) assess whether the defendant can reasonably be restored to competency in the foreseeable future given the restoration treatment currently being provided and the facility's or program's capacity to provide appropriate restoration treatment for the defendant; and
 - (ix) assess the likelihood of restoration to competency, the amount of time estimated to achieve competency, or the amount of time estimated to determine whether restoration to competency may be achieved~~[-and]~~ .
- ~~[(*)]~~ (d) If clinically appropriate, a report concluding that the defendant is competent to proceed may include a statement by the facility's treating physician regarding:
- ~~[(A)]~~ (i) whether the defendant is taking any antipsychotic medication as prescribed;
 - ~~[(B)]~~ (ii) whether ongoing administration of antipsychotic medication is necessary to maintain the defendant's competency to stand trial;
 - ~~[(C)]~~ (iii) whether antipsychotic medication is substantially likely to maintain the defendant's competency to stand trial;
 - ~~[(D)]~~ (iv) whether antipsychotic medication is substantially unlikely to produce side effects which would significantly interfere with the defendant's ability to assist in the defendant's defense;
 - ~~[(E)]~~ (v) that no less intrusive means are available, and whether any of those means

- 303 have been attempted to render the defendant competent; and
304 [(F)] (vi) whether antipsychotic medication is medically appropriate and in the
305 defendant's best medical interest in light of the defendant's medical condition.
- 306 (3)(a) The court on its own motion or upon motion by either party or the department
307 may appoint an additional forensic evaluator to conduct a progress toward
308 competency evaluation.
- 309 (b) If the court appoints an additional forensic evaluator upon motion of a party, that
310 party shall pay the costs of the additional forensic evaluator.
- 311 (4)(a) Within 15 days after the day on which the court receives the forensic evaluator's
312 report of the progress toward competency evaluation, the court shall hold a hearing to
313 review the defendant's competency.
- 314 (b) At the hearing, the burden of proving that the defendant is competent to stand trial is
315 on the proponent of competency.
- 316 (c) Following the hearing, the court shall determine by a preponderance of evidence
317 whether the defendant:
- 318 (i) is competent to stand trial;
- 319 (ii) is competent, but requires the ongoing administration of antipsychotic medication
320 in order to maintain the defendant's competency to stand trial;
- 321 (iii) is incompetent to proceed, with a substantial probability that the defendant may
322 become competent in the foreseeable future; or
- 323 (iv) is incompetent to proceed, without a substantial probability that the defendant
324 may become competent in the foreseeable future.
- 325 (5)(a) If at any time the court determines that the defendant is competent to stand trial,
326 the court shall:
- 327 (i) proceed with the trial or other procedures as may be necessary to adjudicate the
328 charges;
- 329 (ii) order that the defendant be returned to the placement and status that the defendant
330 was in at the time when the petition for the adjudication of competency was filed
331 or raised by the court, unless the court determines that placement of the defendant
332 in a less restrictive environment is more appropriate;
- 333 (iii) order the ongoing administration of antipsychotic medication to the defendant for
334 the purpose of maintaining the defendant's competency to stand trial, if the court
335 finds that the administration of antipsychotic medication is necessary to maintain
336 the defendant's competency to stand trial under Subsection (4)(c)(ii); and

(iv) require the agency, jail, or prison with custody over the defendant to report to the court any noncompliance with the court's orders under this Subsection (5) within 48 hours of the noncompliance.

(b) If the court determines that the defendant is incompetent to proceed with a substantial probability that the defendant may become competent in the foreseeable future, the court may order that the defendant remain committed to the department or the department's designee for the purpose of restoration treatment.

(c)(i) If the court determines that the defendant is incompetent to proceed without a substantial probability that the defendant may become competent in the foreseeable future, the court shall order the defendant released from commitment to the department, unless the prosecutor or another individual informs the court that civil commitment proceedings pursuant to Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, will be initiated.

(ii) The commitment proceedings must be initiated by a petition filed within seven days after the day on which the court makes the determination described in Subsection (4)(c)(iv), unless the court finds that there is good cause to delay the initiation of the civil commitment proceedings.

(iii) The court may order the defendant to remain committed to the department until the civil commitment proceedings conclude.

(iv) If the defendant is civilly committed and admitted to a secure setting, the department shall provide notice to the court that adjudicated the defendant incompetent to proceed and to the prosecution agency that prosecuted the case at least 15 days before any proposed release of the committed individual from the secure setting.

(v) If the prosecution agency that prosecuted the case intends to refile charges against the committed individual:

(A) the prosecution agency shall provide written notice of that intent to the department within 15 days after the department provides the notice described in Subsection (5)(c)(iv); and

(B) the department shall postpone release of the committed individual for at least 30 days after the day on which the department receives the written notice of intent from the prosecution agency.

(vi) If the prosecution agency that prosecuted the case refiles charges against the

- 371 committed individual and the individual's competency is raised, the department
372 shall postpone release of the individual until the competency proceedings
373 conclude.
- 374 (6)(a) At any time following the court's order under Subsection (5)(a)(iii), the defendant,
375 the prosecuting attorney, the department, the treating physician, or the agency, jail, or
376 prison with custody over the defendant, may notify the court of the need to review
377 the medication order under Subsection (5)(a)(iii) for continued appropriateness and
378 feasibility.
- 379 (b) The court shall set the matter for a hearing if the notification under Subsection (6)(a)
380 establishes good cause to review the matter.
- 381 (7) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall
382 schedule a competency review hearing for the earlier of:
- 383 (a) the department's best estimate of when the defendant may be restored to competency;
384 or
- 385 (b) three months after the day on which the court determined under Subsection (5)(b) to
386 extend the defendant's commitment.
- 387 (8) Unless the defendant is charged with a crime listed in Subsection (9), if a defendant is
388 incompetent to proceed by the day of the competency review hearing that follows the
389 extension of a defendant's commitment, the court shall:
- 390 (a) order the defendant be:
- 391 (i) released or temporarily detained pending civil commitment proceedings as
392 described in Subsection (5)(c); and
- 393 (ii) terminate the defendant's commitment to the department for restoration treatment;
394 or
- 395 (b) if the forensic evaluator reports to the court that there is a substantial probability that
396 restoration treatment will bring the defendant to competency to stand trial in the
397 foreseeable future, extend the defendant's commitment for restoration treatment up to
398 45 additional days.
- 399 (9) If the defendant is charged with aggravated murder, murder, attempted murder,
400 manslaughter, or a first degree felony and the court determines that the defendant is
401 making reasonable progress towards restoration of competency at the time of the hearing
402 held pursuant to Subsection (7), the court may extend the commitment for a period not
403 to exceed nine months for the purpose of restoration treatment, with a mandatory review
404 hearing at the end of the nine-month period.

- (10) Unless the defendant is charged with aggravated murder or murder, if, at the nine-month review hearing described in Subsection (9), the court determines that the defendant is incompetent to proceed, the court shall:
- (a)(i) order the defendant be released or temporarily detained pending civil commitment proceedings as provided in Subsection (5)(c); and
 - (ii) terminate the defendant's commitment to the department for restoration treatment; or
 - (b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 135 additional days.
- (11) If the defendant is charged with aggravated murder or murder and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the nine-month review hearing described in Subsection (9), the court may extend the commitment for a period not to exceed 24 months for the purpose of restoration treatment.
- (12) If the court extends the defendant's commitment term under Subsection (11), the court shall hold a hearing no less frequently than at 12-month intervals following the extension for the purpose of determining the defendant's competency status.
- (13) If, at the end of the 24-month commitment period described in Subsection (11), the court determines that the defendant is incompetent to proceed, the court shall:
- (a)(i) order the defendant be released or temporarily detained pending civil commitment proceedings as provided in Subsection (5)(c); and
 - (ii) terminate the defendant's commitment to the department for restoration treatment; or
 - (b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 12 additional months.
- (14)(a) Neither release from a pretrial incompetency commitment under the provisions of this section nor civil commitment requires dismissal of criminal charges.
- (b) The court may retain jurisdiction over the criminal case and may order periodic reviews.
- (15) A defendant who is civilly committed pursuant to Title 26B, Chapter 5, Health Care -

Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, may still be adjudicated competent to stand trial under this chapter.

(16)(a) The remedy for a violation of the time periods specified in this section, other than those specified in Subsection (5)(c), (8), (10), or (13), shall be a motion to compel the hearing, or mandamus, but not release from detention or dismissal of the criminal charges.

(b) The remedy for a violation of the time periods specified in Subsection (5)(c), (8), (9), or (13), or is not dismissal of the criminal charges.

(17) In cases in which the treatment of the defendant is precluded by court order for a period of time, that time period may not be considered in computing time limitations under this section.

(18)(a) If, at any time, the defendant becomes competent to stand trial while the defendant is committed to the department, the clinical director of the Utah State Hospital, the department, or the department's designee shall certify that fact to the court.

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

(i) within 15 working days after the day on which the court receives the certification described in Subsection (18)(a); or

(ii) within 30 working days after the day on which the court receives the certification described in Subsection (18)(a), if the court determines that more than 15 working days are necessary for good cause related to the defendant's competency.

(19) The court may order a hearing at any time on the court's own motion or upon recommendations of the clinical director of the Utah State Hospital or other facility or the department.

(20) Notice of a hearing on competency to stand trial shall be given to the prosecuting attorney and all counsel of record.

Section 3. Section **77-15-10** is enacted to read:

77-15-10 . Involuntary medication order portability.

(1) As used in this section:

(a) "Covered individual" means an individual subject to an involuntary medication order.

(b) "Facility" means:

(i) a county jail;

(ii) the Utah State Hospital established in Section 26B-5-302; or

- 473 (iii) a facility where a covered individual is receiving treatment as described in
474 Section 77-15-6.5.
- 475 (c) "Involuntary medication order" means a court order for involuntary medication of a
476 defendant that a court orders in accordance with Section 77-15-6.5.
- 477 (d) "Qualified medical professional" means an individual who is licensed as:
- 478 (i) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
479 Chapter 68, Utah Osteopathic Medical Practice Act;
- 480 (ii) a psychiatrist under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
481 Chapter 68, Utah Osteopathic Medical Practice Act;
- 482 (iii) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act;
483 or
- 484 (iv) a nurse practitioner under Title 58, Chapter 31b, Nurse Practice Act.
- 485 (e) "Receiving facility" means a facility where a covered individual is being transferred.
- 486 (f) "Sending facility" means a facility where a covered individual is held or incarcerated.
- 487 (2) An involuntary medication order remains valid and in effect when a covered individual
488 is transferred from a sending facility to a receiving facility.
- 489 (3) Before a receiving facility continues administering medication to an individual
490 transferred from a sending facility under an involuntary medication order:
- 491 (a) a qualified medical professional employed by the receiving facility shall:
- 492 (i) review the covered individual's medical record from the sending facility and the
493 involuntary medication order;
- 494 (ii) conduct a face-to-face assessment of the covered individual's current mental and
495 physical condition;
- 496 (iii) assess whether the covered individual can be transitioned to receiving medication
497 on a voluntary basis if the covered individual continues to need medication; and
- 498 (b) the qualified medical professional shall document in the covered individual's medical
499 record a signed statement affirming that:
- 500 (i) the covered individual continues to suffer from a mental illness and, as a result of
501 the mental illness, poses a likelihood of serious harm to the covered individual or
502 others if treatment ordered in the involuntary medication order is discontinued; and
- 503 (ii) the administration of psychiatric medication as ordered in the involuntary
504 medication order is:
- 505 (A) medically appropriate;
- 506 (B) in the covered individual's best interest; and

(C) the least restrictive treatment necessary to maintain the safety of the covered individual and others.

(4)(a) A sending facility and receiving facility shall coordinate transfer of a covered individual's medication plan.

(b) If the covered individual's medication is unavailable under the receiving facility's formulary, the medical director of the sending facility, or the medical director's designee, and the medical director of the receiving facility, or the medical director's designee, shall agree on a therapeutic equivalent or alternative that prevents interruption of the covered individual's treatment.

(c) If the medical director of the receiving facility does not agree to a therapeutic equivalent or alternative described in Subsection (4)(b), the receiving facility may not continue to involuntarily medicate the covered individual unless the receiving facility seeks a new involuntary medication order under Section 77-15-6.5.

(5) This section does not affect:

(a) the rights of a covered individual under this chapter; or

(b) the original expiration date of an involuntary medication order.

Section 4. Effective Date.

This bill takes effect on May 6, 2026.