

Nelson T. Abbott proposes the following substitute bill:

Competency Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor: Todd Weiler

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;
- provides that a court may order the Department of Health and Human Services to conduct additional or updated competency evaluations under certain circumstances;
- 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:

29 **77-15-10**, Utah Code Annotated 1953

30

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

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

33 **77-15-5 . Order for hearing -- Stay of other proceedings -- Examinations of**
34 **defendant -- Scope of examination and report.**

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

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

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

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

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

41 (b) shall review the allegations of incompetency;

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

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

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

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

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

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

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

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

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

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

- 63 (ii) If a party seeks an additional competency evaluation under this Subsection (3)(c),
64 the party shall:
- 65 (A) select the additional forensic evaluator; and
66 (B) pay the costs of the additional forensic evaluator.
- 67 (d)(i) After the court receives the reports of all evaluations ordered under this
68 Subsection (3), the court may order the department to conduct an additional
69 evaluation or an updated evaluation:
- 70 (A) upon motion of a party or the court's own motion; and
71 (B) if the court finds good cause based on:
- 72 (I) a change in circumstances; or
73 (II) the receipt of new information that was not previously considered and that
74 could materially affect the determination of the defendant's competency to
75 stand trial.
- 76 (ii) An additional or updated evaluation that the department conducts as ordered by
77 the court as described in Subsection (3)(d)(i), may, at the discretion of the
78 department, be limited to addressing the change in circumstances or new
79 information described in Subsection (3)(d)(i)(B)(II).
- 80 (iii) This Subsection (3)(d) does not prohibit or limit a party from seeking an
81 additional competency evaluation under Subsection (3)(c) or Subsection (11).
- 82 ~~[(d)]~~ (e) The stipulation by parties to a bona fide doubt as to the defendant's competency
83 to stand trial alone may not take the place of a competency evaluation ordered under
84 this Subsection (3).
- 85 ~~[(e)]~~ (f) In accordance with state licensing laws, the court may only order the department
86 to provide an initial evaluation and progress toward competency evaluation for a
87 defendant who is located within the state.
- 88 (4)(a) If the petition or other information sufficiently raises concerns that the defendant
89 may have an intellectual disability, at least one forensic evaluator who is experienced
90 in assessments of intellectual disabilities shall conduct a competency evaluation.
- 91 (b) The petitioner or other party, as directed by the court or requested by the department,
92 shall provide to the forensic evaluator nonmedical information and materials relevant
93 to a determination of the defendant's competency, including the charging document,
94 arrest or incident reports pertaining to the charged offense, known criminal history
95 information, and known prior mental health evaluations and treatments.
- 96 (c) For purposes of a competency evaluation, a custodian of mental health records

97 pertaining to the defendant, including the defendant's prior mental health evaluations
98 or records relating to the defendant's substance use disorder, may provide the records
99 to:

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

102 (ii) a forensic evaluator by court order.

103 (d) A court order under Subsection (4)(c) shall include a protective order that expires
104 180 days after the day on which:

105 (i) the defendant is found guilty;

106 (ii) the defendant enters a guilty plea;

107 (iii) the court sentences the defendant; or

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

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

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

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

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

118 (ii) the prosecutor or another individual indicates to the court that the prosecutor or
119 other individual will seek civil commitment of the defendant under Section
120 77-15-6; and

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

123 (g) An order for a competency evaluation may not contain an order for any other inquiry
124 into the mental state of the defendant that is not described in this Subsection (4).

125 (5)(a) Pending a competency evaluation, unless the court or the department directs
126 otherwise, the defendant shall be retained in the same custody or status that the
127 defendant was in at the time the examination was ordered.

128 (b) If clinically appropriate, based on the department's recommendation and request, the
129 defendant may be transferred to a clinical or inpatient setting temporarily for the
130 purpose of the competency evaluation.

- 131 (c) If the department transfers the defendant as described Subsection (5)(b), the
132 department shall provide notice of the transfer to the court and the parties.
- 133 (6) In the conduct of a competency evaluation and in a report to the court, a forensic
134 evaluator shall consider and address, in addition to any other factors determined to be
135 relevant by the forensic evaluator:
- 136 (a) the impact of the defendant's mental illness or intellectual disability on the
137 defendant's present ability to:
- 138 (i) rationally and factually understand the criminal proceedings against the defendant;
139 and
- 140 (ii) consult with the defendant's legal counsel with a reasonable degree of rational
141 understanding in order to assist in the defense;
- 142 (b) in making the determinations described in Subsection (6)(a), the forensic evaluator
143 shall consider, as applicable the defendant's present ability to:
- 144 (i) understand the charges or allegations against the defendant;
145 (ii) communicate facts, events, and states of mind;
146 (iii) understand the range of possible penalties associated with the charges or
147 allegations against the defendant;
148 (iv) engage in reasoned choice of legal strategies and options;
149 (v) understand the adversarial nature of the proceedings against the defendant;
150 (vi) manifest behavior sufficient to allow the court to proceed; and
151 (vii) testify relevantly, if applicable; and
- 152 (c) whether the defendant is exhibiting false or exaggerated physical or psychological
153 symptoms relevant to the defendant's capacity to stand trial.
- 154 (7) Upon a determination that the defendant is incompetent to proceed, the forensic
155 evaluator shall indicate in the report to the court:
- 156 (a) the factors that contribute to the defendant's incompetency, including the nature of
157 the defendant's mental illness or intellectual disability, if any, and its relationship to
158 the factors contributing to the defendant's incompetency;
- 159 (b) whether there is a substantial probability that:
- 160 (i) restoration treatment may bring the defendant to competency to stand trial in the
161 foreseeable future; or
- 162 (ii) the defendant cannot become competent to stand trial in the foreseeable future;
- 163 (c) whether the defendant would benefit from restoration treatment; and
- 164 (d) if the forensic evaluator makes the determination under Subsection (7)(b)(i) or (7)(c),

165 an explanation of the reason for the determination and a summary of the treatment
166 provided to the defendant in the past.

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

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

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

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

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

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

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

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

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

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

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

198 (b) Before examining the defendant, the forensic evaluator shall specifically advise the

- 199 defendant of the limits of confidentiality as provided under Subsection (10)(a).
200 (11)(a) Upon receipt of the forensic evaluators' reports, the court shall set a date for a
201 competency hearing. The hearing shall be held not less than five and not more than
202 15 days after the day on which the court received the forensic evaluators' reports,
203 unless for good cause the court sets a later date.
- 204 (b) Any person directed by the department to conduct the competency evaluation may be
205 subpoenaed to testify at the hearing.
- 206 (c) The court may call any forensic evaluator to testify at the hearing who is not called
207 by the parties. If the court calls a forensic evaluator, counsel for the parties may
208 cross-examine the forensic evaluator.
- 209 (d)(i) If the forensic evaluators are in conflict as to the competency of the defendant,
210 all forensic evaluators should be called to testify at the hearing if reasonably
211 available.
- 212 (ii) A conflict in the opinions of the forensic evaluators does not require the
213 appointment of an additional forensic evaluator unless the court finds good cause
214 for the appointment.
- 215 (iii) If a party seeks an additional competency evaluation under this Subsection (11),
216 that party shall:
- 217 (A) select the additional forensic evaluator; and
218 (B) pay the costs of the additional forensic evaluator.
- 219 (12)(a)(i) A defendant shall be presumed competent to stand trial unless the court, by
220 a preponderance of the evidence, finds the defendant incompetent to proceed.
- 221 (ii) The burden of proof is upon the proponent of incompetency at the hearing.
- 222 (b) An adjudication of incompetent to proceed does not operate as an adjudication of
223 incompetency to give informed consent for medical treatment or for any other
224 purpose, unless specifically set forth in the court order.
- 225 (13) In determining the defendant's competency to stand trial, the court shall consider the
226 totality of the circumstances, including:
- 227 (a) the petition;
228 (b) the defendant's criminal and arrest history;
229 (c) prior mental health evaluations and treatments provided to the court by the defendant;
230 (d) subject to Subsection (15), whether the defendant was found incompetent to proceed
231 in a criminal action unrelated to the charged offense for which the petition is filed;
232 (e) the testimony of lay witnesses, if any;

- 233 (f) the forensic evaluator's testimony and report;
- 234 (g) the materials on which the forensic evaluator's report is based; and
- 235 (h) any other relevant evidence or consideration bearing on the competency of the
- 236 defendant.
- 237 (14) If the court finds the defendant incompetent to proceed:
- 238 (a) the court shall issue the order described in Subsection 77-15-6(1), which shall:
- 239 (i) include findings addressing each of the factors in Subsection (6)(a);
- 240 (ii) include a transportation order, if necessary;
- 241 (iii) be accompanied by the forensic evaluators' reports, any psychiatric,
- 242 psychological, or social work reports submitted to the court relative to the mental
- 243 condition of the defendant, and any other documents made available to the court
- 244 by either the defense or the prosecution, pertaining to the defendant's current or
- 245 past mental condition; and
- 246 (iv) be sent by the court to the department; and
- 247 (b) the prosecuting attorney shall provide to the department:
- 248 (i) the charging document and probable cause statement, if any;
- 249 (ii) arrest or incident reports prepared by law enforcement and pertaining to the
- 250 charged offense; and
- 251 (iii) additional supporting documents.
- 252 (15) The court may not find the defendant incompetent to proceed based solely on a court
- 253 having ordered the release of the defendant under Section 77-15-3.5 or Section 77-15-6
- 254 in an unrelated criminal action if the court in the unrelated criminal action ordered the
- 255 release more than one year before the day on which the petition described in Subsection
- 256 (13)(a) is filed.
- 257 (16) The court may make any reasonable order to ensure compliance with this section.
- 258 (17) Failure to comply with this section does not result in the dismissal of criminal charges.
- 259 (18) This section does not apply to progress toward competency evaluations.
- 260 Section 2. Section **77-15-6** is amended to read:
- 261 **77-15-6 . Commitment on finding of incompetency to stand trial -- Subsequent**
- 262 **hearings -- Notice to prosecuting attorneys.**
- 263 (1)(a) Except as provided in Subsection (5), if after a hearing a court finds a defendant to
- 264 be incompetent to proceed, the court shall order the defendant committed to the
- 265 department for restoration treatment.
- 266 (b)(i) Except as provided in Subsection (1)(b)(ii), the court may recommend but may

- 267 not order placement of a defendant who is found incompetent to proceed.
- 268 (ii) The court may order that the defendant be placed in a secure setting rather than a
269 nonsecure setting.
- 270 (c) Following restoration screening, the department's designee shall designate and
271 inform the court of the specific placement and restoration treatment program for the
272 defendant.
- 273 (d) Restoration treatment shall be of sufficient scope and duration to:
- 274 (i) restore the defendant to competency; or
275 (ii) determine whether the defendant can be restored to competency in the foreseeable
276 future.
- 277 (e) A defendant who a court determines is incompetent to proceed may not be held for
278 restoration treatment longer than:
- 279 (i) the time reasonably necessary to determine that the defendant cannot become
280 competent to stand trial in the foreseeable future; and
281 (ii) the maximum period of incarceration that the defendant could receive if the
282 defendant were convicted of the most severe offense of the offenses charged.
- 283 (2)(a) A defendant who is receiving restoration treatment shall receive a progress toward
284 competency evaluation, by:
- 285 (i) a forensic evaluator, designated by the department; and
286 (ii) an additional forensic evaluator, if requested by a party and paid for by the
287 requesting party.
- 288 (b) A forensic evaluator shall complete a progress toward competency evaluation and
289 submit a report within 90 days after the day on which the forensic evaluator receives
290 the commitment order from the department.
- 291 (c) The report shall:
- 292 (i) assess whether the defendant is exhibiting false or exaggerated physical or
293 psychological symptoms;
- 294 (ii) describe any diagnostic instruments, methods, and observations used by the
295 evaluator to make the determination;
- 296 (iii) describe the defendant's current mental illness or intellectual disability, if any;
- 297 (iv) state the forensic evaluator's opinion as to the effect of any false or exaggerated
298 symptoms on the defendant's competency to stand trial;
- 299 (v) assess the facility's or program's capacity to provide appropriate restoration
300 treatment for the defendant;

- 301 (vi) assess the nature of restoration treatment provided to the defendant;
- 302 (vii) assess what progress the defendant has made toward competency restoration,
303 with respect to the factors identified by the court in its initial order;
- 304 (viii) assess whether the defendant can reasonably be restored to competency in the
305 foreseeable future given the restoration treatment currently being provided and the
306 facility's or program's capacity to provide appropriate restoration treatment for the
307 defendant; and
- 308 (ix) assess the likelihood of restoration to competency, the amount of time estimated
309 to achieve competency, or the amount of time estimated to determine whether
310 restoration to competency may be achieved~~;~~ and .
- 311 ~~(*)~~ (d) If clinically appropriate, a report concluding that the defendant is competent to
312 proceed may include a statement by the facility's treating physician regarding:
- 313 ~~(A)~~ (i) whether the defendant is taking any antipsychotic medication as prescribed;
- 314 ~~(B)~~ (ii) whether ongoing administration of antipsychotic medication is necessary to
315 maintain the defendant's competency to stand trial;
- 316 ~~(C)~~ (iii) whether antipsychotic medication is substantially likely to maintain the
317 defendant's competency to stand trial;
- 318 ~~(D)~~ (iv) whether antipsychotic medication is substantially unlikely to produce side
319 effects which would significantly interfere with the defendant's ability to assist in
320 the defendant's defense;
- 321 ~~(E)~~ (v) that no less intrusive means are available, and whether any of those means
322 have been attempted to render the defendant competent; and
- 323 ~~(F)~~ (vi) whether antipsychotic medication is medically appropriate and in the
324 defendant's best medical interest in light of the defendant's medical condition.
- 325 (3)(a) The court on its own motion or upon motion by either party or the department
326 may appoint an additional forensic evaluator to conduct a progress toward
327 competency evaluation.
- 328 (b) If the court appoints an additional forensic evaluator upon motion of a party, that
329 party shall pay the costs of the additional forensic evaluator.
- 330 (4)(a) Within 15 days after the day on which the court receives the forensic evaluator's
331 report of the progress toward competency evaluation, the court shall hold a hearing to
332 review the defendant's competency.
- 333 (b) At the hearing, the burden of proving that the defendant is competent to stand trial is
334 on the proponent of competency.

- 335 (c) Following the hearing, the court shall determine by a preponderance of evidence
336 whether the defendant:
- 337 (i) is competent to stand trial;
 - 338 (ii) is competent, but requires the ongoing administration of antipsychotic medication
339 in order to maintain the defendant's competency to stand trial;
 - 340 (iii) is incompetent to proceed, with a substantial probability that the defendant may
341 become competent in the foreseeable future; or
 - 342 (iv) is incompetent to proceed, without a substantial probability that the defendant
343 may become competent in the foreseeable future.
- 344 (5)(a) If at any time the court determines that the defendant is competent to stand trial,
345 the court shall:
- 346 (i) proceed with the trial or other procedures as may be necessary to adjudicate the
347 charges;
 - 348 (ii) order that the defendant be returned to the placement and status that the defendant
349 was in at the time when the petition for the adjudication of competency was filed
350 or raised by the court, unless the court determines that placement of the defendant
351 in a less restrictive environment is more appropriate;
 - 352 (iii) order the ongoing administration of antipsychotic medication to the defendant for
353 the purpose of maintaining the defendant's competency to stand trial, if the court
354 finds that the administration of antipsychotic medication is necessary to maintain
355 the defendant's competency to stand trial under Subsection (4)(c)(ii); and
 - 356 (iv) require the agency, jail, or prison with custody over the defendant to report to the
357 court any noncompliance with the court's orders under this Subsection (5) within
358 48 hours of the noncompliance.
- 359 (b) If the court determines that the defendant is incompetent to proceed with a
360 substantial probability that the defendant may become competent in the foreseeable
361 future, the court may order that the defendant remain committed to the department or
362 the department's designee for the purpose of restoration treatment.
- 363 (c)(i) If the court determines that the defendant is incompetent to proceed without a
364 substantial probability that the defendant may become competent in the
365 foreseeable future, the court shall order the defendant released from commitment
366 to the department, unless the prosecutor or another individual informs the court
367 that civil commitment proceedings pursuant to Title 26B, Chapter 5, Health Care -
368 Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of

- 369 Services for People with Disabilities, will be initiated.
- 370 (ii) The commitment proceedings must be initiated by a petition filed within seven
371 days after the day on which the court makes the determination described in
372 Subsection (4)(c)(iv), unless the court finds that there is good cause to delay the
373 initiation of the civil commitment proceedings.
- 374 (iii) The court may order the defendant to remain committed to the department until
375 the civil commitment proceedings conclude.
- 376 (iv) If the defendant is civilly committed and admitted to a secure setting, the
377 department shall provide notice to the court that adjudicated the defendant
378 incompetent to proceed and to the prosecution agency that prosecuted the case at
379 least 15 days before any proposed release of the committed individual from the
380 secure setting.
- 381 (v) If the prosecution agency that prosecuted the case intends to refile charges against
382 the committed individual:
- 383 (A) the prosecution agency shall provide written notice of that intent to the
384 department within 15 days after the department provides the notice described
385 in Subsection (5)(c)(iv); and
- 386 (B) the department shall postpone release of the committed individual for at least
387 30 days after the day on which the department receives the written notice of
388 intent from the prosecution agency.
- 389 (vi) If the prosecution agency that prosecuted the case refiles charges against the
390 committed individual and the individual's competency is raised, the department
391 shall postpone release of the individual until the competency proceedings
392 conclude.
- 393 (6)(a) At any time following the court's order under Subsection (5)(a)(iii), the defendant,
394 the prosecuting attorney, the department, the treating physician, or the agency, jail, or
395 prison with custody over the defendant, may notify the court of the need to review
396 the medication order under Subsection (5)(a)(iii) for continued appropriateness and
397 feasibility.
- 398 (b) The court shall set the matter for a hearing if the notification under Subsection (6)(a)
399 establishes good cause to review the matter.
- 400 (7) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall
401 schedule a competency review hearing for the earlier of:
- 402 (a) the department's best estimate of when the defendant may be restored to competency;

- 403 or
- 404 (b) three months after the day on which the court determined under Subsection (5)(b) to
- 405 extend the defendant's commitment.
- 406 (8) Unless the defendant is charged with a crime listed in Subsection (9), if a defendant is
- 407 incompetent to proceed by the day of the competency review hearing that follows the
- 408 extension of a defendant's commitment, the court shall:
- 409 (a) order the defendant be:
- 410 (i) released or temporarily detained pending civil commitment proceedings as
- 411 described in Subsection (5)(c); and
- 412 (ii) terminate the defendant's commitment to the department for restoration treatment;
- 413 or
- 414 (b) if the forensic evaluator reports to the court that there is a substantial probability that
- 415 restoration treatment will bring the defendant to competency to stand trial in the
- 416 foreseeable future, extend the defendant's commitment for restoration treatment up to
- 417 45 additional days.
- 418 (9) If the defendant is charged with aggravated murder, murder, attempted murder,
- 419 manslaughter, or a first degree felony and the court determines that the defendant is
- 420 making reasonable progress towards restoration of competency at the time of the hearing
- 421 held pursuant to Subsection (7), the court may extend the commitment for a period not
- 422 to exceed nine months for the purpose of restoration treatment, with a mandatory review
- 423 hearing at the end of the nine-month period.
- 424 (10) Unless the defendant is charged with aggravated murder or murder, if, at the
- 425 nine-month review hearing described in Subsection (9), the court determines that the
- 426 defendant is incompetent to proceed, the court shall:
- 427 (a)(i) order the defendant be released or temporarily detained pending civil
- 428 commitment proceedings as provided in Subsection (5)(c); and
- 429 (ii) terminate the defendant's commitment to the department for restoration treatment;
- 430 or
- 431 (b) if the forensic evaluator reports to the court that there is a substantial probability that
- 432 restoration treatment will bring the defendant to competency to stand trial in the
- 433 foreseeable future, extend the defendant's commitment for restoration treatment for
- 434 up to 135 additional days.
- 435 (11) If the defendant is charged with aggravated murder or murder and the court determines
- 436 that the defendant is making reasonable progress towards restoration of competency at

- 437 the time of the nine-month review hearing described in Subsection (9), the court may
438 extend the commitment for a period not to exceed 24 months for the purpose of
439 restoration treatment.
- 440 (12) If the court extends the defendant's commitment term under Subsection (11), the court
441 shall hold a hearing no less frequently than at 12-month intervals following the
442 extension for the purpose of determining the defendant's competency status.
- 443 (13) If, at the end of the 24-month commitment period described in Subsection (11), the
444 court determines that the defendant is incompetent to proceed, the court shall:
- 445 (a)(i) order the defendant be released or temporarily detained pending civil
446 commitment proceedings as provided in Subsection (5)(c); and
447 (ii) terminate the defendant's commitment to the department for restoration treatment;
448 or
- 449 (b) if the forensic evaluator reports to the court that there is a substantial probability that
450 restoration treatment will bring the defendant to competency to stand trial in the
451 foreseeable future, extend the defendant's commitment for restoration treatment for
452 up to 12 additional months.
- 453 (14)(a) Neither release from a pretrial incompetency commitment under the provisions
454 of this section nor civil commitment requires dismissal of criminal charges.
- 455 (b) The court may retain jurisdiction over the criminal case and may order periodic
456 reviews.
- 457 (15) A defendant who is civilly committed pursuant to Title 26B, Chapter 5, Health Care -
458 Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services
459 for People with Disabilities, may still be adjudicated competent to stand trial under this
460 chapter.
- 461 (16)(a) The remedy for a violation of the time periods specified in this section, other
462 than those specified in Subsection (5)(c), (8), (10), or (13), shall be a motion to
463 compel the hearing, or mandamus, but not release from detention or dismissal of the
464 criminal charges.
- 465 (b) The remedy for a violation of the time periods specified in Subsection (5)(c), (8), (9),
466 or (13), or is not dismissal of the criminal charges.
- 467 (17) In cases in which the treatment of the defendant is precluded by court order for a
468 period of time, that time period may not be considered in computing time limitations
469 under this section.
- 470 (18)(a) If, at any time, the defendant becomes competent to stand trial while the

471 defendant is committed to the department, the clinical director of the Utah State
472 Hospital, the department, or the department's designee shall certify that fact to the
473 court.

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

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

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

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

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

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

486 **77-15-10 . Involuntary medication order portability.**

487 (1) As used in this section:

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

489 (b) "Facility" means:

490 (i) a county jail;

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

492 (iii) a facility where a covered individual is receiving treatment and where an
493 administrative hearing regarding the involuntary administration of a psychiatric
494 medication is conducted, including:

495 (A) a licensed inpatient psychiatric facility; or

496 (B) a state correctional facility.

497 (c) "Involuntary medication order" means a court order or an administrative order that:

498 (i) is authorized by law or administrative rule; and

499 (ii) permits the administration of psychiatric medication to an individual without the
500 individual's consent.

501 (d) "Qualified medical professional" means an individual who is licensed as:

502 (i) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
503 Chapter 68, Utah Osteopathic Medical Practice Act;

504 (ii) a psychiatrist under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,

- 505 Chapter 68, Utah Osteopathic Medical Practice Act;
506 (iii) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act;
507 or
508 (iv) a nurse practitioner under Title 58, Chapter 31b, Nurse Practice Act.
509 (e) "Receiving facility" means a facility where a covered individual is being transferred.
510 (f) "Sending facility" means a facility where a covered individual is held or incarcerated.
511 (2) An involuntary medication order remains valid and in effect when a covered individual
512 is transferred from a sending facility to a receiving facility.
513 (3) Before a receiving facility continues administering medication to an individual
514 transferred from a sending facility under an involuntary medication order:
515 (a) a qualified medical professional employed by the receiving facility shall:
516 (i) review the covered individual's medical record from the sending facility and the
517 involuntary medication order;
518 (ii) conduct a face-to-face assessment of the covered individual's current mental and
519 physical condition;
520 (iii) assess whether the covered individual can be transitioned to receiving medication
521 on a voluntary basis if the covered individual continues to need medication; and
522 (b) the qualified medical professional shall document in the covered individual's medical
523 record a signed statement affirming that:
524 (i) the covered individual continues to suffer from a mental illness and, as a result of
525 the mental illness, poses a likelihood of serious harm to the covered individual or
526 others if treatment ordered in the involuntary medication order is discontinued; and
527 (ii) the administration of psychiatric medication as ordered in the involuntary
528 medication order is:
529 (A) medically appropriate;
530 (B) in the covered individual's best interest; and
531 (C) the least restrictive treatment necessary to maintain the safety of the covered
532 individual and others.
533 (4)(a) A sending facility and receiving facility shall coordinate transfer of a covered
534 individual's medication plan.
535 (b) If the covered individual's medication is unavailable under the receiving facility's
536 formulary, the medical director of the sending facility, or the medical director's
537 designee, and the medical director of the receiving facility, or the medical director's
538 designee, shall agree on a therapeutic equivalent or alternative that prevents

539 interruption of the covered individual's treatment.
540 (c) If the medical director of the receiving facility does not agree to a therapeutic
541 equivalent or alternative described in Subsection (4)(b), the receiving facility may not
542 continue to involuntarily medicate the covered individual unless the receiving facility
543 seeks a new involuntary medication order.

544 (5) This section does not affect:

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

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

547 **Section 4. Effective Date.**

548 This bill takes effect on May 6, 2026.