

- 32 **26B-5-103**, (Renumbered from 62A-15-104, as last amended by Laws of Utah 2022,
33 Chapter 255)
- 34 **26B-5-104**, (Renumbered from 62A-15-105, as last amended by Laws of Utah 2009,
35 Chapter 75)
- 36 **26B-5-105**, (Renumbered from 62A-15-105.2, as enacted by Laws of Utah 2012,
37 Chapter 305)
- 38 **26B-5-106**, (Renumbered from 62A-15-107, as last amended by Laws of Utah 2009,
39 Chapter 75)
- 40 **26B-5-107**, (Renumbered from 62A-15-108, as last amended by Laws of Utah 2009,
41 Chapter 75)
- 42 **26B-5-108**, (Renumbered from 62A-15-110, as last amended by Laws of Utah 2005,
43 Chapter 71)
- 44 **26B-5-109**, (Renumbered from 62A-15-113, as enacted by Laws of Utah 2017, Chapter
45 315)
- 46 **26B-5-110**, (Renumbered from 62A-15-103.1, as enacted by Laws of Utah 2019,
47 Chapter 440)
- 48 **26B-5-111**, (Renumbered from 62A-15-115, as enacted by Laws of Utah 2018, Chapter
49 414)
- 50 **26B-5-112**, (Renumbered from 62A-15-116, as last amended by Laws of Utah 2020,
51 Chapter 303)
- 52 **26B-5-113**, (Renumbered from 62A-15-117, as enacted by Laws of Utah 2019, Chapter
53 446)
- 54 **26B-5-114**, (Renumbered from 62A-15-118, as enacted by Laws of Utah 2020, Chapter
55 303)
- 56 **26B-5-115**, (Renumbered from 62A-15-119, as renumbered and amended by Laws of
57 Utah 2020, Chapter 29)
- 58 **26B-5-116**, (Renumbered from 62A-15-121, as enacted by Laws of Utah 2021, Chapter
59 277)
- 60 **26B-5-117**, (Renumbered from 62A-15-122, as enacted by Laws of Utah 2021, Chapter
61 278)
- 62 **26B-5-118**, (Renumbered from 62A-15-124, as enacted by Laws of Utah 2022, Chapter

- 63 149)
- 64 **26B-5-119**, (Renumbered from 62A-15-615, as renumbered and amended by Laws of
- 65 Utah 2002, Fifth Special Session, Chapter 8)
- 66 **26B-5-201**, (Renumbered from 62A-15-202, as last amended by Laws of Utah 2022,
- 67 Chapter 155)
- 68 **26B-5-202**, (Renumbered from 62A-15-203, as renumbered and amended by Laws of
- 69 Utah 2002, Fifth Special Session, Chapter 8)
- 70 **26B-5-203**, (Renumbered from 62A-15-204, as last amended by Laws of Utah 2022,
- 71 Chapter 155)
- 72 **26B-5-204**, (Renumbered from 62A-15-301, as renumbered and amended by Laws of
- 73 Utah 2002, Fifth Special Session, Chapter 8)
- 74 **26B-5-205**, (Renumbered from 62A-15-401, as last amended by Laws of Utah 2022,
- 75 Chapter 447)
- 76 **26B-5-206**, (Renumbered from 62A-15-403, as renumbered and amended by Laws of
- 77 Utah 2022, Chapter 211)
- 78 **26B-5-207**, (Renumbered from 62A-15-501, as last amended by Laws of Utah 2009,
- 79 Chapter 81)
- 80 **26B-5-208**, (Renumbered from 62A-15-502, as last amended by Laws of Utah 2005,
- 81 Chapter 2)
- 82 **26B-5-209**, (Renumbered from 62A-15-503, as last amended by Laws of Utah 2020,
- 83 Chapter 230)
- 84 **26B-5-210**, (Renumbered from 62A-15-504, as renumbered and amended by Laws of
- 85 Utah 2002, Fifth Special Session, Chapter 8)
- 86 **26B-5-301**, (Renumbered from 62A-15-602, as last amended by Laws of Utah 2022,
- 87 Chapters 187 and 374)
- 88 **26B-5-302**, (Renumbered from 62A-15-601, as renumbered and amended by Laws of
- 89 Utah 2002, Fifth Special Session, Chapter 8)
- 90 **26B-5-303**, (Renumbered from 62A-15-603, as last amended by Laws of Utah 2018,
- 91 Chapter 322)
- 92 **26B-5-304**, (Renumbered from 62A-15-604, as last amended by Laws of Utah 2015,

93 Chapter 121)
94 **26B-5-305**, (Renumbered from 62A-15-605.5, as renumbered and amended by Laws of
95 Utah 2002, Fifth Special Session, Chapter 8)
96 **26B-5-306**, (Renumbered from 62A-15-607, as last amended by Laws of Utah 2008,
97 Chapter 3)
98 **26B-5-307**, (Renumbered from 62A-15-608, as last amended by Laws of Utah 2011,
99 Chapter 366)
100 **26B-5-308**, (Renumbered from 62A-15-609, as renumbered and amended by Laws of
101 Utah 2002, Fifth Special Session, Chapter 8)
102 **26B-5-309**, (Renumbered from 62A-15-610, as last amended by Laws of Utah 2011,
103 Chapter 366)
104 **26B-5-310**, (Renumbered from 62A-15-611, as last amended by Laws of Utah 2018,
105 Chapter 330)
106 **26B-5-311**, (Renumbered from 62A-15-612, as last amended by Laws of Utah 2021,
107 Chapter 382)
108 **26B-5-312**, (Renumbered from 62A-15-613, as last amended by Laws of Utah 2021,
109 Chapter 344)
110 **26B-5-313**, (Renumbered from 62A-15-614, as renumbered and amended by Laws of
111 Utah 2002, Fifth Special Session, Chapter 8)
112 **26B-5-314**, (Renumbered from 62A-15-616, as last amended by Laws of Utah 2011,
113 Chapter 366)
114 **26B-5-315**, (Renumbered from 62A-15-617, as renumbered and amended by Laws of
115 Utah 2002, Fifth Special Session, Chapter 8)
116 **26B-5-316**, (Renumbered from 62A-15-618, as last amended by Laws of Utah 2019,
117 Chapters 256 and 419)
118 **26B-5-317**, (Renumbered from 62A-15-619, as last amended by Laws of Utah 2011,
119 Chapter 366)
120 **26B-5-318**, (Renumbered from 62A-15-620, as renumbered and amended by Laws of
121 Utah 2002, Fifth Special Session, Chapter 8)
122 **26B-5-319**, (Renumbered from 62A-15-621, as renumbered and amended by Laws of
123 Utah 2002, Fifth Special Session, Chapter 8)

- 124 **26B-5-320**, (Renumbered from 62A-15-622, as renumbered and amended by Laws of
125 Utah 2002, Fifth Special Session, Chapter 8)
- 126 **26B-5-321**, (Renumbered from 62A-15-623, as renumbered and amended by Laws of
127 Utah 2002, Fifth Special Session, Chapter 8)
- 128 **26B-5-322**, (Renumbered from 62A-15-624, as renumbered and amended by Laws of
129 Utah 2002, Fifth Special Session, Chapter 8)
- 130 **26B-5-323**, (Renumbered from 62A-15-625, as last amended by Laws of Utah 2021,
131 Chapter 260)
- 132 **26B-5-324**, (Renumbered from 62A-15-626, as last amended by Laws of Utah 2021,
133 Chapter 262)
- 134 **26B-5-325**, (Renumbered from 62A-15-627, as last amended by Laws of Utah 2022,
135 Chapter 374)
- 136 **26B-5-326**, (Renumbered from 62A-15-628, as last amended by Laws of Utah 2018,
137 Chapter 322)
- 138 **26B-5-327**, (Renumbered from 62A-15-629, as last amended by Laws of Utah 2022,
139 Chapters 341 and 374)
- 140 **26B-5-328**, (Renumbered from 62A-15-630, as last amended by Laws of Utah 2008,
141 Chapter 3)
- 142 **26B-5-329**, (Renumbered from 62A-15-630.4, as enacted by Laws of Utah 2019,
143 Chapter 256)
- 144 **26B-5-330**, (Renumbered from 62A-15-630.5, as last amended by Laws of Utah 2021,
145 Chapter 122)
- 146 **26B-5-331**, (Renumbered from 62A-15-631, as last amended by Laws of Utah 2022,
147 Chapter 374)
- 148 **26B-5-332**, (Renumbered from 62A-15-632, as repealed and reenacted by Laws of Utah
149 2021, Chapter 122)
- 150 **26B-5-333**, (Renumbered from 62A-15-633, as renumbered and amended by Laws of
151 Utah 2002, Fifth Special Session, Chapter 8)
- 152 **26B-5-334**, (Renumbered from 62A-15-634, as renumbered and amended by Laws of
153 Utah 2002, Fifth Special Session, Chapter 8)

- 154 **26B-5-335**, (Renumbered from 62A-15-635, as last amended by Laws of Utah 2018,
155 Chapter 322)
- 156 **26B-5-336**, (Renumbered from 62A-15-636, as renumbered and amended by Laws of
157 Utah 2002, Fifth Special Session, Chapter 8)
- 158 **26B-5-337**, (Renumbered from 62A-15-637, as last amended by Laws of Utah 2019,
159 Chapter 419)
- 160 **26B-5-338**, (Renumbered from 62A-15-638, as renumbered and amended by Laws of
161 Utah 2002, Fifth Special Session, Chapter 8)
- 162 **26B-5-339**, (Renumbered from 62A-15-639, as renumbered and amended by Laws of
163 Utah 2002, Fifth Special Session, Chapter 8)
- 164 **26B-5-340**, (Renumbered from 62A-15-640, as renumbered and amended by Laws of
165 Utah 2002, Fifth Special Session, Chapter 8)
- 166 **26B-5-341**, (Renumbered from 62A-15-641, as last amended by Laws of Utah 2017,
167 Chapter 408)
- 168 **26B-5-342**, (Renumbered from 62A-15-642, as renumbered and amended by Laws of
169 Utah 2002, Fifth Special Session, Chapter 8)
- 170 **26B-5-343**, (Renumbered from 62A-15-643, as renumbered and amended by Laws of
171 Utah 2002, Fifth Special Session, Chapter 8)
- 172 **26B-5-344**, (Renumbered from 62A-15-644, as last amended by Laws of Utah 2011,
173 Chapter 366)
- 174 **26B-5-345**, (Renumbered from 62A-15-645, as renumbered and amended by Laws of
175 Utah 2002, Fifth Special Session, Chapter 8)
- 176 **26B-5-346**, (Renumbered from 62A-15-646, as renumbered and amended by Laws of
177 Utah 2002, Fifth Special Session, Chapter 8)
- 178 **26B-5-347**, (Renumbered from 62A-15-647, as renumbered and amended by Laws of
179 Utah 2002, Fifth Special Session, Chapter 8)
- 180 **26B-5-348**, (Renumbered from 62A-15-901, as renumbered and amended by Laws of
181 Utah 2002, Fifth Special Session, Chapter 8)
- 182 **26B-5-349**, (Renumbered from 62A-15-902, as last amended by Laws of Utah 2011,
183 Chapter 366)
- 184 **26B-5-350**, (Renumbered from 62A-15-801, as renumbered and amended by Laws of

185 Utah 2002, Fifth Special Session, Chapter 8)
186 **26B-5-351**, (Renumbered from 62A-15-802, as renumbered and amended by Laws of
187 Utah 2002, Fifth Special Session, Chapter 8)
188 **26B-5-352**, (Renumbered from 62A-15-1002, as renumbered and amended by Laws of
189 Utah 2002, Fifth Special Session, Chapter 8)
190 **26B-5-353**, (Renumbered from 62A-15-1003, as renumbered and amended by Laws of
191 Utah 2002, Fifth Special Session, Chapter 8)
192 **26B-5-354**, (Renumbered from 62A-15-1004, as renumbered and amended by Laws of
193 Utah 2002, Fifth Special Session, Chapter 8)
194 **26B-5-401**, (Renumbered from 62A-15-701, as last amended by Laws of Utah 2003,
195 Chapter 195)
196 **26B-5-402**, (Renumbered from 62A-15-702, as renumbered and amended by Laws of
197 Utah 2002, Fifth Special Session, Chapter 8)
198 **26B-5-403**, (Renumbered from 62A-15-703, as last amended by Laws of Utah 2021,
199 Chapter 262)
200 **26B-5-404**, (Renumbered from 62A-15-704, as last amended by Laws of Utah 2008,
201 Chapter 382)
202 **26B-5-405**, (Renumbered from 62A-15-705, as last amended by Laws of Utah 2021,
203 Chapter 261)
204 **26B-5-406**, (Renumbered from 62A-15-706, as last amended by Laws of Utah 2011,
205 Chapter 366)
206 **26B-5-407**, (Renumbered from 62A-15-707, as last amended by Laws of Utah 2008,
207 Chapter 382)
208 **26B-5-408**, (Renumbered from 62A-15-708, as renumbered and amended by Laws of
209 Utah 2002, Fifth Special Session, Chapter 8)
210 **26B-5-409**, (Renumbered from 62A-15-709, as renumbered and amended by Laws of
211 Utah 2002, Fifth Special Session, Chapter 8)
212 **26B-5-410**, (Renumbered from 62A-15-710, as renumbered and amended by Laws of
213 Utah 2002, Fifth Special Session, Chapter 8)
214 **26B-5-411**, (Renumbered from 62A-15-711, as renumbered and amended by Laws of

215 Utah 2002, Fifth Special Session, Chapter 8)
216 **26B-5-412**, (Renumbered from 62A-15-712, as last amended by Laws of Utah 2013,
217 Chapter 167)
218 **26B-5-413**, (Renumbered from 62A-15-713, as last amended by Laws of Utah 2005,
219 Chapter 71)
220 **26B-5-414**, (Renumbered from 62A-1-108.5, as last amended by Laws of Utah 2021,
221 Chapter 262)
222 **26B-5-501**, (Renumbered from 62A-15-1202, as last amended by Laws of Utah 2018,
223 Chapter 77)
224 **26B-5-502**, (Renumbered from 62A-15-1201, as enacted by Laws of Utah 2017,
225 Chapter 408)
226 **26B-5-503**, (Renumbered from 62A-15-1203, as last amended by Laws of Utah 2018,
227 Chapter 77)
228 **26B-5-504**, (Renumbered from 62A-15-1204, as enacted by Laws of Utah 2017,
229 Chapter 408)
230 **26B-5-505**, (Renumbered from 62A-15-1205, as last amended by Laws of Utah 2018,
231 Chapter 77)
232 **26B-5-506**, (Renumbered from 62A-15-1205.5, as enacted by Laws of Utah 2018,
233 Chapter 77)
234 **26B-5-507**, (Renumbered from 62A-15-1206, as enacted by Laws of Utah 2017,
235 Chapter 408)
236 **26B-5-508**, (Renumbered from 62A-15-1207, as last amended by Laws of Utah 2018,
237 Chapter 77)
238 **26B-5-509**, (Renumbered from 62A-15-1207.5, as enacted by Laws of Utah 2018,
239 Chapter 77)
240 **26B-5-510**, (Renumbered from 62A-15-1208, as enacted by Laws of Utah 2017,
241 Chapter 408)
242 **26B-5-511**, (Renumbered from 62A-15-1209, as enacted by Laws of Utah 2017,
243 Chapter 408)
244 **26B-5-601**, (Renumbered from 62A-17-102, as enacted by Laws of Utah 2013, Chapter
245 24)

246 **26B-5-602**, (Renumbered from 62A-17-103, as last amended by Laws of Utah 2017,
247 Chapter 22)
248 **26B-5-603**, (Renumbered from 62A-17-104, as enacted by Laws of Utah 2013, Chapter
249 24)
250 **26B-5-604**, (Renumbered from 62A-17-105, as enacted by Laws of Utah 2013, Chapter
251 24)
252 **26B-5-605**, (Renumbered from 62A-17-106, as enacted by Laws of Utah 2013, Chapter
253 24)
254 **26B-5-606**, (Renumbered from 62A-15-1802, as enacted by Laws of Utah 2020,
255 Chapter 304)
256 **26B-5-607**, (Renumbered from 62A-15-1803, as enacted by Laws of Utah 2020,
257 Chapter 304)
258 **26B-5-608**, (Renumbered from 62A-15-1804, as enacted by Laws of Utah 2020,
259 Chapter 304)
260 **26B-5-609**, (Renumbered from 62A-15-1402, as enacted by Laws of Utah 2018,
261 Chapter 84)
262 **26B-5-610**, (Renumbered from 62A-15-1302, as last amended by Laws of Utah 2020,
263 Chapter 303)
264 **26B-5-611**, (Renumbered from 62A-15-1101, as last amended by Laws of Utah 2022,
265 Chapter 149)
266 **26B-5-612**, (Renumbered from 26-1-43, as enacted by Laws of Utah 2022, Chapter 253
267 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 189)
268 **26B-6-102**, (Renumbered from 62A-3-102, as last amended by Laws of Utah 1990,
269 Chapter 181)
270 **26B-6-103**, (Renumbered from 62A-3-103, as last amended by Laws of Utah 1992,
271 Chapter 104)
272 **26B-6-104**, (Renumbered from 62A-3-104, as last amended by Laws of Utah 2012,
273 Chapter 347)
274 **26B-6-105**, (Renumbered from 62A-3-104.1, as last amended by Laws of Utah 2018,
275 Chapter 256)

- 276 **26B-6-106**, (Renumbered from 62A-3-104.2, as last amended by Laws of Utah 1998,
277 Chapter 254)
- 278 **26B-6-107**, (Renumbered from 62A-3-104.3, as last amended by Laws of Utah 2015,
279 Chapter 255)
- 280 **26B-6-108**, (Renumbered from 62A-3-105, as last amended by Laws of Utah 2013,
281 Chapter 110)
- 282 **26B-6-109**, (Renumbered from 62A-3-106, as enacted by Laws of Utah 1988, Chapter
283 1)
- 284 **26B-6-110**, (Renumbered from 62A-3-106.5, as last amended by Laws of Utah 2008,
285 Chapter 382)
- 286 **26B-6-111**, (Renumbered from 62A-3-107, as last amended by Laws of Utah 2010,
287 Chapter 286)
- 288 **26B-6-112**, (Renumbered from 62A-3-107.5, as enacted by Laws of Utah 1996,
289 Chapter 299)
- 290 **26B-6-113**, (Renumbered from 62A-3-108, as last amended by Laws of Utah 1998,
291 Chapter 254)
- 292 **26B-6-114**, (Renumbered from 62A-3-109, as last amended by Laws of Utah 2008,
293 Chapters 91 and 382)
- 294 **26B-6-201**, (Renumbered from 62A-3-301, as last amended by Laws of Utah 2022,
295 Chapter 430)
- 296 **26B-6-202**, (Renumbered from 62A-3-302, as last amended by Laws of Utah 2017,
297 Chapter 176)
- 298 **26B-6-203**, (Renumbered from 62A-3-303, as last amended by Laws of Utah 2017,
299 Chapter 176)
- 300 **26B-6-204**, (Renumbered from 62A-3-304, as last amended by Laws of Utah 2008,
301 Chapter 91)
- 302 **26B-6-205**, (Renumbered from 62A-3-305, as last amended by Laws of Utah 2022,
303 Chapters 274, 335, and 415)
- 304 **26B-6-206**, (Renumbered from 62A-3-307, as repealed and reenacted by Laws of Utah
305 2008, Chapter 91)
- 306 **26B-6-207**, (Renumbered from 62A-3-308, as last amended by Laws of Utah 2008,

307 Chapter 91)
308 **26B-6-208**, (Renumbered from 62A-3-309, as last amended by Laws of Utah 2013,
309 Chapter 237)
310 **26B-6-209**, (Renumbered from 62A-3-311, as last amended by Laws of Utah 2008,
311 Chapters 91 and 382)
312 **26B-6-210**, (Renumbered from 62A-3-311.1, as last amended by Laws of Utah 2022,
313 Chapter 415)
314 **26B-6-211**, (Renumbered from 62A-3-311.5, as enacted by Laws of Utah 2008,
315 Chapter 91)
316 **26B-6-212**, (Renumbered from 62A-3-312, as last amended by Laws of Utah 2022,
317 Chapter 415)
318 **26B-6-213**, (Renumbered from 62A-3-314, as last amended by Laws of Utah 2007,
319 Chapter 176)
320 **26B-6-214**, (Renumbered from 62A-3-315, as last amended by Laws of Utah 2017,
321 Chapter 176)
322 **26B-6-215**, (Renumbered from 62A-3-316, as enacted by Laws of Utah 2002, Chapter
323 108)
324 **26B-6-216**, (Renumbered from 62A-3-317, as last amended by Laws of Utah 2017,
325 Chapter 176)
326 **26B-6-217**, (Renumbered from 62A-3-320, as last amended by Laws of Utah 2017,
327 Chapter 176)
328 **26B-6-218**, (Renumbered from 62A-3-321, as last amended by Laws of Utah 2017,
329 Chapter 176)
330 **26B-6-219**, (Renumbered from 62A-3-322, as enacted by Laws of Utah 2018, Third
331 Special Session, Chapter 1)
332 **26B-6-301**, (Renumbered from 62A-14-102, as last amended by Laws of Utah 2013,
333 Chapter 364)
334 **26B-6-302**, (Renumbered from 62A-14-103, as enacted by Laws of Utah 1999, Chapter
335 69)
336 **26B-6-303**, (Renumbered from 62A-14-104, as last amended by Laws of Utah 2009,

337 Chapter 75)
338 **26B-6-304**, (Renumbered from 62A-14-105, as last amended by Laws of Utah 2022,
339 Chapter 441)
340 **26B-6-305**, (Renumbered from 62A-14-107, as enacted by Laws of Utah 1999, Chapter
341 69)
342 **26B-6-306**, (Renumbered from 62A-14-108, as last amended by Laws of Utah 2022,
343 Chapter 255)
344 **26B-6-307**, (Renumbered from 62A-14-109, as last amended by Laws of Utah 2012,
345 Chapter 347)
346 **26B-6-308**, (Renumbered from 62A-14-110, as enacted by Laws of Utah 1999, Chapter
347 69)
348 **26B-6-309**, (Renumbered from 62A-14-111, as enacted by Laws of Utah 1999, Chapter
349 69)
350 **26B-6-401**, (Renumbered from 62A-5-101, as last amended by Laws of Utah 2020,
351 Chapter 444)
352 **26B-6-402**, (Renumbered from 62A-5-102, as last amended by Laws of Utah 2020,
353 Chapter 444)
354 **26B-6-403**, (Renumbered from 62A-5-103, as last amended by Laws of Utah 2011,
355 Chapter 366)
356 **26B-6-404**, (Renumbered from 62A-5-104, as last amended by Laws of Utah 2012,
357 Chapter 369)
358 **26B-6-405**, (Renumbered from 62A-5-105, as last amended by Laws of Utah 2013,
359 Chapter 167)
360 **26B-6-406**, (Renumbered from 62A-5-106, as enacted by Laws of Utah 1988, Chapter
361 1)
362 **26B-6-407**, (Renumbered from 62A-5-103.1, as last amended by Laws of Utah 2013,
363 Chapter 125)
364 **26B-6-408**, (Renumbered from 62A-5-103.2, as last amended by Laws of Utah 2009,
365 Chapter 29)
366 **26B-6-409**, (Renumbered from 62A-5-103.3, as enacted by Laws of Utah 2011,
367 Chapter 169)

368 **26B-6-410**, (Renumbered from 62A-5-103.5, as last amended by Laws of Utah 2017,
369 Chapter 181)
370 **26B-6-411**, (Renumbered from 62A-5-109, as last amended by Laws of Utah 2008,
371 Chapter 3)
372 **26B-6-412**, (Renumbered from 62A-5-110, as last amended by Laws of Utah 2018,
373 Chapter 88)
374 **26B-6-413**, (Renumbered from 62A-5-402, as last amended by Laws of Utah 2005,
375 Chapter 61)
376 **26B-6-502**, (Renumbered from 62A-5-201, as last amended by Laws of Utah 2017,
377 Chapter 211)
378 **26B-6-503**, (Renumbered from 62A-5-202, as last amended by Laws of Utah 2009,
379 Chapter 75)
380 **26B-6-504**, (Renumbered from 62A-5-203, as last amended by Laws of Utah 1991,
381 Chapter 207)
382 **26B-6-505**, (Renumbered from 62A-5-205, as last amended by Laws of Utah 1991,
383 Chapter 207)
384 **26B-6-506**, (Renumbered from 62A-5-206, as last amended by Laws of Utah 2016,
385 Chapter 300)
386 **26B-6-507**, (Renumbered from 62A-5-206.6, as last amended by Laws of Utah 2018,
387 Chapter 404)
388 **26B-6-508**, (Renumbered from 62A-5-207, as last amended by Laws of Utah 2011,
389 Chapter 366)
390 **26B-6-509**, (Renumbered from 62A-5-208, as last amended by Laws of Utah 1991,
391 Chapter 207)
392 **26B-6-510**, (Renumbered from 62A-5-211, as enacted by Laws of Utah 2017, Chapter
393 211)
394 **26B-6-602**, (Renumbered from 62A-5-302, as last amended by Laws of Utah 2011,
395 Chapter 366)
396 **26B-6-603**, (Renumbered from 62A-5-305, as last amended by Laws of Utah 2011,
397 Chapter 366)

- 398 **26B-6-604**, (Renumbered from 62A-5-308, as last amended by Laws of Utah 2021,
399 Chapter 261)
- 400 **26B-6-605**, (Renumbered from 62A-5-309, as last amended by Laws of Utah 2021,
401 Chapter 261)
- 402 **26B-6-606**, (Renumbered from 62A-5-310, as last amended by Laws of Utah 2011,
403 Chapter 366)
- 404 **26B-6-607**, (Renumbered from 62A-5-311, as last amended by Laws of Utah 2011,
405 Chapter 366)
- 406 **26B-6-608**, (Renumbered from 62A-5-312, as last amended by Laws of Utah 2011,
407 Chapter 366)
- 408 **26B-6-609**, (Renumbered from 62A-5-313, as last amended by Laws of Utah 2011,
409 Chapter 366)
- 410 **26B-6-610**, (Renumbered from 62A-5-315, as last amended by Laws of Utah 2004,
411 Chapter 114)
- 412 **26B-6-611**, (Renumbered from 62A-5-316, as last amended by Laws of Utah 2011,
413 Chapter 366)
- 414 **26B-6-612**, (Renumbered from 62A-5-317, as last amended by Laws of Utah 2011,
415 Chapter 366)
- 416 **26B-6-613**, (Renumbered from 62A-5-318, as last amended by Laws of Utah 2011,
417 Chapter 366)
- 418 **26B-6-701**, (Renumbered from 62A-5-501, as enacted by Laws of Utah 2022, Chapter
419 220)
- 420 **26B-6-702**, (Renumbered from 62A-5-502, as enacted by Laws of Utah 2022, Chapter
421 220)
- 422 **26B-6-703**, (Renumbered from 62A-5-503, as enacted by Laws of Utah 2022, Chapter
423 220)
- 424 **26B-6-704**, (Renumbered from 62A-5-504, as enacted by Laws of Utah 2022, Chapter
425 220)
- 426 **26B-6-705**, (Renumbered from 62A-5-505, as enacted by Laws of Utah 2022, Chapter
427 220)
- 428 **26B-6-801**, (Renumbered from 62A-5b-102, as last amended by Laws of Utah 2019,

429 Chapter 190)
430 **26B-6-802**, (Renumbered from 62A-5b-103, as last amended by Laws of Utah 2019,
431 Chapter 190)
432 **26B-6-803**, (Renumbered from 62A-5b-104, as last amended by Laws of Utah 2019,
433 Chapter 190)
434 **26B-6-804**, (Renumbered from 62A-5b-105, as last amended by Laws of Utah 2019,
435 Chapter 190)
436 **26B-6-805**, (Renumbered from 62A-5b-106, as last amended by Laws of Utah 2019,
437 Chapter 190)
438 **26B-6-806**, (Renumbered from 62A-6-102, as enacted by Laws of Utah 1988, Chapter
439 1)
440 **26B-6-807**, (Renumbered from 62A-6-103, as enacted by Laws of Utah 1988, Chapter
441 1)
442 **26B-6-808**, (Renumbered from 62A-6-104, as enacted by Laws of Utah 1988, Chapter
443 1)
444 **26B-6-809**, (Renumbered from 62A-6-105, as enacted by Laws of Utah 1988, Chapter
445 1)
446 **26B-6-810**, (Renumbered from 62A-6-106, as enacted by Laws of Utah 1988, Chapter
447 1)
448 **26B-6-811**, (Renumbered from 62A-6-107, as enacted by Laws of Utah 1988, Chapter
449 1)
450 **26B-6-812**, (Renumbered from 62A-6-108, as enacted by Laws of Utah 1988, Chapter
451 1)
452 **26B-6-813**, (Renumbered from 62A-6-109, as enacted by Laws of Utah 1988, Chapter
453 1)
454 **26B-6-814**, (Renumbered from 62A-6-110, as enacted by Laws of Utah 1988, Chapter
455 1)
456 **26B-6-815**, (Renumbered from 62A-6-111, as enacted by Laws of Utah 1988, Chapter
457 1)
458 **26B-6-816**, (Renumbered from 62A-6-112, as enacted by Laws of Utah 1988, Chapter

459 1)
460 **26B-6-817**, (Renumbered from 62A-6-113, as enacted by Laws of Utah 1988, Chapter
461 1)
462 **26B-6-818**, (Renumbered from 62A-6-114, as enacted by Laws of Utah 1988, Chapter
463 1)
464 **26B-6-819**, (Renumbered from 62A-6-115, as enacted by Laws of Utah 1988, Chapter
465 1)
466 **26B-6-820**, (Renumbered from 62A-6-116, as enacted by Laws of Utah 1988, Chapter
467 1)
468 **26B-7-102**, (Renumbered from 26-10-3, as enacted by Laws of Utah 1981, Chapter
469 126)
470 **26B-7-103**, (Renumbered from 26-10-4, as enacted by Laws of Utah 1981, Chapter
471 126)
472 **26B-7-104**, (Renumbered from 26-10-5.5, as last amended by Laws of Utah 2016,
473 Chapter 144)
474 **26B-7-105**, (Renumbered from 26-10-10, as last amended by Laws of Utah 2018,
475 Chapters 58, 281, and 415)
476 **26B-7-106**, (Renumbered from 26-10-14, as enacted by Laws of Utah 2019, Chapter
477 124)
478 **26B-7-107**, (Renumbered from 26-10-15, as enacted by Laws of Utah 2021, Chapter
479 161)
480 **26B-7-108**, (Renumbered from 26-1-23.5, as renumbered and amended by Laws of
481 Utah 1991, Chapter 112)
482 **26B-7-109**, (Renumbered from 26-1-26, as enacted by Laws of Utah 1981, Chapter
483 126)
484 **26B-7-110**, (Renumbered from 26-1-36, as last amended by Laws of Utah 2013,
485 Chapters 43 and 167)
486 **26B-7-111**, (Renumbered from 26-1-38, as last amended by Laws of Utah 2015,
487 Chapter 180)
488 **26B-7-112**, (Renumbered from 26-1-42, as enacted by Laws of Utah 2020, Chapter
489 211)

490 **26B-7-113**, (Renumbered from 26-7-1, as last amended by Laws of Utah 2011, Chapter
491 297)
492 **26B-7-114**, (Renumbered from 26-7-2, as last amended by Laws of Utah 2011, Chapter
493 192)
494 **26B-7-115**, (Renumbered from 26-7-4, as enacted by Laws of Utah 2008, Chapter 72)
495 **26B-7-116**, (Renumbered from 26-7-7, as last amended by Laws of Utah 2015, Chapter
496 451)
497 **26B-7-117**, (Renumbered from 26-7-8, as last amended by Laws of Utah 2018, Chapter
498 281)
499 **26B-7-118**, (Renumbered from 26-7-9, as last amended by Laws of Utah 2019, Chapter
500 186)
501 **26B-7-119**, (Renumbered from 26-7-11, as enacted by Laws of Utah 2020, Chapter
502 429)
503 **26B-7-201**, (Renumbered from 26-6-2, as last amended by Laws of Utah 2021, Chapter
504 437)
505 **26B-7-202**, (Renumbered from 26-6-3, as last amended by Laws of Utah 2021, Chapter
506 437)
507 **26B-7-203**, (Renumbered from 26-6-3.5, as last amended by Laws of Utah 2006,
508 Chapter 116)
509 **26B-7-204**, (Renumbered from 26-6-4, as last amended by Laws of Utah 2006, Chapter
510 185)
511 **26B-7-205**, (Renumbered from 26-6-5, as last amended by Laws of Utah 1993, Chapter
512 179)
513 **26B-7-206**, (Renumbered from 26-6-6, as last amended by Laws of Utah 2008, Chapter
514 3)
515 **26B-7-207**, (Renumbered from 26-6-7, as last amended by Laws of Utah 1996, Chapter
516 211)
517 **26B-7-208**, (Renumbered from 26-6-8, as last amended by Laws of Utah 1996, Chapter
518 211)
519 **26B-7-209**, (Renumbered from 26-6-9, as repealed and reenacted by Laws of Utah

520 1996, Chapter 211)
521 **26B-7-210**, (Renumbered from 26-6-11, as enacted by Laws of Utah 1981, Chapter
522 126)
523 **26B-7-211**, (Renumbered from 26-6-15, as enacted by Laws of Utah 1981, Chapter
524 126)
525 **26B-7-212**, (Renumbered from 26-6-16, as enacted by Laws of Utah 1981, Chapter
526 126)
527 **26B-7-213**, (Renumbered from 26-6-17, as last amended by Laws of Utah 2019,
528 Chapter 349)
529 **26B-7-214**, (Renumbered from 26-6-18, as last amended by Laws of Utah 2019,
530 Chapter 349)
531 **26B-7-215**, (Renumbered from 26-6-19, as last amended by Laws of Utah 2019,
532 Chapter 349)
533 **26B-7-216**, (Renumbered from 26-6-20, as last amended by Laws of Utah 2019,
534 Chapter 349)
535 **26B-7-217**, (Renumbered from 26-6-27, as last amended by Laws of Utah 2022,
536 Chapters 169, 335, 415, and 430)
537 **26B-7-218**, (Renumbered from 26-6-28, as last amended by Laws of Utah 2007,
538 Chapter 38)
539 **26B-7-219**, (Renumbered from 26-6-29, as renumbered and amended by Laws of Utah
540 1996, Chapter 201)
541 **26B-7-220**, (Renumbered from 26-6-30, as last amended by Laws of Utah 2003,
542 Chapter 171)
543 **26B-7-221**, (Renumbered from 26-6-31, as enacted by Laws of Utah 2012, Chapter
544 150)
545 **26B-7-222**, (Renumbered from 26-6-32, as last amended by Laws of Utah 2022,
546 Chapter 169)
547 **26B-7-223**, (Renumbered from 26-6-42, as last amended by Laws of Utah 2022,
548 Chapter 5 and further amended by Revisor Instructions, Laws of Utah 2022,
549 Chapter 5)
550 **26B-7-224**, (Renumbered from 26-7-14, as last amended by Laws of Utah 2022,

551 Chapter 430)

552 **26B-7-225**, (Renumbered from 26-8d-102, as enacted by Laws of Utah 2018, Chapter

553 104)

554 **26B-7-226**, (Renumbered from 26-8d-103, as enacted by Laws of Utah 2018, Chapter

555 104)

556 **26B-7-227**, (Renumbered from 26-5-1, as enacted by Laws of Utah 1981, Chapter 126)

557 **26B-7-301**, (Renumbered from 26-23b-102, as last amended by Laws of Utah 2022,

558 Chapter 255)

559 **26B-7-302**, (Renumbered from 26-1-12, as last amended by Laws of Utah 1991,

560 Chapter 112)

561 **26B-7-303**, (Renumbered from 26-6b-1, as last amended by Laws of Utah 2008,

562 Chapter 382)

563 **26B-7-304**, (Renumbered from 26-6b-3, as last amended by Laws of Utah 2021,

564 Chapter 437)

565 **26B-7-305**, (Renumbered from 26-6b-3.1, as last amended by Laws of Utah 2011,

566 Chapter 297)

567 **26B-7-306**, (Renumbered from 26-6b-3.2, as enacted by Laws of Utah 2006, Chapter

568 185)

569 **26B-7-307**, (Renumbered from 26-6b-3.3, as last amended by Laws of Utah 2008,

570 Chapter 115)

571 **26B-7-308**, (Renumbered from 26-6b-3.4, as last amended by Laws of Utah 2008,

572 Chapters 3 and 115)

573 **26B-7-309**, (Renumbered from 26-6b-4, as last amended by Laws of Utah 2008,

574 Chapter 115)

575 **26B-7-310**, (Renumbered from 26-6b-5, as last amended by Laws of Utah 2019,

576 Chapter 349)

577 **26B-7-311**, (Renumbered from 26-6b-6, as last amended by Laws of Utah 2008,

578 Chapter 115)

579 **26B-7-312**, (Renumbered from 26-6b-7, as enacted by Laws of Utah 1996, Chapter

580 211)

581 **26B-7-313**, (Renumbered from 26-6b-8, as last amended by Laws of Utah 2006,
582 Chapter 185)
583 **26B-7-314**, (Renumbered from 26-6b-9, as last amended by Laws of Utah 2006,
584 Chapter 185)
585 **26B-7-315**, (Renumbered from 26-6b-10, as enacted by Laws of Utah 1996, Chapter
586 211)
587 **26B-7-316**, (Renumbered from 26-23b-103, as enacted by Laws of Utah 2002, Chapter
588 155)
589 **26B-7-317**, (Renumbered from 26-23b-104, as last amended by Laws of Utah 2021,
590 Chapter 437)
591 **26B-7-318**, (Renumbered from 26-23b-105, as enacted by Laws of Utah 2002, Chapter
592 155)
593 **26B-7-319**, (Renumbered from 26-23b-106, as enacted by Laws of Utah 2002, Chapter
594 155)
595 **26B-7-320**, (Renumbered from 26-23b-107, as enacted by Laws of Utah 2002, Chapter
596 155)
597 **26B-7-321**, (Renumbered from 26-23b-108, as last amended by Laws of Utah 2021,
598 Chapter 437)
599 **26B-7-322**, (Renumbered from 26-23b-109, as enacted by Laws of Utah 2002, Chapter
600 155)
601 **26B-7-323**, (Renumbered from 26-23b-110, as last amended by Laws of Utah 2011,
602 Chapter 55)
603 **26B-7-401**, (Renumbered from 26-15a-102, as last amended by Laws of Utah 2008,
604 Chapter 382)
605 **26B-7-402**, (Renumbered from 26-15-2, as last amended by Laws of Utah 2021,
606 Chapter 227)
607 **26B-7-403**, (Renumbered from 26-15-3, as last amended by Laws of Utah 2022,
608 Chapter 415)
609 **26B-7-404**, (Renumbered from 26-15-4, as enacted by Laws of Utah 1981, Chapter
610 126)
611 **26B-7-405**, (Renumbered from 26-15-7, as enacted by Laws of Utah 1981, Chapter

612 126)
613 **26B-7-406**, (Renumbered from 26-15-8, as last amended by Laws of Utah 2011,
614 Chapter 297)
615 **26B-7-407**, (Renumbered from 26-15-13, as last amended by Laws of Utah 2016,
616 Chapter 303)
617 **26B-7-408**, (Renumbered from 26-31-201, as last amended by Laws of Utah 2011,
618 Chapter 297 and renumbered and amended by Laws of Utah 2011, Chapter 90)
619 **26B-7-409**, (Renumbered from 26-51-201, as enacted by Laws of Utah 2008, Chapter
620 38)
621 **26B-7-410**, (Renumbered from 26-15a-104, as last amended by Laws of Utah 2008,
622 Chapter 382)
623 **26B-7-411**, (Renumbered from 26-15a-105, as last amended by Laws of Utah 2014,
624 Chapter 327)
625 **26B-7-412**, (Renumbered from 26-15a-106, as last amended by Laws of Utah 2020,
626 Chapter 189)
627 **26B-7-413**, (Renumbered from 26-15-5, as last amended by Laws of Utah 2020,
628 Chapter 189)
629 **26B-7-414**, (Renumbered from 26-15-9, as enacted by Laws of Utah 1981, Chapter
630 126)
631 **26B-7-415**, (Renumbered from 26-15b-105, as last amended by Laws of Utah 2020,
632 Fifth Special Session, Chapter 4)
633 **26B-7-416**, (Renumbered from 26-15c-105, as enacted by Laws of Utah 2021, Chapter
634 417)
635 **26B-7-501**, (Renumbered from 26-62-102, as last amended by Laws of Utah 2020,
636 Chapters 302 and 347)
637 **26B-7-502**, (Renumbered from 26-15-11, as last amended by Laws of Utah 1994,
638 Chapter 281)
639 **26B-7-503**, (Renumbered from 26-38-3, as last amended by Laws of Utah 2009,
640 Chapter 383)
641 **26B-7-504**, (Renumbered from 26-43-102, as enacted by Laws of Utah 1998, Chapter

642 73)
643 **26B-7-505**, (Renumbered from 26-57-103, as last amended by Laws of Utah 2021, First
644 Special Session, Chapter 12)
645 **26B-7-506**, (Renumbered from 26-62-103, as enacted by Laws of Utah 2018, Chapter
646 231)
647 **26B-7-507**, (Renumbered from 26-62-201, as last amended by Laws of Utah 2020,
648 Chapter 347)
649 **26B-7-508**, (Renumbered from 26-62-202, as last amended by Laws of Utah 2020,
650 Sixth Special Session, Chapter 18)
651 **26B-7-509**, (Renumbered from 26-62-203, as enacted by Laws of Utah 2018, Chapter
652 231)
653 **26B-7-510**, (Renumbered from 26-62-204, as enacted by Laws of Utah 2018, Chapter
654 231)
655 **26B-7-511**, (Renumbered from 26-62-205, as last amended by Laws of Utah 2021,
656 Chapter 348)
657 **26B-7-512**, (Renumbered from 26-62-206, as enacted by Laws of Utah 2020, Chapter
658 347)
659 **26B-7-513**, (Renumbered from 26-62-207, as enacted by Laws of Utah 2020, Chapter
660 302)
661 **26B-7-514**, (Renumbered from 26-62-301, as last amended by Laws of Utah 2020,
662 Chapter 347)
663 **26B-7-515**, (Renumbered from 26-62-302, as renumbered and amended by Laws of
664 Utah 2018, Chapter 231)
665 **26B-7-516**, (Renumbered from 26-62-303, as enacted by Laws of Utah 2018, Chapter
666 231)
667 **26B-7-517**, (Renumbered from 26-62-304, as last amended by Laws of Utah 2022,
668 Chapter 274)
669 **26B-7-518**, (Renumbered from 26-62-305, as last amended by Laws of Utah 2022,
670 Chapter 274)
671 **26B-7-519**, (Renumbered from 26-62-306, as last amended by Laws of Utah 2021,
672 Chapter 348)

673 **26B-7-520**, (Renumbered from 26-62-307, as renumbered and amended by Laws of
674 Utah 2018, Chapter 231)

675 **26B-7-521**, (Renumbered from 26-62-401, as last amended by Laws of Utah 2021,
676 Chapter 348)

677

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

679 Section 1. Section **26B-5-101** is amended to read:

680 **CHAPTER 5. HEALTH CARE - SUBSTANCE USE AND MENTAL HEALTH**

681 **Part 1. General Provisions**

682 **26B-5-101. Chapter Definitions.**

683 [~~Reserved.~~]

684 As used in this chapter:

685 (1) "Criminal risk factors" means a person's characteristics and behaviors that:

686 (a) affect the person's risk of engaging in criminal behavior; and

687 (b) are diminished when addressed by effective treatment, supervision, and other
688 support resources, resulting in reduced risk of criminal behavior.

689 (2) "Director" means the director appointed under Section 62A-15-104.

690 (3) "Division" means the Division of Integrated Healthcare created in Section
691 26B-1-202.

692 (4) "Local mental health authority" means a county legislative body.

693 (5) "Local substance abuse authority" means a county legislative body.

694 (6) "Mental health crisis" means:

695 (a) a mental health condition that manifests in an individual by symptoms of sufficient
696 severity that a prudent layperson who possesses an average knowledge of mental health issues
697 could reasonably expect the absence of immediate attention or intervention to result in:

698 (i) serious danger to the individual's health or well-being; or

699 (ii) a danger to the health or well-being of others; or

700 (b) a mental health condition that, in the opinion of a mental health therapist or the
701 therapist's designee, requires direct professional observation or intervention.

702 (7) "Mental health crisis response training" means community-based training that

703 educates laypersons and professionals on the warning signs of a mental health crisis and how to

704 respond.

705 (8) "Mental health crisis services" means an array of services provided to an individual
706 who experiences a mental health crisis, which may include:

707 (a) direct mental health services;

708 (b) on-site intervention provided by a mobile crisis outreach team;

709 (c) the provision of safety and care plans;

710 (d) prolonged mental health services for up to 90 days after the day on which an
711 individual experiences a mental health crisis;

712 (e) referrals to other community resources;

713 (f) local mental health crisis lines; and

714 (g) the statewide mental health crisis line.

715 (9) "Mental health therapist" means the same as that term is defined in Section
716 58-60-102.

717 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
718 mental health professionals that, in coordination with local law enforcement and emergency
719 medical service personnel, provides mental health crisis services.

720 (11) (a) "Public funds" means federal money received from the department, and state
721 money appropriated by the Legislature to the department, a county governing body, or a local
722 substance abuse authority, or a local mental health authority for the purposes of providing
723 substance abuse or mental health programs or services.

724 (b) "Public funds" include federal and state money that has been transferred by a local
725 substance abuse authority or a local mental health authority to a private provider under an
726 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental
727 health programs or services for the local substance abuse authority or local mental health
728 authority. The money maintains the nature of "public funds" while in the possession of the
729 private entity that has an annual or otherwise ongoing contract with a local substance abuse
730 authority or a local mental health authority to provide comprehensive substance abuse or
731 mental health programs or services for the local substance abuse authority or local mental
732 health authority.

733 (c) Public funds received for the provision of services under substance abuse or mental
734 health service plans may not be used for any other purpose except those authorized in the

735 contract between the local mental health or substance abuse authority and provider for the
736 provision of plan services.

737 (12) "Severe mental disorder" means schizophrenia, major depression, bipolar
738 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by
739 the division.

740 (13) "Statewide mental health crisis line" means the same as that term is defined in
741 Section 62A-15-1301.

742 Section 2. Section **26B-5-102**, which is renumbered from Section 62A-15-103 is
743 renumbered and amended to read:

744 ~~[62A-15-103].~~ **26B-5-102. Division -- Creation -- Responsibilities.**

745 (1) (a) The ~~[division]~~ Division of Integrated Healthcare shall exercise responsibility
746 over the policymaking functions, regulatory and enforcement powers, rights, duties, and
747 responsibilities outlined in state law that were previously vested in the Division of Substance
748 Abuse and Mental Health within the department, under the administration and general
749 supervision of the executive director.

750 (b) The division is the substance abuse authority and the mental health authority for
751 this state.

752 (2) The division shall:

753 (a) (i) educate the general public regarding the nature and consequences of substance
754 abuse by promoting school and community-based prevention programs;

755 (ii) render support and assistance to public schools through approved school-based
756 substance abuse education programs aimed at prevention of substance abuse;

757 (iii) promote or establish programs for the prevention of substance abuse within the
758 community setting through community-based prevention programs;

759 (iv) cooperate with and assist treatment centers, recovery residences, and other
760 organizations that provide services to individuals recovering from a substance abuse disorder,
761 by identifying and disseminating information about effective practices and programs;

762 (v) promote integrated programs that address an individual's substance abuse, mental
763 health, and physical health;

764 (vi) establish and promote an evidence-based continuum of screening, assessment,
765 prevention, treatment, and recovery support services in the community for individuals with a

766 substance use disorder or mental illness;

767 (vii) evaluate the effectiveness of programs described in this Subsection (2);

768 (viii) consider the impact of the programs described in this Subsection (2) on:

769 (A) emergency department utilization;

770 (B) jail and prison populations;

771 (C) the homeless population; and

772 (D) the child welfare system; and

773 (ix) promote or establish programs for education and certification of instructors to

774 educate individuals convicted of driving under the influence of alcohol or drugs or driving with

775 any measurable controlled substance in the body;

776 (b) (i) collect and disseminate information pertaining to mental health;

777 (ii) provide direction over the state hospital including approval of the state hospital's

778 budget, administrative policy, and coordination of services with local service plans;

779 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

780 Rulemaking Act, to educate families concerning mental illness and promote family

781 involvement, when appropriate, and with patient consent, in the treatment program of a family

782 member; and

783 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

784 Rulemaking Act, to direct that an individual receiving services through a local mental health

785 authority or the Utah State Hospital be informed about and, if desired by the individual,

786 provided assistance in the completion of a declaration for mental health treatment in

787 accordance with Section 62A-15-1002;

788 (c) (i) consult and coordinate with local substance abuse authorities and local mental

789 health authorities regarding programs and services;

790 (ii) provide consultation and other assistance to public and private agencies and groups

791 working on substance abuse and mental health issues;

792 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,

793 medical and social agencies, public health authorities, law enforcement agencies, education and

794 research organizations, and other related groups;

795 (iv) promote or conduct research on substance abuse and mental health issues, and

796 submit to the governor and the Legislature recommendations for changes in policy and

797 legislation;

798 (v) receive, distribute, and provide direction over public funds for substance abuse and
799 mental health services;

800 (vi) monitor and evaluate programs provided by local substance abuse authorities and
801 local mental health authorities;

802 (vii) examine expenditures of local, state, and federal funds;

803 (viii) monitor the expenditure of public funds by:

804 (A) local substance abuse authorities;

805 (B) local mental health authorities; and

806 (C) in counties where they exist, a private contract provider that has an annual or
807 otherwise ongoing contract to provide comprehensive substance abuse or mental health
808 programs or services for the local substance abuse authority or local mental health authority;

809 (ix) contract with local substance abuse authorities and local mental health authorities
810 to provide a comprehensive continuum of services that include community-based services for
811 individuals involved in the criminal justice system, in accordance with division policy, contract
812 provisions, and the local plan;

813 (x) contract with private and public entities for special statewide or nonclinical
814 services, or services for individuals involved in the criminal justice system, according to
815 division rules;

816 (xi) review and approve each local substance abuse authority's plan and each local
817 mental health authority's plan in order to ensure:

818 (A) a statewide comprehensive continuum of substance abuse services;

819 (B) a statewide comprehensive continuum of mental health services;

820 (C) services result in improved overall health and functioning;

821 (D) a statewide comprehensive continuum of community-based services designed to
822 reduce criminal risk factors for individuals who are determined to have substance abuse or
823 mental illness conditions or both, and who are involved in the criminal justice system;

824 (E) compliance, where appropriate, with the certification requirements in Subsection
825 (2)(j); and

826 (F) appropriate expenditure of public funds;

827 (xii) review and make recommendations regarding each local substance abuse

828 authority's contract with the local substance abuse authority's provider of substance abuse
829 programs and services and each local mental health authority's contract with the local mental
830 health authority's provider of mental health programs and services to ensure compliance with
831 state and federal law and policy;

832 (xiii) monitor and ensure compliance with division rules and contract requirements;
833 and

834 (xiv) withhold funds from local substance abuse authorities, local mental health
835 authorities, and public and private providers for contract noncompliance, failure to comply
836 with division directives regarding the use of public funds, or for misuse of public funds or
837 money;

838 (d) ensure that the requirements of this part are met and applied uniformly by local
839 substance abuse authorities and local mental health authorities across the state;

840 (e) require each local substance abuse authority and each local mental health authority,
841 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to
842 the division on or before May 15 of each year;

843 (f) conduct an annual program audit and review of each local substance abuse authority
844 and each local substance abuse authority's contract provider, and each local mental health
845 authority and each local mental health authority's contract provider, including:

846 (i) a review and determination regarding whether:

847 (A) public funds allocated to the local substance abuse authority or the local mental
848 health authorities are consistent with services rendered by the authority or the authority's
849 contract provider, and with outcomes reported by the authority's contract provider; and

850 (B) each local substance abuse authority and each local mental health authority is
851 exercising sufficient oversight and control over public funds allocated for substance use
852 disorder and mental health programs and services; and

853 (ii) items determined by the division to be necessary and appropriate;

854 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
855 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

856 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
857 supports services to an individual with:

858 (A) a substance use disorder;

- 859 (B) a mental health disorder; or
- 860 (C) a substance use disorder and a mental health disorder;
- 861 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
862 adult as a peer support specialist;
- 863 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
864 Rulemaking Act, that:
- 865 (A) establish training and certification requirements for a peer support specialist;
- 866 (B) specify the types of services a peer support specialist is qualified to provide;
- 867 (C) specify the type of supervision under which a peer support specialist is required to
868 operate; and
- 869 (D) specify continuing education and other requirements for maintaining or renewing
870 certification as a peer support specialist; and
- 871 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
872 Rulemaking Act, that:
- 873 (A) establish the requirements for a person to be certified to carry out, as needed, the
874 division's duty to train and certify an adult as a peer support specialist; and
- 875 (B) specify how the division shall provide oversight of a person certified to train and
876 certify a peer support specialist;
- 877 (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze
878 and provide recommendations to the Legislature regarding:
- 879 (i) pretrial services and the resources needed to reduce recidivism;
- 880 (ii) county jail and county behavioral health early-assessment resources needed for an
881 individual convicted of a class A or class B misdemeanor; and
- 882 (iii) the replacement of federal dollars associated with drug interdiction law
883 enforcement task forces that are reduced;
- 884 (j) establish performance goals and outcome measurements for a mental health or
885 substance use treatment program that is licensed under Chapter 2, Licensure of Programs and
886 Facilities, and contracts with the department, including goals and measurements related to
887 employment and reducing recidivism of individuals receiving mental health or substance use
888 treatment who are involved with the criminal justice system;
- 889 (k) annually, on or before November 30, submit a written report to the Judiciary

890 Interim Committee, the Health and Human Services Interim Committee, and the Law
891 Enforcement and Criminal Justice Interim Committee, that includes:

892 (i) a description of the performance goals and outcome measurements described in
893 Subsection (2)(j); and

894 (ii) information on the effectiveness of the goals and measurements in ensuring
895 appropriate and adequate mental health or substance use treatment is provided in a treatment
896 program described in Subsection (2)(j);

897 (l) collaborate with the Administrative Office of the Courts, the Department of
898 Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to
899 collect data on recidivism, including data on:

900 (i) individuals who participate in a mental health or substance use treatment program
901 while incarcerated and are convicted of another offense within two years after release from
902 incarceration;

903 (ii) individuals who are ordered by a criminal court or the Board of Pardons and Parole
904 to participate in a mental health or substance use treatment program and are convicted of
905 another offense while participating in the treatment program or within two years after the day
906 on which the treatment program ends;

907 (iii) the type of treatment provided to, and employment of, the individuals described in
908 Subsections (2)(l)(i) and (ii); and

909 (iv) cost savings associated with recidivism reduction and the reduction in the number
910 of inmates in the state;

911 (m) at the division's discretion, use the data described in Subsection (2)(l) to make
912 decisions regarding the use of funds allocated to the division to provide treatment;

913 (n) annually, on or before August 31, submit the data collected under Subsection (2)(l)
914 and any recommendations to improve the data collection to the State Commission on Criminal
915 and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

916 (o) publish the following on the division's website:

917 (i) the performance goals and outcome measurements described in Subsection (2)(j);
918 and

919 (ii) a description of the services provided and the contact information for the mental
920 health and substance use treatment programs described in Subsection (2)(j) and residential,

921 vocational and life skills programs, as defined in Section 13-53-102; and

922 (p) consult and coordinate with the Division of Child and Family Services to develop
923 and manage the operation of a program designed to reduce substance abuse during pregnancy
924 and by parents of a newborn child that includes:

925 (i) providing education and resources to health care providers and individuals in the
926 state regarding prevention of substance abuse during pregnancy;

927 (ii) providing training to health care providers in the state regarding screening of a
928 pregnant woman or pregnant minor to identify a substance abuse disorder; and

929 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
930 child in need of substance abuse treatment services to a facility that has the capacity to provide
931 the treatment services.

932 (3) In addition to the responsibilities described in Subsection (2), the division shall,
933 within funds appropriated by the Legislature for this purpose, implement and manage the
934 operation of a firearm safety and suicide prevention program, in consultation with the Bureau
935 of Criminal Identification created in Section 53-10-201, including:

936 (a) coordinating with local mental health and substance abuse authorities, a nonprofit
937 behavioral health advocacy group, and a representative from a Utah-based nonprofit
938 organization with expertise in the field of firearm use and safety that represents firearm owners,
939 to:

940 (i) produce and periodically review and update a firearm safety brochure and other
941 educational materials with information about the safe handling and use of firearms that
942 includes:

943 (A) information on safe handling, storage, and use of firearms in a home environment;

944 (B) information about at-risk individuals and individuals who are legally prohibited
945 from possessing firearms;

946 (C) information about suicide prevention awareness; and

947 (D) information about the availability of firearm safety packets;

948 (ii) procure cable-style gun locks for distribution under this section;

949 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
950 cable-style gun lock described in this Subsection (3); and

951 (iv) create a suicide prevention education course that:

- 952 (A) provides information for distribution regarding firearm safety education;
- 953 (B) incorporates current information on how to recognize suicidal behaviors and
954 identify individuals who may be suicidal; and
- 955 (C) provides information regarding crisis intervention resources;
- 956 (b) distributing, free of charge, the firearm safety packet to the following persons, who
957 shall make the firearm safety packet available free of charge:
- 958 (i) health care providers, including emergency rooms;
- 959 (ii) mobile crisis outreach teams;
- 960 (iii) mental health practitioners;
- 961 (iv) other public health suicide prevention organizations;
- 962 (v) entities that teach firearm safety courses;
- 963 (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents
964 of students in the school district; and
- 965 (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
- 966 (c) creating and administering a rebate program that includes a rebate that offers
967 between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms
968 dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;
- 969 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
970 making rules that establish procedures for:
- 971 (i) producing and distributing the suicide prevention education course and the firearm
972 safety brochures and packets;
- 973 (ii) procuring the cable-style gun locks for distribution; and
- 974 (iii) administering the rebate program; and
- 975 (e) reporting to the Health and Human Services Interim Committee regarding
976 implementation and success of the firearm safety program and suicide prevention education
977 course at or before the November meeting each year.
- 978 (4) (a) The division may refuse to contract with and may pursue legal remedies against
979 any local substance abuse authority or local mental health authority that fails, or has failed, to
980 expend public funds in accordance with state law, division policy, contract provisions, or
981 directives issued in accordance with state law.
- 982 (b) The division may withhold funds from a local substance abuse authority or local

983 mental health authority if the authority's contract provider of substance abuse or mental health
984 programs or services fails to comply with state and federal law or policy.

985 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
986 or local mental health authority, the division shall review and determine whether the local
987 substance abuse authority or local mental health authority is complying with the oversight and
988 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
989 17-43-309.

990 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
991 liability described in Section 17-43-303 and to the responsibility and liability described in
992 Section 17-43-203.

993 (6) In carrying out the division's duties and responsibilities, the division may not
994 duplicate treatment or educational facilities that exist in other divisions or departments of the
995 state, but shall work in conjunction with those divisions and departments in rendering the
996 treatment or educational services that those divisions and departments are competent and able
997 to provide.

998 (7) The division may accept in the name of and on behalf of the state donations, gifts,
999 devises, or bequests of real or personal property or services to be used as specified by the
1000 donor.

1001 (8) The division shall annually review with each local substance abuse authority and
1002 each local mental health authority the authority's statutory and contract responsibilities
1003 regarding:

1004 (a) use of public funds;

1005 (b) oversight of public funds; and

1006 (c) governance of substance use disorder and mental health programs and services.

1007 (9) The Legislature may refuse to appropriate funds to the division upon the division's
1008 failure to comply with the provisions of this part.

1009 (10) If a local substance abuse authority contacts the division under Subsection
1010 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant
1011 minor, the division shall:

1012 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
1013 capacity to provide the treatment services; or

1014 (b) otherwise ensure that treatment services are made available to the pregnant woman
1015 or pregnant minor.

1016 (11) The division shall employ a school-based mental health specialist to be housed at
1017 the State Board of Education who shall work with the State Board of Education to:

1018 (a) provide coordination between a local education agency and local mental health
1019 authority;

1020 (b) recommend evidence-based and evidence informed mental health screenings and
1021 intervention assessments for a local education agency; and

1022 (c) coordinate with the local community, including local departments of health, to
1023 enhance and expand mental health related resources for a local education agency.

1024 Section 3. Section **26B-5-103**, which is renumbered from Section 62A-15-104 is
1025 renumbered and amended to read:

1026 ~~[62A-15-104]~~. **26B-5-103. Director -- Qualifications.**

1027 (1) The executive director shall appoint a director within the division to carry out all or
1028 part of the duties and responsibilities described in this part.

1029 (2) The director appointed under Subsection (1) shall have a bachelor's degree from an
1030 accredited university or college, be experienced in administration, and be knowledgeable in
1031 matters concerning substance abuse and mental health.

1032 Section 4. Section **26B-5-104**, which is renumbered from Section 62A-15-105 is
1033 renumbered and amended to read:

1034 ~~[62A-15-105]~~. **26B-5-104. Authority and responsibilities of division.**

1035 The division shall set policy for its operation and for programs funded with state and
1036 federal money under Sections 17-43-201, 17-43-301, 17-43-304, and 62A-15-110. The
1037 division shall:

1038 (1) in establishing rules, seek input from local substance abuse authorities, local mental
1039 health authorities, consumers, providers, advocates, division staff, and other interested parties
1040 as determined by the division;

1041 (2) establish, by rule, minimum standards for local substance abuse authorities and
1042 local mental health authorities;

1043 (3) establish, by rule, procedures for developing policies that ensure that local
1044 substance abuse authorities and local mental health authorities are given opportunity to

1045 comment and provide input on any new policy of the division or proposed changes in existing
1046 rules of the division;

1047 (4) provide a mechanism for review of its existing policy, and for consideration of
1048 policy changes that are proposed by local substance abuse authorities or local mental health
1049 authorities;

1050 (5) develop program policies, standards, rules, and fee schedules for the division; and

1051 (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1052 make rules approving the form and content of substance abuse treatment, educational series,
1053 screening, and assessment that are described in Section 41-6a-501.

1054 Section 5. Section **26B-5-105**, which is renumbered from Section 62A-15-105.2 is
1055 renumbered and amended to read:

1056 ~~[62A-15-105.2]~~. **26B-5-105**. **Employment first emphasis on the provision of**
1057 **services.**

1058 (1) As used in this section, "recipient" means an individual who is:

1059 (a) undergoing treatment for a substance abuse problem; or

1060 (b) suffers from a mental illness.

1061 (2) When providing services to a recipient, the division shall, within funds
1062 appropriated by the Legislature and in accordance with the requirements of federal and state
1063 law and memorandums of understanding between the division and other state entities that
1064 provide services to a recipient, give priority to providing services that assist an eligible
1065 recipient in obtaining and retaining meaningful and gainful employment that enables the
1066 recipient to earn sufficient income to:

1067 (a) purchase goods and services;

1068 (b) establish self-sufficiency; and

1069 (c) exercise economic control of the recipient's life.

1070 (3) The division shall develop a written plan to implement the policy described in
1071 Subsection (2) that includes:

1072 (a) assessing the strengths and needs of a recipient;

1073 (b) customizing strength-based approaches to obtaining employment;

1074 (c) expecting, encouraging, providing, and rewarding:

1075 (i) integrated employment in the workplace at competitive wages and benefits; and

- 1076 (ii) self-employment;
- 1077 (d) developing partnerships with potential employers;
- 1078 (e) maximizing appropriate employment training opportunities;
- 1079 (f) coordinating services with other government agencies and community resources;
- 1080 (g) to the extent possible, eliminating practices and policies that interfere with the
- 1081 policy described in Subsection (2); and
- 1082 (h) arranging sub-minimum wage work or volunteer work for an eligible recipient
- 1083 when employment at market rates cannot be obtained.

1084 (4) The division shall, on an annual basis:

- 1085 (a) set goals to implement the policy described in Subsection (2) and the plan described
- 1086 in Subsection (3);
- 1087 (b) determine whether the goals for the previous year have been met; and
- 1088 (c) modify the plan described in Subsection (3) as needed.

1089 Section 6. Section **26B-5-106**, which is renumbered from Section 62A-15-107 is

1090 renumbered and amended to read:

1091 ~~[62A-15-107]~~. **26B-5-106. Authority to assess fees.**

1092 The division may, with the approval of the Legislature and the executive director,

1093 establish fee schedules and assess fees for services rendered by the division.

1094 Section 7. Section **26B-5-107**, which is renumbered from Section 62A-15-108 is

1095 renumbered and amended to read:

1096 ~~[62A-15-108]~~. **26B-5-107. Formula for allocation of funds to local**

1097 **substance abuse authorities and local mental health authorities.**

1098 (1) (a) The division shall establish, by rule, formulas for allocating funds to local

1099 substance abuse authorities and local mental health authorities through contracts, to provide

1100 substance abuse prevention and treatment services in accordance with the provisions of this

1101 chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and mental health

1102 services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3,

1103 Local Mental Health Authorities.

1104 (b) The formulas shall provide for allocation of funds based on need. Determination of

1105 need shall be based on population unless the division establishes, by valid and accepted data,

1106 that other defined factors are relevant and reliable indicators of need.

1107 (c) The formulas shall include a differential to compensate for additional costs of
1108 providing services in rural areas.

1109 (2) The formulas established under Subsection (1) apply to all state and federal funds
1110 appropriated by the Legislature to the division for local substance abuse authorities and local
1111 mental health authorities, but does not apply to:

1112 (a) funds that local substance abuse authorities and local mental health authorities
1113 receive from sources other than the division;

1114 (b) funds that local substance abuse authorities and local mental health authorities
1115 receive from the division to operate specific programs within their jurisdictions which are
1116 available to all residents of the state;

1117 (c) funds that local substance abuse authorities and local mental health authorities
1118 receive from the division to meet needs that exist only within their local areas; and

1119 (d) funds that local substance abuse authorities and local mental health authorities
1120 receive from the division for research projects.

1121 Section 8. Section **26B-5-108**, which is renumbered from Section 62A-15-110 is
1122 renumbered and amended to read:

1123 ~~[62A-15-110]~~. **26B-5-108. Contracts for substance abuse and mental health**
1124 **services -- Provisions -- Responsibilities.**

1125 (1) If the division contracts with a local substance abuse authority or a local mental
1126 health authority to provide substance abuse or mental health programs and services in
1127 accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local
1128 Substance Abuse Authorities, or Title 17, Chapter 43, Part 3, Local Mental Health Authorities,
1129 it shall ensure that those contracts include at least the following provisions:

1130 (a) that an independent auditor shall conduct any audit of the local substance abuse
1131 authority or its contract provider's programs or services and any audit of the local mental health
1132 authority or its contract provider's programs or services, pursuant to the provisions of Title 51,
1133 Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
1134 Other Local Entities Act;

1135 (b) in addition to the requirements described in Title 51, Chapter 2a, Accounting
1136 Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the
1137 division:

1138 (i) shall prescribe guidelines and procedures, in accordance with those formulated by
1139 the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of
1140 officers, directors, and specified employees of the private contract provider, to assure the state
1141 that no personal benefit is gained from travel or other expenses; and

1142 (ii) may prescribe specific items to be addressed by that audit, depending upon the
1143 particular needs or concerns relating to the local substance abuse authority, local mental health
1144 authority, or contract provider at issue;

1145 (c) the local substance abuse authority or its contract provider and the local mental
1146 health authority and its contract provider shall invite and include all funding partners in its
1147 auditor's pre- and exit conferences;

1148 (d) each member of the local substance abuse authority and each member of the local
1149 mental health authority shall annually certify that he has received and reviewed the independent
1150 audit and has participated in a formal interview with the provider's executive officers;

1151 (e) requested information and outcome data will be provided to the division in the
1152 manner and within the time lines defined by the division; and

1153 (f) all audit reports by state or county persons or entities concerning the local substance
1154 abuse authority or its contract provider, or the local mental health authority or its contract
1155 provider shall be provided to the executive director of the department, the local substance
1156 abuse authority or local mental health authority, and members of the contract provider's
1157 governing board.

1158 (2) Each contract between the division and a local substance abuse authority or a local
1159 mental health authority shall authorize the division to withhold funds, otherwise allocated
1160 under Section 62A-15-108, to cover the costs of audits, attorney fees, and other expenditures
1161 associated with reviewing the expenditure of public funds by a local substance abuse authority
1162 or its contract provider or a local mental health authority or its contract provider, if there has
1163 been an audit finding or judicial determination that public funds have been misused by the local
1164 substance abuse authority or its contract provider or the local mental health authority or its
1165 contract provider.

1166 Section 9. Section **26B-5-109**, which is renumbered from Section 62A-15-113 is
1167 renumbered and amended to read:

1168 ~~[62A-15-113]~~. **26B-5-109. Local plan program funding.**

1169 (1) To facilitate the distribution of newly appropriated funds beginning from fiscal year
1170 2018 for prevention, treatment, and recovery support services that reduce recidivism or reduce
1171 the per capita number of incarcerated offenders with a substance use disorder or a mental
1172 health disorder, the division shall:

1173 (a) form an application review and fund distribution committee that includes:

1174 (i) one representative of the Utah Sheriffs' Association;

1175 (ii) one representative of the Statewide Association of Prosecutors of Utah;

1176 (iii) two representatives from the division; and

1177 (iv) two representatives from the Utah Association of Counties; and

1178 (b) require the application review and fund distribution committee to:

1179 (i) establish a competitive application process for funding of a local plan, as described
1180 in Sections 17-43-201(5)(b) and 17-43-301(6)(a)(ii);

1181 (ii) establish criteria in accordance with Subsection (1) for the evaluation of an
1182 application;

1183 (iii) ensure that the committee members' affiliate groups approve of the application
1184 process and criteria;

1185 (iv) evaluate applications; and

1186 (v) distribute funds to programs implemented by counties, local mental health
1187 authorities, or local substance abuse authorities.

1188 (2) Demonstration of matching county funds is not a requirement to receive funds, but
1189 the application review committee may take into consideration the existence of matching funds
1190 when determining which programs to fund.

1191 Section 10. Section **26B-5-110**, which is renumbered from Section 62A-15-103.1 is
1192 renumbered and amended to read:

1193 ~~[62A-15-103.1].~~ **26B-5-110. Suicide Prevention Education Program --**
1194 **Definitions -- Grant requirements.**

1195 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
1196 created in Section 53-10-201 within the Department of Public Safety.

1197 (2) There is created a Suicide Prevention Education Program to fund suicide
1198 prevention education opportunities for federally licensed firearms dealers who operate a retail
1199 establishment open to the public and the dealers' employees.

1200 (3) The division, in conjunction with the bureau, shall provide a grant to an employer
1201 described in Subsection (2) in accordance with the criteria provided in Subsection
1202 62A-15-1101(7)(b).

1203 (4) An employer may apply for a grant of up to \$2,500 under the program.

1204 Section 11. Section **26B-5-111**, which is renumbered from Section 62A-15-115 is
1205 renumbered and amended to read:

1206 ~~[62A-15-115]~~. **26B-5-111. Mental health crisis response training.**

1207 (1) The division shall award grants to communities to conduct mental health crisis
1208 response training.

1209 (2) For the application and award of the grants described in Subsection (1), the division
1210 shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1211 Act, that determine:

1212 (a) the requirements and process for a community to apply for a grant; and

1213 (b) the substantive mental health crisis response programs that qualify for the award of
1214 a grant.

1215 Section 12. Section **26B-5-112**, which is renumbered from Section 62A-15-116 is
1216 renumbered and amended to read:

1217 ~~[62A-15-116]~~. **26B-5-112. Mobile crisis outreach team expansion.**

1218 (1) In consultation with the Behavioral Health Crisis Response Commission,
1219 established in Section 63C-18-202, the division shall award grants for the development of:

1220 (a) five mobile crisis outreach teams:

1221 (i) in counties of the second, third, fourth, fifth, or sixth class; or

1222 (ii) in counties of the first class, if no more than two mobile crisis outreach teams are
1223 operating or have been awarded a grant to operate in the county; and

1224 (b) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or
1225 sixth class.

1226 (2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide
1227 mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

1228 (3) The division shall prioritize the award of a grant described in Subsection (1) to
1229 entities, based on:

1230 (a) the number of individuals the proposed mobile crisis outreach team will serve; and

1231 (b) the percentage of matching funds the entity will provide to develop the proposed
1232 mobile crisis outreach team.

1233 (4) An entity does not need to have resources already in place to be awarded a grant
1234 described in Subsection (1).

1235 (5) In consultation with the Behavioral Health Crisis Response Commission,
1236 established in Section 63C-18-202, the division shall make rules, in accordance with Title 63G,
1237 Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants
1238 described in Subsection (1).

1239 Section 13. Section **26B-5-113**, which is renumbered from Section 62A-15-117 is
1240 renumbered and amended to read:

1241 ~~[62A-15-117].~~ **26B-5-113. Medicaid reimbursement for school-based health**
1242 **services -- Report to Legislature.**

1243 (1) As used in this section, "individualized education program" or "IEP" means a
1244 written statement for a student with a disability that is developed, reviewed, and revised in
1245 accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

1246 (2) The division shall coordinate with the State Board of Education, the Department of
1247 Health, and stakeholders to address and develop recommendations related to:

1248 (a) the expansion of Medicaid reimbursement for school-based health services,
1249 including how to expand Medicaid-eligible school-based services beyond the services for
1250 students with IEPs; and

1251 (b) other areas concerning Medicaid reimbursement for school-based health services,
1252 including the time threshold for medically necessary IEP services.

1253 ~~[(3) The division, the State Board of Education, and the Department of Health shall~~
1254 ~~jointly report the recommendations described in Subsection (2) to the Education Interim~~
1255 ~~Committee on or before August 15, 2019.]~~

1256 Section 14. Section **26B-5-114**, which is renumbered from Section 62A-15-118 is
1257 renumbered and amended to read:

1258 ~~[62A-15-118].~~ **26B-5-114. Behavioral Health Receiving Center Grant**
1259 **Program.**

1260 (1) As used in this section:

1261 (a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility

1262 that is responsible for, and provides mental health crisis services to, an individual experiencing
1263 a mental health crisis.

1264 (b) "Project" means a behavioral health receiving center project described in
1265 Subsection (2)(a).

1266 (2) (a) (i) Before July 1, 2020, the division shall issue a request for proposals in
1267 accordance with this section to award a grant to one or more counties of the first or second
1268 class, as classified in Section 17-50-501, to, except as provided in Subsection (2)(a)(ii),
1269 develop and implement a behavioral health receiving center.

1270 (ii) A grant awarded under Subsection (2)(a)(i) may not be used to purchase land for
1271 the behavioral health receiving center.

1272 (b) The division shall award all grants under this section before December 31, 2020.

1273 (3) The purpose of a project is to:

1274 (a) increase access to mental health crisis services for individuals in the state who are
1275 experiencing a mental health crisis; and

1276 (b) reduce the number of individuals in the state who are incarcerated or in a hospital
1277 emergency room while experiencing a mental health crisis.

1278 (4) An application for a grant under this section shall:

1279 (a) identify the population to which the behavioral health receiving center will provide
1280 mental health crisis services;

1281 (b) identify the type of mental health crisis services the behavioral health receiving
1282 center will provide;

1283 (c) explain how the population described in Subsection (4)(a) will benefit from the
1284 provision of mental health crisis services;

1285 (d) provide details regarding:

1286 (i) how the proposed project plans to provide mental health crisis services;

1287 (ii) how the proposed project will ensure that consideration is given to the capacity of
1288 the behavioral health receiving center;

1289 (iii) how the proposed project will ensure timely and effective provision of mental
1290 health crisis services;

1291 (iv) the cost of the proposed project;

1292 (v) any existing or planned contracts or partnerships between the applicant and other

1293 individuals or entities to develop and implement the proposed project;

1294 (vi) any plan to use funding sources in addition to a grant under this section for the
1295 proposed project;

1296 (vii) the sustainability of the proposed project; and

1297 (viii) the methods the proposed project will use to:

1298 (A) protect the privacy of each individual who receives mental health crisis services
1299 from the behavioral health receiving center;

1300 (B) collect nonidentifying data relating to the proposed project; and

1301 (C) provide transparency on the costs and operation of the proposed project; and

1302 (e) provide other information requested by the division to ensure that the proposed
1303 project satisfies the criteria described in Subsection (5).

1304 (5) In evaluating an application for the grant, the division shall consider:

1305 (a) the extent to which the proposed project will fulfill the purposes described in
1306 Subsection (3);

1307 (b) the extent to which the population described in Subsection (4)(a) is likely to benefit
1308 from the proposed project;

1309 (c) the cost of the proposed project;

1310 (d) the extent to which any existing or planned contracts or partnerships between the
1311 applicant and other individuals or entities to develop and implement the project, or additional
1312 funding sources available to the applicant for the proposed project, are likely to benefit the
1313 proposed project; and

1314 (e) the viability and innovation of the proposed project.

1315 (6) Before June 30, 2021, the division shall report to the Health and Human Services
1316 Interim Committee regarding:

1317 (a) each county awarded a grant under this section; and

1318 (b) the details of each project.

1319 (7) Before June 30, 2023, the division shall report to the Health and Human Services
1320 Interim Committee regarding:

1321 (a) data gathered in relation to each project;

1322 (b) knowledge gained relating to the provision of mental health crisis services in a
1323 behavioral health receiving center;

1324 (c) recommendations for the future use of mental health crisis services in behavioral
1325 health receiving centers; and

1326 (d) obstacles encountered in the provision of mental health crisis services in a
1327 behavioral health receiving center.

1328 Section 15. Section **26B-5-115**, which is renumbered from Section 62A-15-119 is
1329 renumbered and amended to read:

1330 ~~[62A-15-119]~~. **26B-5-115. Safety Net Initiative.**

1331 (1) As used in this section, "individuals in underserved communities" means
1332 individuals living in culturally isolated communities in the state who may lack access to public
1333 assistance and other government services.

1334 (2) There is created within the division the Safety Net Initiative to:

1335 (a) implement strategies to increase awareness and reduce risk factors in order to
1336 improve the safety and well-being of individuals in underserved communities;

1337 (b) coordinate with government agencies, nonprofit organizations, and interested
1338 individuals to provide open communication with individuals in underserved communities; and

1339 (c) coordinate efforts to give individuals in underserved communities needed access to
1340 public assistance and other government services.

1341 (3) The division may employ or contract with individuals, entities, and support staff as
1342 necessary to administer the duties required by this section.

1343 Section 16. Section **26B-5-116**, which is renumbered from Section 62A-15-121 is
1344 renumbered and amended to read:

1345 ~~[62A-15-121]~~. **26B-5-116. Suicide technical assistance program.**

1346 (1) As used in this section, "technical assistance" means training for the prevention of
1347 suicide.

1348 (2) (a) Before July 1, 2021, and each subsequent July 1, the division shall solicit
1349 applications from health care organizations to receive technical assistance provided by the
1350 division.

1351 (b) The division shall approve at least one but not more than six applications each year.

1352 (c) The division shall determine which applicants receive the technical assistance
1353 before December 31 of each year.

1354 (3) An application for technical assistance under this section shall:

- 1355 (a) identify the population to whom the health care organization will provide suicide
1356 prevention services;
- 1357 (b) identify how the health care organization plans to implement the skills and
1358 knowledge gained from the technical assistance;
- 1359 (c) identify the health care organization's current resources used for the prevention of
1360 suicide;
- 1361 (d) explain how the population described in Subsection (3)(a) will benefit from the
1362 health care organization receiving technical assistance;
- 1363 (e) provide details regarding:
- 1364 (i) how the health care organization will provide timely and effective suicide
1365 prevention services;
- 1366 (ii) any existing or planned contracts or partnerships between the health care
1367 organization and other persons that are related to suicide prevention;
- 1368 (iii) the methods the health care organization will use to:
- 1369 (A) protect the privacy of each individual to whom the health care organization
1370 provides suicide prevention services; and
- 1371 (B) collect non-identifying data; and
- 1372 (f) provide other information requested by the division for the division to evaluate the
1373 application.
- 1374 (4) In evaluating an application for technical assistance, the division shall consider:
- 1375 (a) the extent to which providing technical assistance to the health care organization
1376 will fulfill the purpose of preventing suicides in the state;
- 1377 (b) the extent to which the population described in Subsection (3)(a) is likely to benefit
1378 from the health care organization receiving the technical assistance;
- 1379 (c) the cost of providing the technical assistance to the health care organization; and
- 1380 (d) the extent to which any of the following are likely to benefit the health care
1381 organization's ability to assist in preventing suicides in the state:
- 1382 (i) existing or planned contracts or partnerships between the applicant and other
1383 persons to develop and implement other initiatives; or
- 1384 (ii) additional funding sources available to the applicant for suicide prevention
1385 services.

1386 (5) Before June 30, 2022, and each subsequent June 30, the division shall submit a
1387 written report to the Health and Human Services Interim Committee regarding each health care
1388 organization the division provided technical assistance to in the preceding year under this
1389 section.

1390 (6) Before June 30, 2024, the division shall submit a written report to the Health and
1391 Human Services Interim Committee regarding:

1392 (a) data gathered in relation to providing technical assistance to a health care
1393 organization;

1394 (b) knowledge gained relating to providing technical assistance;

1395 (c) recommendations for the future regarding how the state can better prevent suicides;
1396 and

1397 (d) obstacles encountered when providing technical assistance.

1398 Section 17. Section **26B-5-117**, which is renumbered from Section 62A-15-122 is
1399 renumbered and amended to read:

1400 ~~[62A-15-122]~~. **26B-5-117**. **Early childhood mental health support grant**
1401 **program.**

1402 (1) As used in this section:

1403 (a) "Child care" means the child care services defined in Section 35A-3-102 for a child
1404 during early childhood.

1405 (b) "Child care provider" means a person who provides child care or mental health
1406 support or interventions to a child during early childhood.

1407 (c) "Early childhood" means the time during which a child is zero to six years old.

1408 (d) "Project" means a project to provide education and training to child care providers
1409 regarding evidence-based best practices for delivery of mental health support and interventions
1410 during early childhood.

1411 (2) On or before July 1, 2021, the division shall issue a request for proposals in
1412 accordance with this section to award a grant to a public or nonprofit entity to implement a
1413 project.

1414 (3) The purpose of a project is to facilitate education about early childhood mental
1415 health support and interventions.

1416 (4) An application for a grant under this section shall provide details regarding:

1417 (a) the education and training regarding early childhood mental health support and
1418 interventions that the proposed project will provide to child care providers;

1419 (b) how the proposed project plans to provide the education and training to child care
1420 providers;

1421 (c) the number of child care providers served by the proposed project;

1422 (d) how the proposed project will ensure the education and training is effectively
1423 provided to child care providers;

1424 (e) the cost of the proposed project; and

1425 (f) the sustainability of the proposed project.

1426 (5) In evaluating a project proposal for a grant under this section, the division shall
1427 consider:

1428 (a) the extent to which the proposed project will fulfill the purpose described in
1429 Subsection (3);

1430 (b) the extent to which child care providers that will be served by the proposed project
1431 are likely to benefit from the proposed project;

1432 (c) the cost of the proposed project; and

1433 (d) the viability of the proposed project.

1434 ~~[(6) Before June 30, 2022, the division shall report to the Health and Human Services
1435 Interim Committee regarding:]~~

1436 ~~[(a) each entity awarded a grant under this section; and]~~

1437 ~~[(b) the details of each project.]~~

1438 ~~[(7)]~~ (6) Before June 30, 2024, the division shall report to the Health and Human
1439 Services Interim Committee regarding:

1440 (a) any knowledge gained from providing the education and training regarding early
1441 childhood mental health support to child care providers;

1442 (b) data gathered in relation to each project;

1443 (c) recommendations for the future use of the education and training provided to child
1444 care providers; and

1445 (d) obstacles encountered in providing the education and training to child care
1446 providers.

1447 Section 18. Section **26B-5-118**, which is renumbered from Section 62A-15-124 is

1448 renumbered and amended to read:

1449 ~~[62A-15-124]~~. **26B-5-118. Collaborative care grant program.**

1450 (1) As used in this section:

1451 (a) "Applicant" means a small primary health care practice that applies for a grant
1452 under this section.

1453 (b) "Care manager" means an individual who plans, directs, and coordinates health care
1454 services for a patient.

1455 (c) "Collaborative care model" means a formal collaborative arrangement between a
1456 primary care physician, a mental health professional, and a care manager, to provide integrated
1457 physical and behavioral health services.

1458 (d) "Mental health professional" means an individual licensed under Title 58, Chapter
1459 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing
1460 Act, or a psychiatrist.

1461 (e) "Physician" means an individual licensed to practice as a physician or osteopath
1462 under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1463 Osteopathic Medical Practice Act.

1464 (f) "Primary care physician" means a physician that provides health services related to
1465 family medicine, internal medicine, pediatrics, obstetrics, gynecology, or geriatrics.

1466 (g) "Program" means a program described in Subsection (2)(a).

1467 (h) "Psychiatrist" means a physician who is board eligible for a psychiatry
1468 specialization recognized by the American Board of Medical Specialists or the American
1469 Osteopathic Association's Bureau of Osteopathic Specialists.

1470 (i) "Small primary health care practice" means a medical practice of primary health
1471 care physicians that:

1472 (i) includes 10 or fewer primary care physicians; or

1473 (ii) is primarily based in a county of the third through sixth class, as classified in
1474 Section 17-50-501.

1475 (2) (a) Before July 1, 2022, the division shall solicit applications from small primary
1476 health care practices for a grant to support or implement a program to provide integrated
1477 physical and behavioral health services under a collaborative care model.

1478 (b) A grant under this section may be used to:

- 1479 (i) hire and train staff to administer a program;
- 1480 (ii) identify and formalize contractual relationships with mental health professionals
1481 and case managers to implement a program; or
- 1482 (iii) purchase or upgrade software and other resources necessary to support or
1483 implement a program.
- 1484 (c) The division shall approve at least one but not more than six applications each year.
- 1485 (d) The division shall determine which applicants receive a grant under this section
1486 before December 31, 2022.
- 1487 (3) An application for a grant under this section shall:
- 1488 (a) identify the population to whom the applicant will provide services under a
1489 program;
- 1490 (b) identify the small primary health care practice's current resources that are used to
1491 provide integrated physical and behavioral health services;
- 1492 (c) explain how the population described in Subsection (3)(a) will benefit from the
1493 program;
- 1494 (d) provide details regarding:
- 1495 (i) how the applicant will provide timely and effective services under the program;
- 1496 (ii) any existing or planned contracts or partnerships between the applicant and other
1497 persons that are related to a collaborative care model;
- 1498 (iii) the methods the applicant will use to:
- 1499 (A) protect the privacy of each individual to whom the applicant provides services
1500 under the program; and
- 1501 (B) collect non-identifying data; and
- 1502 (e) provide other information requested by the division for the division to evaluate the
1503 application.
- 1504 (4) In evaluating an application for a grant under this section, the division shall
1505 consider:
- 1506 (a) the extent to which providing the grant to the applicant will fulfill the purpose of
1507 providing increased integrated physical and behavioral health services; and
- 1508 (b) the extent to which the population described in Subsection (3)(a) is likely to benefit
1509 from the applicant receiving the grant.

1510 (5) Before July 1, 2023, the division shall submit a written report to the Health and
1511 Human Services Interim Committee regarding each applicant the division provided a grant to
1512 in the preceding year under this section.

1513 (6) Before July 1, 2024, the division shall submit a written report to the Health and
1514 Human Services Interim Committee regarding:

1515 (a) data gathered and knowledge gained in relation to providing grants to an applicant;
1516 and

1517 (b) recommendations for how the state can better implement integrated physical and
1518 behavioral health services.

1519 Section 19. Section **26B-5-119**, which is renumbered from Section 62A-15-615 is
1520 renumbered and amended to read:

1521 ~~[62A-15-615]~~. **26B-5-119. Forms.**

1522 The division shall furnish the clerks of the [~~district~~] courts with forms, blanks, warrants,
1523 and certificates, to enable the [~~district court~~] judges, with regularity and facility, to comply with
1524 the provisions of this chapter.

1525 Section 20. Section **26B-5-201**, which is renumbered from Section 62A-15-202 is
1526 renumbered and amended to read:

1527 **Part 2. Substance Use Disorder Intervention, Prevention, and Education**

1528 ~~[62A-15-202]~~. **26B-5-201. Definitions.**

1529 As used in this part:

1530 (1) "Juvenile substance abuse offender" means any minor who has committed a drug or
1531 alcohol related offense under the jurisdiction of the juvenile court in accordance with Section
1532 78A-6-103.

1533 (2) "Local substance abuse authority" means a county legislative body designated to
1534 provide substance abuse services in accordance with Section 17-43-201.

1535 (3) "Minor" means the same as that term is defined in Section 80-1-102.

1536 (4) "Teen substance abuse school" means any school established by the local substance
1537 abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an
1538 educational, interpersonal, skill-building experience for juvenile substance abuse offenders and
1539 their parents or legal guardians.

1540 Section 21. Section **26B-5-202**, which is renumbered from Section 62A-15-203 is

1541 renumbered and amended to read:

1542 ~~[62A-15-203]~~. 26B-5-202. **Teen substance abuse schools -- Establishment.**

1543 The division or a local substance abuse authority, in cooperation with the Board of
1544 Juvenile Court Judges, may establish teen substance abuse schools in the districts of the
1545 juvenile court.

1546 Section 22. Section **26B-5-203**, which is renumbered from Section 62A-15-204 is
1547 renumbered and amended to read:

1548 ~~[62A-15-204]~~. 26B-5-203. **Court order to attend substance abuse school --**
1549 **Assessments.**

1550 (1) In addition to any other disposition ordered by the juvenile court under Section
1551 80-6-701, the court may order:

1552 (a) a minor and the minor's parent or legal guardian to attend a teen substance abuse
1553 school; and

1554 (b) payment of an assessment in addition to any other fine imposed.

1555 (2) All assessments collected shall be forwarded to the county treasurer of the county
1556 where the minor resides, to be used exclusively for the operation of a teen substance abuse
1557 program.

1558 Section 23. Section **26B-5-204**, which is renumbered from Section 62A-15-301 is
1559 renumbered and amended to read:

1560 ~~[62A-15-301]~~. 26B-5-204. **Commitment of minor to secure drug or alcohol**
1561 **facility or program -- Procedures -- Review.**

1562 (1) ~~[For purposes of this part]~~ As used in this section:

1563 (a) "Approved treatment facility or program" means a public or private secure,
1564 inpatient facility or program that is licensed or operated by the department or by the
1565 Department of Health to provide drug or alcohol treatment or rehabilitation.

1566 (b) "Drug or alcohol addiction" means that the person has a physical or psychological
1567 dependence on drugs or alcohol in a manner not prescribed by a physician.

1568 (2) The parent or legal guardian of a minor under the age of 18 years may submit that
1569 child, without the child's consent, to an approved treatment facility or program for treatment or
1570 rehabilitation of drug or alcohol addiction, upon application to a facility or program, and after a
1571 careful diagnostic inquiry is made by a neutral and detached fact finder, in accordance with the

1572 requirements of this section.

1573 (3) The neutral fact finder who conducts the inquiry:

1574 (a) shall be either a physician, psychologist, marriage and family therapist, psychiatric
1575 and mental health nurse specialist, or social worker licensed to practice in this state, who is
1576 trained and practicing in the area of substance abuse; and

1577 (b) may not profit, financially or otherwise, from the commitment of the child and may
1578 not be employed by the proposed facility or program.

1579 (4) The review by a neutral fact finder may be conducted on the premises of the
1580 proposed treatment facility or program.

1581 (5) The inquiry conducted by the neutral fact finder shall include a private interview
1582 with the child, and an evaluation of the child's background and need for treatment.

1583 (6) The child may be committed to the approved treatment facility or program if it is
1584 determined by the neutral fact finder that:

1585 (a) the child is addicted to drugs or alcohol and because of that addiction poses a
1586 serious risk of harm to himself or others;

1587 (b) the proposed treatment or rehabilitation is in the child's best interest; and

1588 (c) there is no less restrictive alternative that would be equally as effective, from a
1589 clinical standpoint, as the proposed treatment facility or program.

1590 (7) Any approved treatment facility or program that receives a child under this section
1591 shall conduct a periodic review, at intervals not to exceed 30 days, to determine whether the
1592 criteria described in Subsection (6) continue to exist.

1593 (8) A minor committed under this section shall be released from the facility or program
1594 upon the request of his parent or legal guardian.

1595 (9) Commitment of a minor under this section terminates when the minor reaches the
1596 age of 18 years.

1597 (10) Nothing in this section requires a program or facility to accept any person for
1598 treatment or rehabilitation.

1599 (11) The parent or legal guardian who requests commitment of a minor under this
1600 section is responsible to pay any fee associated with the review required by this section and any
1601 necessary charges for commitment, treatment, or rehabilitation for a minor committed under
1602 this section.

1603 (12) The child shall be released from commitment unless the report of the neutral fact
1604 finder is submitted to the juvenile court within 72 hours of commitment and approved by the
1605 court.

1606 Section 24. Section **26B-5-205**, which is renumbered from Section 62A-15-401 is
1607 renumbered and amended to read:

1608 ~~[62A-15-401]~~. **26B-5-205. Alcohol training and education seminar.**

1609 (1) As used in this [part] section:

1610 (a) "Instructor" means a person that directly provides the instruction during an alcohol
1611 training and education seminar for a seminar provider.

1612 (b) "Licensee" means a person who is:

1613 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;

1614 and

1615 (B) engaged in the retail sale of an alcoholic product for consumption on the premises
1616 of the licensee; or

1617 (ii) a business that is:

1618 (A) a new or renewing licensee licensed by a city, town, or county; and

1619 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

1620 (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

1621 (d) "Seminar provider" means a person other than the division who provides an alcohol
1622 training and education seminar meeting the requirements of this section.

1623 (2) (a) This section applies to:

1624 (i) a retail manager as defined in Section 32B-1-701;

1625 (ii) retail staff as defined in Section 32B-1-701; and

1626 (iii) an individual who, as defined by division rule:

1627 (A) directly supervises the sale of beer to a customer for consumption off the premises
1628 of an off-premise beer retailer; or

1629 (B) sells beer to a customer for consumption off the premises of an off-premise beer
1630 retailer.

1631 (b) If the individual does not have a valid record that the individual has completed an
1632 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

1633 (i) (A) complete an alcohol training and education seminar within 30 days of the

1634 following if the individual is described in Subsection (2)(a)(i) or (ii):

1635 (I) if the individual is an employee, the day the individual begins employment;

1636 (II) if the individual is an independent contractor, the day the individual is first hired;

1637 or

1638 (III) if the individual holds an ownership interest in the licensee, the day that the

1639 individual first engages in an activity that would result in that individual being required to

1640 complete an alcohol training and education seminar; or

1641 (B) complete an alcohol training and education seminar within the time periods

1642 specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A)

1643 or (B); and

1644 (ii) pay a fee:

1645 (A) to the seminar provider; and

1646 (B) that is equal to or greater than the amount established under Subsection (4)(h).

1647 (c) An individual shall have a valid record that the individual completed an alcohol

1648 training and education seminar within the time period provided in this Subsection (2) to engage

1649 in an activity described in Subsection (2)(a).

1650 (d) A record that an individual has completed an alcohol training and education

1651 seminar is valid for:

1652 (i) three years from the day on which the record is issued for an individual described in

1653 Subsection (2)(a)(i) or (ii); and

1654 (ii) five years from the day on which the record is issued for an individual described in

1655 Subsection (2)(a)(iii)(A) or (B).

1656 (e) On and after July 1, 2011, to be considered as having completed an alcohol training

1657 and education seminar, an individual shall:

1658 (i) attend the alcohol training and education seminar and take any test required to

1659 demonstrate completion of the alcohol training and education seminar in the physical presence

1660 of an instructor of the seminar provider; or

1661 (ii) complete the alcohol training and education seminar and take any test required to

1662 demonstrate completion of the alcohol training and education seminar through an online course

1663 or testing program that meets the requirements described in Subsection (2)(f).

1664 (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah

1665 Administrative Rulemaking Act, establish one or more requirements for an online course or
1666 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of
1667 the online course or testing program. In developing the requirements by rule the division shall
1668 consider whether to require:

1669 (i) authentication that the an individual accurately identifies the individual as taking the
1670 online course or test;

1671 (ii) measures to ensure that an individual taking the online course or test is focused on
1672 training material throughout the entire training period;

1673 (iii) measures to track the actual time an individual taking the online course or test is
1674 actively engaged online;

1675 (iv) a seminar provider to provide technical support, such as requiring a telephone
1676 number, email, or other method of communication that allows an individual taking the online
1677 course or test to receive assistance if the individual is unable to participate online because of
1678 technical difficulties;

1679 (v) a test to meet quality standards, including randomization of test questions and
1680 maximum time limits to take a test;

1681 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
1682 course or test, such as requiring a distinct online certificate with information printed on the
1683 certificate that identifies the person taking the online course or test, or requiring measures to
1684 inhibit duplication of a certificate;

1685 (vii) measures for the division to audit online courses or tests;

1686 (viii) measures to allow an individual taking an online course or test to provide an
1687 evaluation of the online course or test;

1688 (ix) a seminar provider to track the Internet protocol address or similar electronic
1689 location of an individual who takes an online course or test;

1690 (x) an individual who takes an online course or test to use an e-signature; or

1691 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the
1692 certificate does not accurately reflect the individual who took the online course or test.

1693 (3) (a) A licensee may not permit an individual who is not in compliance with
1694 Subsection (2) to:

1695 (i) serve or supervise the serving of an alcoholic product to a customer for

1696 consumption on the premises of the licensee;

1697 (ii) engage in any activity that would constitute managing operations at the premises of

1698 a licensee that engages in the retail sale of an alcoholic product for consumption on the

1699 premises of the licensee;

1700 (iii) directly supervise the sale of beer to a customer for consumption off the premises

1701 of an off-premise beer retailer; or

1702 (iv) sell beer to a customer for consumption off the premises of an off-premise beer

1703 retailer.

1704 (b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.

1705 (4) The division shall:

1706 (a) (i) provide alcohol training and education seminars; or

1707 (ii) certify one or more seminar providers;

1708 (b) establish the curriculum for an alcohol training and education seminar that includes

1709 the following subjects:

1710 (i) (A) alcohol as a drug; and

1711 (B) alcohol's effect on the body and behavior;

1712 (ii) recognizing the problem drinker or signs of intoxication;

1713 (iii) an overview of state alcohol laws related to responsible beverage sale or service,

1714 as determined in consultation with the Department of Alcoholic Beverage Services;

1715 (iv) dealing with the problem customer, including ways to terminate sale or service;

1716 and

1717 (v) for those supervising or engaging in the retail sale of an alcoholic product for

1718 consumption on the premises of a licensee, alternative means of transportation to get the

1719 customer safely home;

1720 (c) recertify each seminar provider every three years;

1721 (d) monitor compliance with the curriculum described in Subsection (4)(b);

1722 (e) maintain for at least five years a record of every person who has completed an

1723 alcohol training and education seminar;

1724 (f) provide the information described in Subsection (4)(e) on request to:

1725 (i) the Department of Alcoholic Beverage Services;

1726 (ii) law enforcement; or

- 1727 (iii) a person licensed by the state or a local government to sell an alcoholic product;
1728 (g) provide the Department of Alcoholic Beverage Services on request a list of any
1729 seminar provider certified by the division; and
- 1730 (h) establish a fee amount for each person attending an alcohol training and education
1731 seminar that is sufficient to offset the division's cost of administering this section.
- 1732 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
1733 Administrative Rulemaking Act:
- 1734 (a) define what constitutes under this section an individual who:
- 1735 (i) manages operations at the premises of a licensee engaged in the retail sale of an
1736 alcoholic product for consumption on the premises of the licensee;
- 1737 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
1738 premises of a licensee;
- 1739 (iii) serves an alcoholic product to a customer for consumption on the premises of a
1740 licensee;
- 1741 (iv) directly supervises the sale of beer to a customer for consumption off the premises
1742 of an off-premise beer retailer; or
- 1743 (v) sells beer to a customer for consumption off the premises of an off-premise beer
1744 retailer;
- 1745 (b) establish criteria for certifying and recertifying a seminar provider; and
- 1746 (c) establish guidelines for the manner in which an instructor provides an alcohol
1747 education and training seminar.
- 1748 (6) A seminar provider shall:
- 1749 (a) obtain recertification by the division every three years;
- 1750 (b) ensure that an instructor used by the seminar provider:
- 1751 (i) follows the curriculum established under this section; and
- 1752 (ii) conducts an alcohol training and education seminar in accordance with the
1753 guidelines established by rule;
- 1754 (c) ensure that any information provided by the seminar provider or instructor of a
1755 seminar provider is consistent with:
- 1756 (i) the curriculum established under this section; and
- 1757 (ii) this section;

1758 (d) provide the division with the names of all persons who complete an alcohol training
1759 and education seminar provided by the seminar provider;

1760 (e) (i) collect a fee for each person attending an alcohol training and education seminar
1761 in accordance with Subsection (2); and

1762 (ii) forward to the division the portion of the fee that is equal to the amount described
1763 in Subsection (4)(h); and

1764 (f) issue a record to an individual that completes an alcohol training and education
1765 seminar provided by the seminar provider.

1766 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
1767 Administrative Procedures Act, the division finds that a seminar provider violates this section
1768 or that an instructor of the seminar provider violates this section, the division may:

1769 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;

1770 (ii) revoke the certification of the seminar provider;

1771 (iii) require the seminar provider to take corrective action regarding an instructor; or

1772 (iv) prohibit the seminar provider from using an instructor until such time that the
1773 seminar provider establishes to the satisfaction of the division that the instructor is in
1774 compliance with Subsection (6)(b).

1775 (b) The division may certify a seminar provider whose certification is revoked:

1776 (i) no sooner than 90 days from the date the certification is revoked; and

1777 (ii) if the seminar provider establishes to the satisfaction of the division that the
1778 seminar provider will comply with this section.

1779 Section 25. Section **26B-5-206**, which is renumbered from Section 62A-15-403 is
1780 renumbered and amended to read:

1781 ~~[62A-15-403]~~. **26B-5-206. Drinking while pregnant prevention media and**
1782 **education campaign.**

1783 (1) As used in this section:

1784 (a) "Advisory council" means the Utah Substance Use and Mental Health Advisory
1785 Council created in Section 63M-7-301.

1786 (b) "Restricted account" means the Drinking While Pregnant Prevention Media and
1787 Education Campaign Restricted Account created in Section 32B-2-308.

1788 (2) The advisory council shall:

- 1789 (a) provide ongoing oversight of each media and education campaign funded through
1790 the restricted account;
- 1791 (b) create a drinking while pregnant prevention workgroup consistent with guidelines
1792 the advisory council proposes related to the workgroup's membership and duties;
- 1793 (c) create guidelines for how money appropriated for a media and education campaign
1794 can be used;
- 1795 (d) include in the guidelines created under this Subsection (2) that a media and
1796 education campaign funded through the restricted account shall be:
- 1797 (i) carefully researched;
- 1798 (ii) developed for target groups; and
- 1799 (iii) appropriate for target groups; and
- 1800 (e) approve or deny each plan the division submits in accordance with Subsection (3).
- 1801 (3) (a) Subject to appropriation from the Legislature and in accordance with this
1802 section, the division shall expend money from the restricted account to direct and fund one or
1803 more media and education campaigns designed to reduce the consumption of alcohol while
1804 pregnant.
- 1805 (b) Before the division expends money from the restricted account for a media and
1806 education campaign, the division shall, in cooperation with the drinking while pregnant
1807 prevention workgroup created in accordance with Subsection (2), prepare and submit a plan to
1808 the advisory council that:
- 1809 (i) describes the media and education campaign; and
- 1810 (ii) details how the division intends to use money from the restricted account to fund
1811 the media and education campaign.
- 1812 (c) If the advisory council approves the plan described in Subsection (3)(b), the
1813 division shall conduct the media and education campaign in accordance with the guidelines
1814 described in Subsection (2).
- 1815 (4) The division shall submit to the Health and Human Services Interim Committee
1816 and the advisory council annually by no later than October 1, a written report detailing:
- 1817 (a) the use of the money for the media and education campaigns conducted in
1818 accordance with Subsection (3); and
- 1819 (b) the impact and result of the use of the money during the previous fiscal year ending

1820 June 30.

1821 Section 26. Section **26B-5-207**, which is renumbered from Section 62A-15-501 is
1822 renumbered and amended to read:

1823 ~~[62A-15-501]~~. **26B-5-207. DUI -- Legislative policy -- Rehabilitation**
1824 **treatment and evaluation -- Use of victim impact panels.**

1825 The Legislature finds that drivers impaired by alcohol or drugs constitute a major
1826 problem in this state and that the problem demands a comprehensive detection, intervention,
1827 education, and treatment program including emergency services, outpatient treatment,
1828 detoxification, residential care, inpatient care, medical and psychological care, social service
1829 care, vocational rehabilitation, and career counseling through public and private agencies. It is
1830 the policy of this state to provide those programs at the expense of persons convicted of driving
1831 while under the influence of intoxicating liquor or drugs. It is also the policy of this state to
1832 utilize victim impact panels to assist persons convicted of driving under the influence of
1833 intoxicating liquor or drugs to gain a full understanding of the severity of their offense.

1834 Section 27. Section **26B-5-208**, which is renumbered from Section 62A-15-502 is
1835 renumbered and amended to read:

1836 ~~[62A-15-502]~~. **26B-5-208. Penalty for DUI conviction -- Amounts.**

1837 (1) Courts of record and not of record may at sentencing assess against the defendant,
1838 in addition to any fine, an amount that will fully compensate agencies that treat the defendant
1839 for their costs in each case where a defendant is convicted of violating:

1840 (a) Section 41-6a-502 or 41-6a-517;

1841 (b) a criminal prohibition resulting from a plea bargain after an original charge of
1842 violating Section 41-6a-502; or

1843 (c) an ordinance that complies with the requirements of Subsection 41-6a-510(1).

1844 (2) The fee assessed shall be collected by the court or an entity appointed by the court.

1845 Section 28. Section **26B-5-209**, which is renumbered from Section 62A-15-503 is
1846 renumbered and amended to read:

1847 ~~[62A-15-503]~~. **26B-5-209. Assessments for DUI -- Use of money for**
1848 **rehabilitation programs, including victim impact panels -- Rulemaking power granted.**

1849 (1) (a) Assessments imposed under Section 62A-15-502 may, pursuant to court order:

1850 (i) be collected by the clerk of the court in which the person was convicted; or

1851 (ii) be paid directly to the licensed alcohol or drug treatment program.

1852 (b) Assessments collected by the court under Subsection (1)(a)(i) shall be forwarded to
1853 a special nonlapsing account created by the county treasurer of the county in which the fee is
1854 collected.

1855 (2) Assessments under Subsection (1) shall be used exclusively for the operation of
1856 licensed alcohol or drug rehabilitation programs and education, assessment, supervision, and
1857 other activities related to and supporting the rehabilitation of persons convicted of driving
1858 while under the influence of intoxicating liquor or drugs. A requirement of the rehabilitation
1859 program shall be participation with a victim impact panel or program providing a forum for
1860 victims of alcohol or drug related offenses and defendants to share experiences on the impact
1861 of alcohol or drug related incidents in their lives. The [~~Division of Substance Abuse and~~
1862 ~~Mental Health~~] division shall establish guidelines to implement victim impact panels where, in
1863 the judgment of the licensed alcohol or drug program, appropriate victims are available, and
1864 shall establish guidelines for other programs where such victims are not available.

1865 (3) None of the assessments shall be maintained for administrative costs by the
1866 division.

1867 Section 29. Section **26B-5-210**, which is renumbered from Section 62A-15-504 is
1868 renumbered and amended to read:

1869 ~~[62A-15-504]~~. **26B-5-210. Policy -- Alternatives to incarceration.**

1870 It is the policy of this state to provide adequate and appropriate health and social
1871 services as alternatives to incarceration for public intoxication.

1872 Section 30. Section **26B-5-301**, which is renumbered from Section 62A-15-602 is
1873 renumbered and amended to read:

1874 **Part 3. Utah State Hospital and Other Mental Health Facilities**

1875 ~~[62A-15-602]~~. **26B-5-301. Definitions.**

1876 As used in this part[~~, Part 7, Commitment of Persons Under Age 18 to Division of~~
1877 ~~Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah~~
1878 ~~Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part~~
1879 ~~12, Essential Treatment and Intervention Act]:~~

1880 (1) "Adult" means an individual 18 years old or older.

1881 (2) "Approved treatment facility or program" means a mental health or substance use

1882 treatment provider that meets the goals and measurements described in Subsection
1883 62A-15-103(2)(j).

1884 (3) "Assisted outpatient treatment" means involuntary outpatient mental health
1885 treatment ordered under Section 62A-15-630.5.

1886 (4) "Attending physician" means a physician licensed to practice medicine in this state
1887 who has primary responsibility for the care and treatment of the declarant.

1888 (5) "Attorney-in-fact" means an adult properly appointed under this part to make
1889 mental health treatment decisions for a declarant under a declaration for mental health
1890 treatment.

1891 [~~(4)~~] (6) "Commitment to the custody of a local mental health authority" means that an
1892 adult is committed to the custody of the local mental health authority that governs the mental
1893 health catchment area where the adult resides or is found.

1894 [~~(5)~~] (7) "Community mental health center" means an entity that provides treatment
1895 and services to a resident of a designated geographical area, that operates by or under contract
1896 with a local mental health authority, and that complies with state standards for community
1897 mental health centers.

1898 [~~(6)~~] (8) "Designated examiner" means:

1899 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as
1900 specially qualified by training or experience in the diagnosis of mental or related illness; or

1901 (b) a licensed mental health professional designated by the division as specially
1902 qualified by training and who has at least five years' continual experience in the treatment of
1903 mental illness.

1904 [~~(7)~~] (9) "Designee" means a physician who has responsibility for medical functions
1905 including admission and discharge, an employee of a local mental health authority, or an
1906 employee of a person that has contracted with a local mental health authority to provide mental
1907 health services under Section 17-43-304.

1908 [~~(8)~~] (10) "Essential treatment" and "essential treatment and intervention" mean
1909 court-ordered treatment at a local substance abuse authority or an approved treatment facility or
1910 program for the treatment of an adult's substance use disorder.

1911 [~~(9)~~] (11) "Harmful sexual conduct" means the following conduct upon an individual
1912 without the individual's consent, including the nonconsensual circumstances described in

1913 Subsections 76-5-406(2)(a) through (l):

1914 (a) sexual intercourse;

1915 (b) penetration, however slight, of the genital or anal opening of the individual;

1916 (c) any sexual act involving the genitals or anus of the actor or the individual and the
1917 mouth or anus of either individual, regardless of the gender of either participant; or

1918 (d) any sexual act causing substantial emotional injury or bodily pain.

1919 ~~[(10)]~~ (12) "Informed waiver" means the patient was informed of a right and, after
1920 being informed of that right and the patient's right to waive the right, expressly communicated
1921 his or her intention to waive that right.

1922 (13) "Incapable" means that, in the opinion of the court in a guardianship proceeding
1923 under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's
1924 ability to receive and evaluate information effectively or communicate decisions is impaired to
1925 such an extent that the person currently lacks the capacity to make mental health treatment
1926 decisions.

1927 ~~[(11)]~~ (14) "Institution" means a hospital or a health facility licensed under Section
1928 26-21-8.

1929 ~~[(12)]~~ (15) "Local substance abuse authority" means the same as that term is defined in
1930 Section 62A-15-102 and described in Section 17-43-201.

1931 ~~[(13)]~~ (16) "Mental health facility" means the Utah State Hospital or other facility that
1932 provides mental health services under contract with the division, a local mental health
1933 authority, a person that contracts with a local mental health authority, or a person that provides
1934 acute inpatient psychiatric services to a patient.

1935 ~~[(14)]~~ (17) "Mental health officer" means an individual who is designated by a local
1936 mental health authority as qualified by training and experience in the recognition and
1937 identification of mental illness, to:

1938 (a) apply for and provide certification for a temporary commitment; or

1939 (b) assist in the arrangement of transportation to a designated mental health facility.

1940 ~~[(15)]~~ (18) "Mental illness" means:

1941 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
1942 behavioral, or related functioning; or

1943 (b) the same as that term is defined in:

1944 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
 1945 published by the American Psychiatric Association; or

1946 (ii) the current edition of the International Statistical Classification of Diseases and
 1947 Related Health Problems.

1948 (19) "Mental health treatment" means convulsive treatment, treatment with
 1949 psychoactive medication, or admission to and retention in a facility for a period not to exceed
 1950 17 days.

1951 [~~(16)~~] (20) "Patient" means an individual who is:

1952 (a) under commitment to the custody or to the treatment services of a local mental
 1953 health authority; or

1954 (b) undergoing essential treatment and intervention.

1955 [~~(17)~~] (21) "Physician" means an individual who is:

1956 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

1957 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical

1958 Practice Act.

1959 [~~(18)~~] (22) "Serious bodily injury" means bodily injury that involves a substantial risk
 1960 of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
 1961 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

1962 (23) "State hospital" means the Utah State Hospital established in Section 26B-4-302.

1963 [~~(19)~~] (24) "Substantial danger" means that due to mental illness, an individual is at
 1964 serious risk of:

1965 (a) suicide;

1966 (b) serious bodily self-injury;

1967 (c) serious bodily injury because the individual is incapable of providing the basic
 1968 necessities of life, including food, clothing, or shelter;

1969 (d) causing or attempting to cause serious bodily injury to another individual;

1970 (e) engaging in harmful sexual conduct; or

1971 (f) if not treated, suffering severe and abnormal mental, emotional, or physical distress

1972 that:

1973 (i) is associated with significant impairment of judgment, reason, or behavior; and

1974 (ii) causes a substantial deterioration of the individual's previous ability to function

1975 independently.

1976 [~~(20)~~] (25) "Treatment" means psychotherapy, medication, including the administration
1977 of psychotropic medication, or other medical treatments that are generally accepted medical or
1978 psychosocial interventions for the purpose of restoring the patient to an optimal level of
1979 functioning in the least restrictive environment.

1980 Section 31. Section **26B-5-302**, which is renumbered from Section 62A-15-601 is
1981 renumbered and amended to read:

1982 ~~[62A-15-601].~~ **26B-5-302. Utah State Hospital.**

1983 The Utah State Hospital is established and located in Provo, in Utah county. [~~For~~
1984 ~~purposes of this part it is referred to as the "state hospital."~~]

1985 Section 32. Section **26B-5-303**, which is renumbered from Section 62A-15-603 is
1986 renumbered and amended to read:

1987 ~~[62A-15-603].~~ **26B-5-303. Administration of state hospital -- Division --**
1988 **Authority.**

1989 (1) The division shall administer the state hospital as part of the state's comprehensive
1990 mental health program and, to the fullest extent possible, shall, as the state hospital's
1991 administrator, coordinate with local mental health authority programs.

1992 (2) The division has the same powers, duties, rights, and responsibilities as, and shall
1993 perform the same functions that by law are conferred or required to be discharged or performed
1994 by, the state hospital.

1995 (3) Supervision and administration of security responsibilities for the state hospital is
1996 vested in the division. The executive director shall designate, as special function officers,
1997 individuals with peace officer authority to perform special security functions for the state
1998 hospital.

1999 (4) A director of a mental health facility that houses an involuntary patient or a patient
2000 committed by judicial order may establish secure areas, as provided in Section 76-8-311.1,
2001 within the mental health facility for the patient.

2002 Section 33. Section **26B-5-304**, which is renumbered from Section 62A-15-604 is
2003 renumbered and amended to read:

2004 ~~[62A-15-604].~~ **26B-5-304. Receipt of gift -- Transfer of persons from other**
2005 **institutions.**

2006 (1) The division may take and hold by gift, devise, or bequest real and personal
 2007 property required for the use of the state hospital. With the approval of the governor the
 2008 division may convert that property that is not suitable for the state hospital's use into money or
 2009 property that is suitable for the state hospital's use.

2010 (2) The state hospital is authorized to receive from any other institution within the
 2011 department an individual committed to that institution, when a careful evaluation of the
 2012 treatment needs of the individual and of the treatment programs available at the state hospital
 2013 indicates that the transfer would be in the interest of that individual.

2014 (3) (a) For the purposes of this Subsection (3), "contributions" means gifts, grants,
 2015 devises, and donations.

2016 (b) Notwithstanding the provisions of Subsection 62A-1-111(10), the state hospital is
 2017 authorized to receive contributions and deposit the contributions into an interest-bearing
 2018 restricted special revenue fund. The state treasurer may invest the fund, and all interest will
 2019 remain in the fund.

2020 (c) (i) Single expenditures from the fund in amounts of \$5,000 or less shall be
 2021 approved by the superintendent.

2022 (ii) Single expenditures exceeding \$5,000 must be preapproved by the superintendent
 2023 and the division director.

2024 (iii) Expenditures described in this Subsection (3) shall be used for the benefit of
 2025 patients at the state hospital.

2026 (d) Money and interest in the fund may not be used for items normally paid for by
 2027 operating revenues or for items related to personnel costs without specific legislative
 2028 authorization.

2029 Section 34. Section **26B-5-305**, which is renumbered from Section 62A-15-605.5 is
 2030 renumbered and amended to read:

2031 ~~[62A-15-605.5]~~. **26B-5-305. Admission of person in custody of Department of**
 2032 **Corrections to state hospital -- Retransfer of person to Department of Corrections.**

2033 (1) The executive director of the Department of Corrections may request the director to
 2034 admit a person who is in the custody of the Department of Corrections to the state hospital, if
 2035 the clinical director within the Department of Corrections finds that the inmate has mentally
 2036 deteriorated to the point that admission to the state hospital is necessary to ensure adequate

2037 mental health treatment. In determining whether that inmate should be placed in the state
2038 hospital, the director of the division shall consider:

- 2039 (a) the mental health treatment needs of the inmate;
- 2040 (b) the treatment programs available at the state hospital; and
- 2041 (c) whether the inmate meets the requirements of Subsection 62A-15-610(2).

2042 (2) If the director denies the admission of an inmate as requested by the clinical
2043 director within the Department of Corrections, the Board of Pardons and Parole shall determine
2044 whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole
2045 shall consider:

- 2046 (a) the mental health treatment needs of the inmate;
- 2047 (b) the treatment programs available at the state hospital; and
- 2048 (c) whether the inmate meets the requirements of Subsection 62A-15-610(2).

2049 (3) The state hospital shall receive any person in the custody of the Department of
2050 Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to
2051 Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the
2052 custody of the Department of Corrections, and the state hospital shall act solely as the agent of
2053 the Department of Corrections.

2054 (4) Inmates transferred to the state hospital pursuant to this section shall be transferred
2055 back to the Department of Corrections through negotiations between the director and the
2056 director of the Department of Corrections. If agreement between the director and the director
2057 of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall
2058 have final authority in determining whether a person will be transferred back to the Department
2059 of Corrections. In making that determination, that board shall consider:

- 2060 (a) the mental health treatment needs of the inmate;
- 2061 (b) the treatment programs available at the state hospital;
- 2062 (c) whether the person continues to meet the requirements of Subsection
2063 62A-15-610(2);

2064 (d) the ability of the state hospital to provide adequate treatment to the person, as well
2065 as safety and security to the public; and

2066 (e) whether, in the opinion of the director, in consultation with the clinical director of
2067 the state hospital, the person's treatment needs have been met.

2068 Section 35. Section **26B-5-306**, which is renumbered from Section 62A-15-607 is
2069 renumbered and amended to read:

2070 ~~[62A-15-607]~~. **26B-5-306. Responsibility for cost of care.**

2071 (1) The division shall estimate and determine, as nearly as possible, the actual expense
2072 per annum of caring for and maintaining a patient in the state hospital, and that amount or
2073 portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents,
2074 child or children who are of sufficient financial ability to do so, or by the guardian of the
2075 patient who has funds of the patient that may be used for that purpose.

2076 (2) In addition to the expenses described in Subsection (1), parents are responsible for
2077 the support of their child while the child is in the care of the state hospital pursuant to Title
2078 78B, Chapter 12, Utah Child Support Act, and Title 62A, Chapter 11, Recovery Services.

2079 Section 36. Section **26B-5-307**, which is renumbered from Section 62A-15-608 is
2080 renumbered and amended to read:

2081 ~~[62A-15-608]~~. **26B-5-307. Local mental health authority -- Supervision and**
2082 **treatment of persons with a mental illness.**

2083 (1) Each local mental health authority has responsibility for supervision and treatment
2084 of persons with a mental illness who have been committed to its custody under the provisions
2085 of this part, whether residing in the state hospital or elsewhere.

2086 (2) The division, in administering and supervising the security responsibilities of the
2087 state hospital under its authority provided by Section 62A-15-603, shall enforce Sections
2088 62A-15-620 through 62A-15-624 to the extent they pertain to the state hospital.

2089 Section 37. Section **26B-5-308**, which is renumbered from Section 62A-15-609 is
2090 renumbered and amended to read:

2091 ~~[62A-15-609]~~. **26B-5-308. Responsibility for education of school-aged**
2092 **children at the hospital -- Responsibility for noninstructional services.**

2093 (1) The State Board of Education is responsible for the education of school-aged
2094 children committed to the division.

2095 (2) In order to fulfill its responsibility under Subsection (1), the board may contract
2096 with local school districts or other appropriate agencies to provide educational and related
2097 administrative services.

2098 (3) Medical, residential, and other noninstructional services at the state hospital are the

2099 responsibility of the division.

2100 Section 38. Section **26B-5-309**, which is renumbered from Section 62A-15-610 is
2101 renumbered and amended to read:

2102 ~~[62A-15-610]~~. **26B-5-309**. **Objectives of state hospital and other facilities --**
2103 **Persons who may be admitted to state hospital.**

2104 (1) The objectives of the state hospital and other mental health facilities shall be to care
2105 for all persons within this state who are subject to the provisions of this chapter; and to furnish
2106 them with the proper attendance, medical treatment, seclusion, rest, restraint, amusement,
2107 occupation, and support that is conducive to their physical and mental well-being.

2108 (2) Only the following persons may be admitted to the state hospital:

2109 (a) persons 18 years of age and older who meet the criteria necessary for commitment
2110 under this part and who have severe mental disorders for whom no appropriate, less restrictive
2111 treatment alternative is available;

2112 (b) persons under 18 years of age who meet the criteria necessary for commitment
2113 under ~~[Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and~~
2114 ~~Mental Health]~~ Part 4, Commitment of Persons Under Age 18, and for whom no less restrictive
2115 alternative is available;

2116 (c) persons adjudicated and found to be guilty with a mental illness under Title 77,
2117 Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

2118 (d) persons adjudicated and found to be not guilty by reason of insanity who are under
2119 a subsequent commitment order because they have a mental illness and are a danger to
2120 themselves or others, under Section 77-16a-302;

2121 (e) persons found incompetent to proceed under Section 77-15-6;

2122 (f) persons who require an examination under Title 77, Utah Code of Criminal
2123 Procedure; and

2124 (g) persons in the custody of the Department of Corrections, admitted in accordance
2125 with Section 62A-15-605.5, giving priority to those persons with severe mental disorders.

2126 Section 39. Section **26B-5-310**, which is renumbered from Section 62A-15-611 is
2127 renumbered and amended to read:

2128 ~~[62A-15-611]~~. **26B-5-310**. **Allocation of state hospital beds -- Formula.**

2129 (1) As used in this section:

2130 (a) "Adult beds" means the total number of patient beds located in the adult general
2131 psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent
2132 of the state hospital.

2133 (b) "Mental health catchment area" means a county or group of counties governed by a
2134 local mental health authority.

2135 (2) (a) The division shall establish by rule a formula to separately allocate to local
2136 mental health authorities adult beds for persons who meet the requirements of Subsection
2137 62A-15-610(2)(a). Beginning on May 10, 2011, and ending on June 30, 2011, 152 beds shall
2138 be allocated to local mental health authorities under this section.

2139 (b) The number of beds shall be reviewed and adjusted as necessary:

2140 (i) on July 1, 2011, to restore the number of beds allocated to 212 beds as funding
2141 permits; and

2142 (ii) on July 1, 2011, and every three years after July 1, 2011, according to the state's
2143 population.

2144 (c) All population figures utilized shall reflect the most recent available population
2145 estimates from the Utah Population Committee.

2146 (3) The formula established under Subsection (2) shall provide for allocation of beds
2147 based on:

2148 (a) the percentage of the state's adult population located within a mental health
2149 catchment area; and

2150 (b) a differential to compensate for the additional demand for hospital beds in mental
2151 health catchment areas that are located in urban areas.

2152 (4) A local mental health authority may sell or loan its allocation of beds to another
2153 local mental health authority.

2154 (5) The division shall allocate adult beds at the state hospital to local mental health
2155 authorities for their use in accordance with the formula established under this section. If a local
2156 mental health authority is unable to access a bed allocated to it under the formula established
2157 under Subsection (2), the division shall provide that local mental health authority with funding
2158 equal to the reasonable, average daily cost of an acute care bed purchased by the local mental
2159 health authority.

2160 (6) The board shall periodically review and make changes in the formula established

2161 under Subsection (2) as necessary to accurately reflect changes in population.

2162 Section 40. Section **26B-5-311**, which is renumbered from Section 62A-15-612 is
2163 renumbered and amended to read:

2164 ~~[62A-15-612]~~. **26B-5-311**. **Allocation of pediatric state hospital beds --**
2165 **Formula.**

2166 (1) As used in this section:

2167 (a) "Mental health catchment area" means a county or group of counties governed by a
2168 local mental health authority.

2169 (b) "Pediatric beds" means the total number of patient beds located in the children's
2170 unit and the youth units at the state hospital, as determined by the superintendent of the state
2171 hospital.

2172 (2) On July 1, 1996, 72 pediatric beds shall be allocated to local mental health
2173 authorities under this section. The division shall review and adjust the number of pediatric beds
2174 as necessary every three years according to the state's population of persons under 18 years of
2175 age. All population figures utilized shall reflect the most recent available population estimates
2176 from the Governor's Office of Planning and Budget.

2177 (3) The allocation of beds shall be based on the percentage of the state's population of
2178 persons under the age of 18 located within a mental health catchment area. Each community
2179 mental health center shall be allocated at least one bed.

2180 (4) A local mental health authority may sell or loan its allocation of beds to another
2181 local mental health authority.

2182 (5) The division shall allocate 72 pediatric beds at the state hospital to local mental
2183 health authorities for their use in accordance with the formula established under this section. If
2184 a local mental health authority is unable to access a bed allocated to it under that formula, the
2185 division shall provide that local mental health authority with funding equal to the reasonable,
2186 average daily cost of an acute care bed purchased by the local mental health authority.

2187 Section 41. Section **26B-5-312**, which is renumbered from Section 62A-15-613 is
2188 renumbered and amended to read:

2189 ~~[62A-15-613]~~. **26B-5-312**. **Appointment of superintendent -- Qualifications**
2190 **-- Powers and responsibilities.**

2191 (1) The director, with the consent of the executive director, shall appoint a

2192 superintendent of the state hospital, who shall hold office at the will of the director.

2193 (2) The superintendent shall have a bachelor's degree from an accredited university or
2194 college, be experienced in administration, and be knowledgeable in matters concerning mental
2195 health.

2196 (3) The superintendent has general responsibility for the buildings, grounds, and
2197 property of the state hospital.

2198 (4) The superintendent shall appoint, with the approval of the director, as many
2199 employees as necessary for the efficient and economical care and management of the state
2200 hospital, and shall fix the employees' compensation and administer personnel functions
2201 according to the standards of the Division of Human Resource Management.

2202 Section 42. Section **26B-5-313**, which is renumbered from Section 62A-15-614 is
2203 renumbered and amended to read:

2204 ~~[62A-15-614]~~. **26B-5-313**. **Clinical director -- Appointment -- Conditions**
2205 **and procedure -- Duties.**

2206 (1) Whenever the superintendent is not qualified to be the clinical director of the state
2207 hospital under this section, ~~[he]~~ the superintendent shall, with the approval of the director of
2208 the division, appoint a clinical director who is licensed to practice medicine and surgery in this
2209 state, and who has had at least three years' training in a psychiatric residency program approved
2210 by the American Board of Psychiatry and Neurology, Inc., and who is eligible for certification
2211 by that board.

2212 (2) The salary of the clinical director of the state hospital shall be fixed by the
2213 standards of the Division of Finance, to be paid in the same manner as the salaries of other
2214 employees.

2215 (3) The clinical director shall perform such duties as directed by the superintendent and
2216 prescribed by the rules of the board, and shall prescribe and direct the treatment of patients and
2217 adopt sanitary measures for their welfare.

2218 ~~[(3)]~~ (4) If the superintendent is qualified to be the clinical director, ~~[he]~~ the
2219 superintendent may assume the duties of the clinical director.

2220 Section 43. Section **26B-5-314**, which is renumbered from Section 62A-15-616 is
2221 renumbered and amended to read:

2222 ~~[62A-15-616]~~. **26B-5-314**. **Persons entering state mentally ill.**

2223 (1) A person who enters this state while mentally ill may be returned by a local mental
2224 health authority to the home of relatives or friends of that person with a mental illness, if
2225 known, or to a hospital in the state where that person with a mental illness is domiciled, in
2226 accordance with Title 62A, Chapter 15, Part 8, Interstate Compact on Mental Health.

2227 (2) This section does not prevent commitment of persons who are traveling through or
2228 temporarily residing in this state.

2229 Section 44. Section **26B-5-315**, which is renumbered from Section 62A-15-617 is
2230 renumbered and amended to read:

2231 ~~[62A-15-617]~~. **26B-5-315. Expenses of voluntary patients.**

2232 The expense for the care and treatment of voluntary patients shall be assessed to and
2233 paid in the same manner and to the same extent as is provided for involuntary patients under
2234 the provisions of Section 62A-15-607.

2235 Section 45. Section **26B-5-316**, which is renumbered from Section 62A-15-618 is
2236 renumbered and amended to read:

2237 ~~[62A-15-618]~~. **26B-5-316. Designated examiners.**

2238 (1) A designated examiner shall consider a proposed patient's mental health history
2239 when evaluating a proposed patient.

2240 (2) A designated examiner may request a court order to obtain a proposed patient's
2241 mental health records if a proposed patient refuses to share this information with the designated
2242 examiner.

2243 (3) A designated examiner, when evaluating a proposed patient for civil commitment,
2244 shall consider whether:

2245 (a) a proposed patient has been under a court order for assisted outpatient treatment;

2246 (b) the proposed patient complied with the terms of the assisted outpatient treatment
2247 order, if any; and

2248 (c) whether assisted outpatient treatment is sufficient to meet the proposed patient's
2249 needs.

2250 (4) A designated examiner shall be allowed a reasonable fee by the county legislative
2251 body of the county in which the proposed patient resides or is found, unless the designated
2252 examiner is otherwise paid.

2253 Section 46. Section **26B-5-317**, which is renumbered from Section 62A-15-619 is

2254 renumbered and amended to read:

2255 ~~[62A-15-619]~~. **26B-5-317. Liability of estate of person with a mental illness.**

2256 The provisions made in this part for the support of persons with a mental illness at
2257 public expense do not release the estates of those persons from liability for their care and
2258 treatment, and the division is authorized and empowered to collect from the estates of those
2259 persons any sums paid by the state in their behalf.

2260 Section 47. Section **26B-5-318**, which is renumbered from Section 62A-15-620 is
2261 renumbered and amended to read:

2262 ~~[62A-15-620]~~. **26B-5-318. Attempt to commit person contrary to
2263 requirements -- Penalty.**

2264 Any person who attempts to place another person in the custody of a local mental health
2265 authority contrary to the provisions of this part is guilty of a class B misdemeanor, in addition
2266 to liability in an action for damages, or subject to other criminal charges.

2267 Section 48. Section **26B-5-319**, which is renumbered from Section 62A-15-621 is
2268 renumbered and amended to read:

2269 ~~[62A-15-621]~~. **26B-5-319. Trespass -- Disturbance -- Penalty.**

2270 Any person who, without permission, enters any of the buildings or enclosures
2271 appropriated to the use of patients, or makes any attempt to do so, or enters anywhere upon the
2272 premises belonging to or used by the division, a local mental health authority, or the state
2273 hospital and commits, or attempts to commit, any trespass or depredation thereon, or any
2274 person who, either from within or without the enclosures, willfully annoys or disturbs the peace
2275 or quiet of the premises or of any patient therein, is guilty of a class B misdemeanor.

2276 Section 49. Section **26B-5-320**, which is renumbered from Section 62A-15-622 is
2277 renumbered and amended to read:

2278 ~~[62A-15-622]~~. **26B-5-320. Abduction of patient -- Penalty.**

2279 Any person who abducts a patient who is in the custody of a local mental health
2280 authority, or induces any patient to elope or escape from that custody, or attempts to do so, or
2281 aids or assists therein, is guilty of a class B misdemeanor, in addition to liability for damages,
2282 or subject to other criminal charges.

2283 Section 50. Section **26B-5-321**, which is renumbered from Section 62A-15-623 is
2284 renumbered and amended to read:

2285 ~~[62A-15-623]~~. **26B-5-321. Criminal's escape -- Penalty.**

2286 Any person committed to the state hospital under the provisions of Title 77, Chapter 15,
2287 Inquiry into Sanity of Defendant, or Chapter 16a, Commitment and Treatment of Persons with
2288 a Mental Illness, who escapes or leaves the state hospital without proper legal authority is
2289 guilty of a class A misdemeanor.

2290 Section 51. Section **26B-5-322**, which is renumbered from Section 62A-15-624 is
2291 renumbered and amended to read:

2292 ~~[62A-15-624]~~. **26B-5-322. Violations of this part -- Penalty.**

2293 Any person who willfully and knowingly violates any provision of this part, except
2294 where another penalty is provided by law, is guilty of a class C misdemeanor.

2295 Section 52. Section **26B-5-323**, which is renumbered from Section 62A-15-625 is
2296 renumbered and amended to read:

2297 ~~[62A-15-625]~~. **26B-5-323. Voluntary admission of adults.**

2298 (1) A local mental health authority, a designee of a local mental health authority, or
2299 another mental health facility may admit for observation, diagnosis, care, and treatment an
2300 adult who applies for voluntary admission and who has a mental illness or exhibits the
2301 symptoms of a mental illness.

2302 (2) No adult may be committed to a local mental health authority against that adult's
2303 will except as provided in this chapter.

2304 (3) An adult may be voluntarily admitted to a local mental health authority for
2305 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after
2306 the requirements of Section 77-18-106 have been met.

2307 Section 53. Section **26B-5-324**, which is renumbered from Section 62A-15-626 is
2308 renumbered and amended to read:

2309 ~~[62A-15-626]~~. **26B-5-324. Release from commitment.**

2310 (1) (a) Subject to Subsection (1)(b), a local mental health authority or the mental health
2311 authority's designee shall release from commitment any individual who, in the opinion of the
2312 local mental health authority or the mental health authority's designee, has recovered or no
2313 longer meets the criteria specified in Section 62A-15-631.

2314 (b) A local mental health authority's inability to locate a committed individual may not

2315 be the basis for the individual's release, unless the court orders the release of the individual
2316 after a hearing.

2317 (2) A local mental health authority or the mental health authority's designee may
2318 release from commitment any patient whose commitment is determined to be no longer
2319 advisable except as provided by Section 62A-15-705, but an effort shall be made to assure that
2320 any further supportive services required to meet the patient's needs upon release will be
2321 provided.

2322 (3) When a patient has been committed to a local mental health authority by judicial
2323 process, the local mental health authority shall follow the procedures described in Sections
2324 62A-15-636 and 62A-15-637.

2325 Section 54. Section **26B-5-325**, which is renumbered from Section 62A-15-627 is
2326 renumbered and amended to read:

2327 ~~[62A-15-627]~~. **26B-5-325. Release of voluntary adult -- Exceptions.**

2328 (1) Except as provided in Subsection (2), a mental health facility shall immediately
2329 release an adult patient:

2330 (a) who is voluntarily admitted, as described in Section 62A-15-625, and who requests
2331 release, verbally or in writing; or

2332 (b) whose release is requested in writing by the patient's legal guardian, parent, spouse,
2333 or adult next of kin.

2334 (2) (a) An adult patient's release under Subsection (1) may be conditioned upon the
2335 agreement of the patient, if:

2336 (i) the request for release is made by an individual other than the patient; or

2337 (ii) the admitting local mental health authority, the designee of the local mental health
2338 authority, or the admitting mental health facility has cause to believe that release of the patient
2339 would be unsafe for the patient or others.

2340 (b) (i) An adult patient's release may be postponed for up to 48 hours, excluding
2341 weekends and holidays, if the admitting local mental health authority, the designee of the local
2342 mental health authority, or the admitting mental health facility causes involuntary commitment
2343 proceedings to be commenced with the [district] court within the specified time period.

2344 (ii) The admitting local mental health authority, the designee of the local mental health
2345 authority, or the admitting mental health facility shall provide written notice of the

2346 postponement and the reasons for the postponement to the patient without undue delay.

2347 (3) A judicial proceeding for involuntary commitment may not be commenced with
2348 respect to a voluntary patient unless the patient requests release.

2349 Section 55. Section **26B-5-326**, which is renumbered from Section 62A-15-628 is
2350 renumbered and amended to read:

2351 ~~[62A-15-628]~~. **26B-5-326. Involuntary commitment -- Procedures.**

2352 (1) An adult may not be involuntarily committed to the custody of a local mental health
2353 authority except under the following provisions:

2354 (a) emergency procedures for temporary commitment upon medical or designated
2355 examiner certification, as provided in Subsection 62A-15-629(1)(a);

2356 (b) emergency procedures for temporary commitment without endorsement of medical
2357 or designated examiner certification, as provided in Subsection 62A-15-629(1)(b); or

2358 (c) commitment on court order, as provided in Section 62A-15-631.

2359 (2) A person under 18 years of age may be committed to the physical custody of a local
2360 mental health authority only in accordance with the provisions of [~~Part 7, Commitment of~~
2361 ~~Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Part 4,
2362 Commitment of Persons Under Age 18.

2363 Section 56. Section **26B-5-327**, which is renumbered from Section 62A-15-629 is
2364 renumbered and amended to read:

2365 ~~[62A-15-629]~~. **26B-5-327. Temporary commitment -- Requirements and**
2366 **procedures -- Rights.**

2367 (1) An adult shall be temporarily, involuntarily committed to a local mental health
2368 authority upon:

2369 (a) a written application that:

2370 (i) is completed by a responsible individual who has reason to know, stating a belief
2371 that the adult, due to mental illness, is likely to pose substantial danger to self or others if not
2372 restrained and stating the personal knowledge of the adult's condition or circumstances that
2373 lead to the individual's belief; and

2374 (ii) includes a certification by a licensed physician, licensed physician assistant,
2375 licensed nurse practitioner, or designated examiner stating that the physician, physician
2376 assistant, nurse practitioner, or designated examiner has examined the adult within a three-day

2377 period immediately preceding the certification, and that the physician, physician assistant,
2378 nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult
2379 poses a substantial danger to self or others; or

2380 (b) a peace officer or a mental health officer:

2381 (i) observing an adult's conduct that gives the peace officer or mental health officer
2382 probable cause to believe that:

2383 (A) the adult has a mental illness; and

2384 (B) because of the adult's mental illness and conduct, the adult poses a substantial
2385 danger to self or others; and

2386 (ii) completing a temporary commitment application that:

2387 (A) is on a form prescribed by the division;

2388 (B) states the peace officer's or mental health officer's belief that the adult poses a
2389 substantial danger to self or others;

2390 (C) states the specific nature of the danger;

2391 (D) provides a summary of the observations upon which the statement of danger is
2392 based; and

2393 (E) provides a statement of the facts that called the adult to the peace officer's or
2394 mental health officer's attention.

2395 (2) If at any time a patient committed under this section no longer meets the
2396 commitment criteria described in Subsection (1), the local mental health authority or the local
2397 mental health authority's designee shall document the change and release the patient.

2398 (3) (a) A patient committed under this section may be held for a maximum of 24 hours
2399 after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

2400 (i) as described in Section 62A-15-631, an application for involuntary commitment is
2401 commenced, which may be accompanied by an order of detention described in Subsection
2402 62A-15-631(4);

2403 (ii) the patient makes a voluntary application for admission; or

2404 (iii) before expiration of the 24 hour period, a licensed physician, licensed physician
2405 assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies
2406 in writing that:

2407 (A) the patient, due to mental illness, poses a substantial danger to self or others;

2408 (B) additional time is necessary for evaluation and treatment of the patient's mental
2409 illness; and

2410 (C) there is no appropriate less-restrictive alternative to commitment to evaluate and
2411 treat the patient's mental illness.

2412 (b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48
2413 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays,
2414 Sundays, and legal holidays.

2415 (c) Subsection (3)(a)(iii) applies to an adult patient.

2416 (4) Upon a written application described in Subsection (1)(a) or the observation and
2417 belief described in Subsection (1)(b)(i), the adult shall be:

2418 (a) taken into a peace officer's protective custody, by reasonable means, if necessary for
2419 public safety; and

2420 (b) transported for temporary commitment to a facility designated by the local mental
2421 health authority, by means of:

2422 (i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

2423 (ii) an ambulance, if a peace officer is not necessary for public safety, and
2424 transportation arrangements are made by a physician, physician assistant, nurse practitioner,
2425 designated examiner, or mental health officer;

2426 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the
2427 location where the adult is present, if the adult is not transported by ambulance;

2428 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law
2429 enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by
2430 ambulance; or

2431 (v) nonemergency secured behavioral health transport as that term is defined in Section
2432 26-8a-102.

2433 (5) Notwithstanding Subsection (4):

2434 (a) an individual shall be transported by ambulance to an appropriate medical facility
2435 for treatment if the individual requires physical medical attention;

2436 (b) if an officer has probable cause to believe, based on the officer's experience and
2437 de-escalation training that taking an individual into protective custody or transporting an
2438 individual for temporary commitment would increase the risk of substantial danger to the

2439 individual or others, a peace officer may exercise discretion to not take the individual into
2440 custody or transport the individual, as permitted by policies and procedures established by the
2441 officer's law enforcement agency and any applicable federal or state statute, or case law; and

2442 (c) if an officer exercises discretion under Subsection (4)(b) to not take an individual
2443 into protective custody or transport an individual, the officer shall document in the officer's
2444 report the details and circumstances that led to the officer's decision.

2445 (6) (a) The local mental health authority shall inform an adult patient committed under
2446 this section of the reason for commitment.

2447 (b) An adult patient committed under this section has the right to:

2448 (i) within three hours after arrival at the local mental health authority, make a
2449 telephone call, at the expense of the local mental health authority, to an individual of the
2450 patient's choice; and

2451 (ii) see and communicate with an attorney.

2452 (7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this
2453 section.

2454 (b) This section does not create a special duty of care.

2455 Section 57. Section **26B-5-328**, which is renumbered from Section 62A-15-630 is
2456 renumbered and amended to read:

2457 ~~[62A-15-630]~~. **26B-5-328. Mental health commissioners.**

2458 The court may appoint a mental health commissioner to assist in conducting
2459 commitment proceedings in accordance with Section 78A-5-107.

2460 Section 58. Section **26B-5-329**, which is renumbered from Section 62A-15-630.4 is
2461 renumbered and amended to read:

2462 ~~[62A-15-630.4]~~. **26B-5-329. Assisted outpatient treatment services.**

2463 (1) The local mental health authority or ~~[its]~~ the local mental health authority's
2464 designee shall provide assisted outpatient treatment, which shall include:

2465 (a) case management; and

2466 (b) an individualized treatment plan, created with input from the proposed patient
2467 when possible.

2468 (2) A court order for assisted outpatient treatment does not create independent
2469 authority to forcibly medicate a patient.

2470 Section 59. Section **26B-5-330**, which is renumbered from Section 62A-15-630.5 is
2471 renumbered and amended to read:

2472 ~~[62A-15-630.5]~~. **26B-5-330. Assisted outpatient treatment proceedings.**

2473 (1) A responsible individual who has credible knowledge of an adult's mental illness
2474 and the condition or circumstances that have led to the adult's need for assisted outpatient
2475 treatment may file, in the [district] court in the county where the proposed patient resides or is
2476 found, a written application that includes:

2477 (a) unless the court finds that the information is not reasonably available, the proposed
2478 patient's:

2479 (i) name;

2480 (ii) date of birth; and

2481 (iii) social security number; and

2482 (b) (i) a certificate of a licensed physician or a designated examiner stating that within
2483 the seven-day period immediately preceding the certification, the physician or designated
2484 examiner examined the proposed patient and is of the opinion that the proposed patient has a
2485 mental illness and should be involuntarily committed; or

2486 (ii) a written statement by the applicant that:

2487 (A) the proposed patient has been requested to, but has refused to, submit to an
2488 examination of mental condition by a licensed physician or designated examiner;

2489 (B) is sworn to under oath; and

2490 (C) states the facts upon which the application is based.

2491 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may
2492 require the applicant to consult with the appropriate local mental health authority, and the court
2493 may direct a mental health professional from that local mental health authority to interview the
2494 applicant and the proposed patient to determine the existing facts and report them to the court.

2495 (b) The consultation described in Subsection (2)(a):

2496 (i) may take place at or before the hearing; and

2497 (ii) is required if the local mental health authority appears at the hearing.

2498 (3) If the proposed patient refuses to submit to an interview described in Subsection
2499 (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a
2500 mental health officer or peace officer, to immediately place the proposed patient into the

2501 custody of a local mental health authority or in a temporary emergency facility, as provided in
2502 Section 62A-15-634, to be detained for the purpose of examination.

2503 (4) Notice of commencement of proceedings for assisted outpatient treatment, setting
2504 forth the allegations of the application and any reported facts, together with a copy of any
2505 official order of detention, shall:

2506 (a) be provided by the court to a proposed patient before, or upon, placement into the
2507 custody of a local mental health authority or, with respect to any proposed patient presently in
2508 the custody of a local mental health authority;

2509 (b) be maintained at the proposed patient's place of detention, if any;

2510 (c) be provided by the court as soon as practicable to the applicant, any legal guardian,
2511 any immediate adult family members, legal counsel for the parties involved, the local mental
2512 health authority or its designee, and any other person whom the proposed patient or the court
2513 shall designate; and

2514 (d) advise that a hearing may be held within the time provided by law.

2515 (5) The [~~district~~] court may, in its discretion, transfer the case to any other [~~district~~]
2516 court within this state, provided that the transfer will not be adverse to the interest of the
2517 proposed patient.

2518 (6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance
2519 of a judicial order, or after commitment of a proposed patient to a local mental health authority
2520 or its designee under court order for detention in order to complete an examination, the court
2521 shall appoint two designated examiners:

2522 (a) who did not sign the assisted outpatient treatment application nor the certification
2523 described in Subsection (1);

2524 (b) one of whom is a licensed physician; and

2525 (c) one of whom may be designated by the proposed patient or the proposed patient's
2526 counsel, if that designated examiner is reasonably available.

2527 (7) The court shall schedule a hearing to be held within 10 calendar days of the day on
2528 which the designated examiners are appointed.

2529 (8) The designated examiners shall:

2530 (a) conduct their examinations separately;

2531 (b) conduct the examinations at the home of the proposed patient, at a hospital or other

2532 medical facility, or at any other suitable place that is not likely to have a harmful effect on the
2533 proposed patient's health;

2534 (c) inform the proposed patient, if not represented by an attorney:

2535 (i) that the proposed patient does not have to say anything;

2536 (ii) of the nature and reasons for the examination;

2537 (iii) that the examination was ordered by the court;

2538 (iv) that any information volunteered could form part of the basis for the proposed

2539 patient to be ordered to receive assisted outpatient treatment; and

2540 (v) that findings resulting from the examination will be made available to the court;

2541 and

2542 (d) within 24 hours of examining the proposed patient, report to the court, orally or in

2543 writing, whether the proposed patient is mentally ill. If the designated examiner reports orally,

2544 the designated examiner shall immediately send a written report to the clerk of the court.

2545 (9) If a designated examiner is unable to complete an examination on the first attempt

2546 because the proposed patient refuses to submit to the examination, the court shall fix a

2547 reasonable compensation to be paid to the examiner.

2548 (10) If the local mental health authority, its designee, or a medical examiner determines

2549 before the court hearing that the conditions justifying the findings leading to an assisted

2550 outpatient treatment hearing no longer exist, the local mental health authority, its designee, or

2551 the medical examiner shall immediately report that determination to the court.

2552 (11) The court may terminate the proceedings and dismiss the application at any time,

2553 including prior to the hearing, if the designated examiners or the local mental health authority

2554 or its designee informs the court that the proposed patient does not meet the criteria in

2555 Subsection (14).

2556 (12) Before the hearing, an opportunity to be represented by counsel shall be afforded

2557 to the proposed patient, and if neither the proposed patient nor others provide counsel, the court

2558 shall appoint counsel and allow counsel sufficient time to consult with the proposed patient

2559 before the hearing. In the case of an indigent proposed patient, the payment of reasonable

2560 attorney fees for counsel, as determined by the court, shall be made by the county in which the

2561 proposed patient resides or is found.

2562 (13) (a) All persons to whom notice is required to be given shall be afforded an

2563 opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The
2564 court may, in its discretion, receive the testimony of any other individual. The court may allow
2565 a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth
2566 in the record, or an informed waiver by the patient, which shall be included in the record.

2567 (b) The court is authorized to exclude all individuals not necessary for the conduct of
2568 the proceedings and may, upon motion of counsel, require the testimony of each examiner to be
2569 given out of the presence of any other examiners.

2570 (c) The hearing shall be conducted in as informal a manner as may be consistent with
2571 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
2572 mental health of the proposed patient.

2573 (d) The court shall consider all relevant historical and material information that is
2574 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah
2575 Rules of Evidence.

2576 (e) (i) A local mental health authority or its designee, or the physician in charge of the
2577 proposed patient's care shall, at the time of the hearing, provide the court with the following
2578 information:

2579 (A) the detention order, if any;

2580 (B) admission notes, if any;

2581 (C) the diagnosis, if any;

2582 (D) doctor's orders, if any;

2583 (E) progress notes, if any;

2584 (F) nursing notes, if any; and

2585 (G) medication records, if any.

2586 (ii) The information described in Subsection (13)(e)(i) shall also be provided to the
2587 proposed patient's counsel:

2588 (A) at the time of the hearing; and

2589 (B) at any time prior to the hearing, upon request.

2590 (14) The court shall order a proposed patient to assisted outpatient treatment if, upon
2591 completion of the hearing and consideration of the information presented, the court finds by
2592 clear and convincing evidence that:

2593 (a) the proposed patient has a mental illness;

2594 (b) there is no appropriate less-restrictive alternative to a court order for assisted
2595 outpatient treatment; and

2596 (c) (i) the proposed patient lacks the ability to engage in a rational decision-making
2597 process regarding the acceptance of mental health treatment, as demonstrated by evidence of
2598 inability to weigh the possible risks of accepting or rejecting treatment; or

2599 (ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse
2600 or deterioration that is likely to result in the proposed patient posing a substantial danger to self
2601 or others.

2602 (15) The court may order the applicant or a close relative of the patient to be the
2603 patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the
2604 patient's mental health treatment.

2605 (16) In the absence of the findings described in Subsection (14), the court, after the
2606 hearing, shall dismiss the proceedings.

2607 (17) (a) The assisted outpatient treatment order shall designate the period for which the
2608 patient shall be treated, which may not exceed 12 months without a review hearing.

2609 (b) At a review hearing, the court may extend the duration of an assisted outpatient
2610 treatment order by up to 12 months, if:

2611 (i) the court finds by clear and convincing evidence that the patient meets the
2612 conditions described in Subsection (14); or

2613 (ii) (A) the patient does not appear at the review hearing;

2614 (B) notice of the review hearing was provided to the patient's last known address by the
2615 applicant described in Subsection (1) or by a local mental health authority; and

2616 (C) the patient has appeared in court or signed an informed waiver within the previous
2617 18 months.

2618 (c) The court shall maintain a current list of all patients under its order of assisted
2619 outpatient treatment.

2620 (d) At least two weeks prior to the expiration of the designated period of any assisted
2621 outpatient treatment order still in effect, the court that entered the original order shall inform
2622 the appropriate local mental health authority or its designee.

2623 (18) Costs of all proceedings under this section shall be paid by the county in which the
2624 proposed patient resides or is found.

2625 (19) A court may not hold an individual in contempt for failure to comply with an
2626 assisted outpatient treatment order.

2627 (20) As provided in Section 31A-22-651, a health insurance provider may not deny an
2628 insured the benefits of the insured's policy solely because the health care that the insured
2629 receives is provided under a court order for assisted outpatient treatment.

2630 Section 60. Section **26B-5-331**, which is renumbered from Section 62A-15-631 is
2631 renumbered and amended to read:

2632 ~~[62A-15-631]~~. **26B-5-331. Involuntary commitment under court order --**
2633 **Examination -- Hearing -- Power of court -- Findings required -- Costs.**

2634 (1) A responsible individual who has credible knowledge of an adult's mental illness
2635 and the condition or circumstances that have led to the adult's need to be involuntarily
2636 committed may initiate an involuntary commitment court proceeding by filing, in the [district]
2637 court in the county where the proposed patient resides or is found, a written application that
2638 includes:

2639 (a) unless the court finds that the information is not reasonably available, the proposed
2640 patient's:

2641 (i) name;

2642 (ii) date of birth; and

2643 (iii) social security number;

2644 (b) (i) a certificate of a licensed physician or a designated examiner stating that within
2645 the seven-day period immediately preceding the certification, the physician or designated
2646 examiner examined the proposed patient and is of the opinion that the proposed patient has a
2647 mental illness and should be involuntarily committed; or

2648 (ii) a written statement by the applicant that:

2649 (A) the proposed patient has been requested to, but has refused to, submit to an
2650 examination of mental condition by a licensed physician or designated examiner;

2651 (B) is sworn to under oath; and

2652 (C) states the facts upon which the application is based; and

2653 (c) a statement whether the proposed patient has previously been under an assisted
2654 outpatient treatment order, if known by the applicant.

2655 (2) Before issuing a judicial order, the court:

2656 (a) shall require the applicant to consult with the appropriate local mental health
2657 authority at or before the hearing; and

2658 (b) may direct a mental health professional from the local mental health authority to
2659 interview the applicant and the proposed patient to determine the existing facts and report the
2660 existing facts to the court.

2661 (3) The court may issue an order, directed to a mental health officer or peace officer, to
2662 immediately place a proposed patient in the custody of a local mental health authority or in a
2663 temporary emergency facility, as described in Section 62A-15-634, to be detained for the
2664 purpose of examination if:

2665 (a) the court finds from the application, any other statements under oath, or any reports
2666 from a mental health professional that there is a reasonable basis to believe that the proposed
2667 patient has a mental illness that poses a danger to self or others and requires involuntary
2668 commitment pending examination and hearing; or

2669 (b) the proposed patient refuses to submit to an interview with a mental health
2670 professional as directed by the court or to go to a treatment facility voluntarily.

2671 (4) (a) The court shall provide notice of commencement of proceedings for involuntary
2672 commitment, setting forth the allegations of the application and any reported facts, together
2673 with a copy of any official order of detention, to a proposed patient before, or upon, placement
2674 of the proposed patient in the custody of a local mental health authority or, with respect to any
2675 proposed patient presently in the custody of a local mental health authority whose status is
2676 being changed from voluntary to involuntary, upon the filing of an application for that purpose
2677 with the court.

2678 (b) The place of detention shall maintain a copy of the order of detention.

2679 (5) (a) The court shall provide notice of commencement of proceedings for involuntary
2680 commitment as soon as practicable to the applicant, any legal guardian, any immediate adult
2681 family members, legal counsel for the parties involved, the local mental health authority or the
2682 local mental health authority's designee, and any other persons whom the proposed patient or
2683 the court designates.

2684 (b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall
2685 advise the persons that a hearing may be held within the time provided by law.

2686 (c) If the proposed patient refuses to permit release of information necessary for

2687 provisions of notice under this subsection, the court shall determine the extent of notice.

2688 (6) Proceedings for commitment of an individual under 18 years old to a local mental
2689 health authority may be commenced in accordance with [~~Part 7, Commitment of Persons Under~~
2690 ~~Age 18 to Division of Substance Abuse and Mental Health~~] Part 4, Commitment of Persons
2691 Under Age 18.

2692 (7) (a) The [~~district~~] court may, in the [~~district~~] court's discretion, transfer the case to
2693 any other [~~district~~] court within this state, if the transfer will not be adverse to the interest of
2694 the proposed patient.

2695 (b) If a case is transferred under Subsection (7)(a), the parties to the case may be
2696 transferred and the local mental health authority may be substituted in accordance with Utah
2697 Rules of Civil Procedure, Rule 25.

2698 (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance
2699 of a judicial order, or after commitment of a proposed patient to a local mental health authority
2700 or the local mental health authority's designee under court order for detention or examination,
2701 the court shall appoint two designated examiners:

2702 (a) who did not sign the civil commitment application nor the civil commitment
2703 certification under Subsection (1);

2704 (b) one of whom is a licensed physician; and

2705 (c) one of whom may be designated by the proposed patient or the proposed patient's
2706 counsel, if that designated examiner is reasonably available.

2707 (9) The court shall schedule a hearing to be held within 10 calendar days after the day
2708 on which the designated examiners are appointed.

2709 (10) (a) The designated examiners shall:

2710 (i) conduct the examinations separately;

2711 (ii) conduct the examinations at the home of the proposed patient, at a hospital or other
2712 medical facility, or at any other suitable place, including through telehealth, that is not likely to
2713 have a harmful effect on the proposed patient's health;

2714 (iii) inform the proposed patient, if not represented by an attorney:

2715 (A) that the proposed patient does not have to say anything;

2716 (B) of the nature and reasons for the examination;

2717 (C) that the examination was ordered by the court;

2718 (D) that any information volunteered could form part of the basis for the proposed
2719 patient's involuntary commitment;

2720 (E) that findings resulting from the examination will be made available to the court;
2721 and

2722 (F) that the designated examiner may, under court order, obtain the proposed patient's
2723 mental health records; and

2724 (iv) within 24 hours of examining the proposed patient, report to the court, orally or in
2725 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as
2726 described in Section 62A-15-625, or has acceptable programs available to the proposed patient
2727 without court proceedings.

2728 (b) If a designated examiner reports orally under Subsection (10)(a), the designated
2729 examiner shall immediately send a written report to the clerk of the court.

2730 (11) If a designated examiner is unable to complete an examination on the first attempt
2731 because the proposed patient refuses to submit to the examination, the court shall fix a
2732 reasonable compensation to be paid to the examiner.

2733 (12) If the local mental health authority, the local mental health authority's designee, or
2734 a medical examiner determines before the court hearing that the conditions justifying the
2735 findings leading to a commitment hearing no longer exist, the local mental health authority, the
2736 local mental health authority's designee, or the medical examiner shall immediately report the
2737 determination to the court.

2738 (13) The court may terminate the proceedings and dismiss the application at any time,
2739 including before the hearing, if the designated examiners or the local mental health authority or
2740 the local mental health authority's designee informs the court that the proposed patient:

2741 (a) does not meet the criteria in Subsection (16);

2742 (b) has agreed to voluntary commitment, as described in Section 62A-15-625;

2743 (c) has acceptable options for treatment programs that are available without court
2744 proceedings; or

2745 (d) meets the criteria for assisted outpatient treatment described in Section
2746 62A-15-630.5.

2747 (14) (a) Before the hearing, the court shall provide the proposed patient an opportunity
2748 to be represented by counsel, and if neither the proposed patient nor others provide counsel, the

2749 court shall appoint counsel and allow counsel sufficient time to consult with the proposed
2750 patient before the hearing.

2751 (b) In the case of an indigent proposed patient, the county in which the proposed
2752 patient resides or is found shall make payment of reasonable attorney fees for counsel, as
2753 determined by the court.

2754 (15) (a) (i) The court shall afford the proposed patient, the applicant, and any other
2755 person to whom notice is required to be given an opportunity to appear at the hearing, to
2756 testify, and to present and cross-examine witnesses.

2757 (ii) The court may, in the court's discretion, receive the testimony of any other person.

2758 (iii) The court may allow a waiver of the proposed patient's right to appear for good
2759 cause, which cause shall be set forth in the record, or an informed waiver by the patient, which
2760 shall be included in the record.

2761 (b) The court is authorized to exclude any person not necessary for the conduct of the
2762 proceedings and may, upon motion of counsel, require the testimony of each designated
2763 examiner to be given out of the presence of any other designated examiners.

2764 (c) The court shall conduct the hearing in as informal a manner as may be consistent
2765 with orderly procedure, and in a physical setting that is not likely to have a harmful effect on
2766 the mental health of the proposed patient, while preserving the due process rights of the
2767 proposed patient.

2768 (d) The court shall consider any relevant historical and material information that is
2769 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah
2770 Rules of Evidence.

2771 (e) (i) A local mental health authority or the local mental health authority's designee or
2772 the physician in charge of the proposed patient's care shall, at the time of the hearing, provide
2773 the court with the following information:

2774 (A) the detention order;

2775 (B) admission notes;

2776 (C) the diagnosis;

2777 (D) any doctors' orders;

2778 (E) progress notes;

2779 (F) nursing notes;

2780 (G) medication records pertaining to the current commitment; and

2781 (H) whether the proposed patient has previously been civilly committed or under an
2782 order for assisted outpatient treatment.

2783 (ii) The information described in Subsection (15)(e)(i) shall also be supplied to the
2784 proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon
2785 request.

2786 (16) (a) The court shall order commitment of an adult proposed patient to a local
2787 mental health authority if, upon completion of the hearing and consideration of the information
2788 presented, the court finds by clear and convincing evidence that:

2789 (i) the proposed patient has a mental illness;

2790 (ii) because of the proposed patient's mental illness the proposed patient poses a
2791 substantial danger to self or others;

2792 (iii) the proposed patient lacks the ability to engage in a rational decision-making
2793 process regarding the acceptance of mental treatment as demonstrated by evidence of inability
2794 to weigh the possible risks of accepting or rejecting treatment;

2795 (iv) there is no appropriate less-restrictive alternative to a court order of commitment;
2796 and

2797 (v) the local mental health authority can provide the proposed patient with treatment
2798 that is adequate and appropriate to the proposed patient's conditions and needs.

2799 (b) (i) If, at the hearing, the court determines that the proposed patient has a mental
2800 illness but does not meet the other criteria described in Subsection (16)(a), the court may
2801 consider whether the proposed patient meets the criteria for assisted outpatient treatment under
2802 Section 62A-15-630.5.

2803 (ii) The court may order the proposed patient to receive assisted outpatient treatment in
2804 accordance with Section 62A-15-630.5 if, at the hearing, the court finds the proposed patient
2805 meets the criteria for assisted outpatient treatment under Section 62A-15-630.5.

2806 (iii) If the court determines that neither the criteria for commitment under Subsection
2807 (16)(a) nor the criteria for assisted outpatient treatment under Section 62A-15-630.5 are met,
2808 the court shall dismiss the proceedings after the hearing.

2809 (17) (a) (i) The order of commitment shall designate the period for which the patient
2810 shall be treated.

2811 (ii) If the patient is not under an order of commitment at the time of the hearing, the
2812 patient's treatment period may not exceed six months without a review hearing.

2813 (iii) Upon a review hearing, to be commenced before the expiration of the previous
2814 order of commitment, an order for commitment may be for an indeterminate period, if the court
2815 finds by clear and convincing evidence that the criteria described in Subsection (16) will last
2816 for an indeterminate period.

2817 (b) (i) The court shall maintain a current list of all patients under the court's order of
2818 commitment and review the list to determine those patients who have been under an order of
2819 commitment for the court designated period.

2820 (ii) At least two weeks before the expiration of the designated period of any order of
2821 commitment still in effect, the court that entered the original order of commitment shall inform
2822 the appropriate local mental health authority or the local mental health authority's designee of
2823 the expiration.

2824 (iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local
2825 mental health authority or the local mental health authority's designee shall immediately
2826 reexamine the reasons upon which the order of commitment was based.

2827 (iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health
2828 authority or the local mental health authority's designee determines that the conditions
2829 justifying commitment no longer exist, the local mental health authority or the local mental
2830 health authority's designee shall discharge the patient from involuntary commitment and
2831 immediately report the discharge to the court.

2832 (v) If, after reexamination under Subsection (17)(b)(iii), the local mental health
2833 authority or the local mental health authority's designee determines that the conditions
2834 justifying commitment continue to exist, the court shall immediately appoint two designated
2835 examiners and proceed under Subsections (8) through (14).

2836 (c) (i) The local mental health authority or the local mental health authority's designee
2837 responsible for the care of a patient under an order of commitment for an indeterminate period
2838 shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate
2839 commitment was based.

2840 (ii) If the local mental health authority or the local mental health authority's designee
2841 determines that the conditions justifying commitment no longer exist, the local mental health

2842 authority or the local mental health authority's designee shall discharge the patient from the
2843 local mental health authority's or the local mental health authority designee's custody and
2844 immediately report the discharge to the court.

2845 (iii) If the local mental health authority or the local mental health authority's designee
2846 determines that the conditions justifying commitment continue to exist, the local mental health
2847 authority or the local mental health authority's designee shall send a written report of the
2848 findings to the court.

2849 (iv) A patient and the patient's counsel of record shall be notified in writing that the
2850 involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the
2851 decision to continue, and that the patient has the right to a review hearing by making a request
2852 to the court.

2853 (v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately
2854 appoint two designated examiners and proceed under Subsections (8) through (14).

2855 (18) (a) Any patient committed as a result of an original hearing or a patient's legally
2856 designated representative who is aggrieved by the findings, conclusions, and order of the court
2857 entered in the original hearing has the right to a new hearing upon a petition filed with the court
2858 within 30 days after the day on which the court order is entered.

2859 (b) The petition shall allege error or mistake in the findings, in which case the court
2860 shall appoint three impartial designated examiners previously unrelated to the case to conduct
2861 an additional examination of the patient.

2862 (c) Except as provided in Subsection (18)(b), the court shall, in all other respects,
2863 conduct the new hearing in the manner otherwise permitted.

2864 (19) The county in which the proposed patient resides or is found shall pay the costs of
2865 all proceedings under this section.

2866 Section 61. Section **26B-5-332**, which is renumbered from Section 62A-15-632 is
2867 renumbered and amended to read:

2868 ~~[62A-15-632]~~. **26B-5-332**. **Circumstances under which conditions justifying**
2869 **initial involuntary commitment shall be considered to continue to exist.**

2870 (1) When an individual is involuntarily committed to the custody of a local mental
2871 health authority under Subsection 62A-15-631(16), the conditions justifying commitment
2872 under that Subsection shall be considered to continue to exist for purposes of continued

2873 treatment under Subsection 62A-15-631(17) or conditional release under Section 62A-15-637
2874 if the court finds that:

2875 (a) the patient is still mentally ill;

2876 (b) there is no appropriate less restrictive alternative to a court order of involuntary
2877 commitment; and

2878 (c) absent an order of involuntary commitment, the patient will likely pose a substantial
2879 danger to self or others.

2880 (2) When an individual has been ordered to assisted outpatient treatment under
2881 Subsection 62A-15-630.5(14), the individual may be involuntarily committed to the custody of
2882 a local mental health authority under Subsection 62A-15-631(16) for purposes of continued
2883 treatment under Subsection 62A-15-631(17) or conditional release under Section 62A-15-637,
2884 if the court finds that:

2885 (a) the patient is still mentally ill;

2886 (b) there is no appropriate less-restrictive alternative to a court order of involuntary
2887 commitment; and

2888 (c) based upon the patient's conduct and statements during the preceding six months, or
2889 the patient's failure to comply with treatment recommendations during the preceding six
2890 months, the court finds that absent an order of involuntary commitment, the patient is likely to
2891 pose a substantial danger to self or others.

2892 (3) A patient whose treatment is continued or who is conditionally released under the
2893 terms of this section shall be maintained in the least restrictive environment available that can
2894 provide the patient with treatment that is adequate and appropriate.

2895 Section 62. Section **26B-5-333**, which is renumbered from Section 62A-15-633 is
2896 renumbered and amended to read:

2897 ~~[62A-15-633]~~. **26B-5-333. Persons eligible for care or treatment by federal**
2898 **agency -- Continuing jurisdiction of state courts.**

2899 (1) If an individual committed pursuant to Section 62A-15-631 is eligible for care or
2900 treatment by any agency of the United States, the court, upon receipt of a certificate from a
2901 United States agency, showing that facilities are available and that the individual is eligible for
2902 care or treatment therein, may order the individual to be placed in the custody of that agency
2903 for care.

2904 (2) When admitted to any facility or institution operated by a United States agency,
2905 within or without this state, the individual shall be subject to the rules and regulations of that
2906 agency.

2907 (3) The chief officer of any facility or institution operated by a United States agency
2908 and in which the individual is hospitalized, shall, with respect to that individual, be vested with
2909 the same powers as the superintendent or director of a mental health facility, regarding
2910 detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is
2911 retained in appropriate courts of this state at any time to inquire into the mental condition of an
2912 individual so hospitalized, and to determine the necessity for continuance of hospitalization,
2913 and every order of hospitalization issued pursuant to this section is so conditioned.

2914 Section 63. Section **26B-5-334**, which is renumbered from Section 62A-15-634 is
2915 renumbered and amended to read:

2916 ~~[62A-15-634]~~. **26B-5-334. Detention pending placement in custody.**

2917 Pending commitment to a local mental health authority, a patient taken into custody or
2918 ordered to be committed pursuant to this part may be detained in the patient's home, a licensed
2919 foster home, or any other suitable facility under reasonable conditions prescribed by the local
2920 mental health authority. Except in an extreme emergency, the patient may not be detained in a
2921 nonmedical facility used for the detention of individuals charged with or convicted of criminal
2922 offenses. The local mental health authority shall take reasonable measures, including
2923 provision of medical care, as may be necessary to assure proper care of an individual
2924 temporarily detained pursuant to this section.

2925 Section 64. Section **26B-5-335**, which is renumbered from Section 62A-15-635 is
2926 renumbered and amended to read:

2927 ~~[62A-15-635]~~. **26B-5-335. Notice of commitment.**

2928 Whenever a patient has been temporarily, involuntarily committed to a local mental
2929 health authority under Section 62A-15-629 on the application of an individual other than the
2930 patient's legal guardian, spouse, or next of kin, the local mental health authority or a designee
2931 of the local mental health authority shall immediately notify the patient's legal guardian,
2932 spouse, or next of kin, if known.

2933 Section 65. Section **26B-5-336**, which is renumbered from Section 62A-15-636 is
2934 renumbered and amended to read:

2935 ~~[62A-15-636]~~. **26B-5-336. Periodic review -- Discharge.**

2936 Each local mental health authority or its designee shall, as frequently as practicable,
2937 examine or cause to be examined every person who has been committed to it. Whenever the
2938 local mental health authority or its designee determines that the conditions justifying
2939 involuntary commitment no longer exist, it shall discharge the patient. If the patient has been
2940 committed through judicial proceedings, a report describing that determination shall be sent to
2941 the clerk of the court where the proceedings were held.

2942 Section 66. Section **26B-5-337**, which is renumbered from Section 62A-15-637 is
2943 renumbered and amended to read:

2944 ~~[62A-15-637]~~. **26B-5-337. Release of patient to receive other treatment --**
2945 **Placement in more restrictive environment -- Procedures.**

2946 (1) A local mental health authority or a designee of a local mental health authority may
2947 conditionally release an improved patient to less restrictive treatment when:

2948 (a) the authority specifies the less restrictive treatment; and

2949 (b) the patient agrees in writing to the less restrictive treatment.

2950 (2) (a) Whenever a local mental health authority or a designee of a local mental health
2951 authority determines that the conditions justifying commitment no longer exist, the local
2952 mental health authority or the designee shall discharge the patient.

2953 (b) If the discharged patient has been committed through judicial proceedings, the local
2954 mental health authority or the designee shall prepare a report describing the determination and
2955 shall send the report to the clerk of the court where the proceedings were held.

2956 (3) (a) A local mental health authority or a designee of a local mental health authority
2957 is authorized to issue an order for the immediate placement of a current patient into a more
2958 restrictive environment, if:

2959 (i) the local mental health authority or a designee of a local mental health authority has
2960 reason to believe that the patient's current environment is aggravating the patient's mental
2961 illness; or

2962 (ii) the patient has failed to comply with the specified treatment plan to which the
2963 patient agreed in writing.

2964 (b) An order for a more restrictive environment shall:

2965 (i) state the reasons for the order;

2966 (ii) authorize any peace officer to take the patient into physical custody and transport
2967 the patient to a facility designated by the local mental health authority;

2968 (iii) inform the patient of the right to a hearing, the right to appointed counsel, and the
2969 other procedures described in Subsection 62A-15-631(14); and

2970 (iv) prior to or upon admission to the more restrictive environment, or upon imposition
2971 of additional or different requirements as conditions for continued conditional release from
2972 inpatient care, copies of the order shall be delivered to:

2973 (A) the patient;

2974 (B) the person in whose care the patient is placed;

2975 (C) the patient's counsel of record; and

2976 (D) the court that entered the original order of commitment.

2977 (c) If the patient was in a less restrictive environment for more than 30 days and is
2978 aggrieved by the change to a more restrictive environment, the patient or the patient's
2979 representative may request a hearing within 30 days of the change. Upon receiving the request,
2980 the court shall immediately appoint two designated examiners and proceed pursuant to Section
2981 62A-15-631, with the exception of Subsection 62A-15-631(16), unless, by the time set for the
2982 hearing, the patient is returned to the less restrictive environment or the patient withdraws the
2983 request for a hearing, in writing.

2984 (d) The court shall:

2985 (i) make findings regarding whether the conditions described in Subsections (3)(a) and
2986 (b) were met and whether the patient is in the least restrictive environment that is appropriate
2987 for the patient's needs; and

2988 (ii) designate, by order, the environment for the patient's care and the period for which
2989 the patient shall be treated, which may not extend beyond expiration of the original order of
2990 commitment.

2991 (4) Nothing contained in this section prevents a local mental health authority or its
2992 designee, pursuant to Section 62A-15-636, from discharging a patient from commitment or
2993 from placing a patient in an environment that is less restrictive than that ordered by the court.

2994 Section 67. Section **26B-5-338**, which is renumbered from Section 62A-15-638 is
2995 renumbered and amended to read:

2996 ~~[62A-15-638]~~. **26B-5-338**. **Reexamination of court order for commitment --**

2997 **Procedures -- Costs.**

2998 (1) Any patient committed pursuant to Section 62A-15-631 is entitled to a
2999 reexamination of the order for commitment on the patient's own petition, or on that of the legal
3000 guardian, parent, spouse, relative, or friend, to the [~~district~~] court of the county in which the
3001 patient resides or is detained.

3002 (2) Upon receipt of the petition, the court shall conduct or cause to be conducted by a
3003 mental health commissioner proceedings in accordance with Section 62A-15-631, except that
3004 those proceedings shall not be required to be conducted if the petition is filed sooner than six
3005 months after the issuance of the order of commitment or the filing of a previous petition under
3006 this section, provided that the court may hold a hearing within a shorter period of time if good
3007 cause appears. The costs of proceedings for such judicial determination shall be paid by the
3008 county in which the patient resided or was found prior to commitment, upon certification, by
3009 the clerk of the [~~district~~] court in the county where the proceedings are held, to the county
3010 legislative body that those proceedings were held and the costs incurred.

3011 Section 68. Section **26B-5-339**, which is renumbered from Section 62A-15-639 is
3012 renumbered and amended to read:

3013 ~~[62A-15-639].~~ **26B-5-339. Standards for care and treatment.**

3014 Every patient is entitled to humane care and treatment and to medical care and
3015 treatment in accordance with the prevailing standards accepted in medical practice, psychiatric
3016 nursing practice, social work practice, and the practice of clinical psychology.

3017 Section 69. Section **26B-5-340**, which is renumbered from Section 62A-15-640 is
3018 renumbered and amended to read:

3019 ~~[62A-15-640].~~ **26B-5-340. Mechanical restraints and medication -- Clinical**
3020 **record.**

3021 (1) Mechanical restraints may not be applied to a patient unless it is determined by the
3022 director or his designee to be required by the needs of the patient. Every use of a mechanical
3023 restraint and the reasons therefor shall be made a part of the patient's clinical record, under the
3024 signature of the director or his designee, and shall be reviewed regularly.

3025 (2) In no event shall medication be prescribed for a patient unless it is determined by a
3026 physician to be required by the patient's medical needs. Every use of a medication and the
3027 reasons therefor shall be made a part of the patient's clinical record.

3028 Section 70. Section **26B-5-341**, which is renumbered from Section 62A-15-641 is
3029 renumbered and amended to read:

3030 ~~[62A-15-641]~~. **26B-5-341. Restrictions and limitations -- Civil rights and**
3031 **privileges.**

3032 (1) Subject to the general rules of the division, and except to the extent that the director
3033 or his designee determines that it is necessary for the welfare of the patient to impose
3034 restrictions, every patient is entitled to:

3035 (a) communicate, by sealed mail or otherwise, with persons, including official
3036 agencies, inside or outside the facility;

3037 (b) receive visitors; and

3038 (c) exercise all civil rights, including the right to dispose of property, execute
3039 instruments, make purchases, enter contractual relationships, and vote, unless the patient has
3040 been adjudicated to be incompetent and has not been restored to legal capacity.

3041 (2) When any right of a patient is limited or denied, the nature, extent, and reason for
3042 that limitation or denial shall be entered in the patient's treatment record. Any continuing
3043 denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment
3044 record. Notice of that continuing denial in excess of 30 days shall be sent to the division, the
3045 appropriate local mental health authority, the appropriate local substance abuse authority, or an
3046 approved treatment facility or program, whichever is most applicable to the patient.

3047 (3) Notwithstanding any limitations authorized under this section on the right of
3048 communication, each patient is entitled to communicate by sealed mail with the appropriate
3049 local mental health authority, the appropriate local substance abuse authority, an approved
3050 treatment facility or program, the division, the patient's attorney, and the court, if any, that
3051 ordered the patient's commitment or essential treatment. In no case may the patient be denied a
3052 visit with the legal counsel or clergy of the patient's choice.

3053 (4) Local mental health authorities, local substance abuse authorities, and approved
3054 treatment facilities or programs shall provide reasonable means and arrangements for
3055 informing involuntary patients of their right to release as provided in this chapter, and for
3056 assisting them in making and presenting requests for release.

3057 (5) Mental health facilities, local substance abuse authorities, and approved treatment
3058 facilities or programs shall post a statement, created by the division, describing a patient's

3059 rights under Utah law.

3060 (6) Notwithstanding Section 53B-17-303, an individual committed under this chapter
3061 has the right to determine the final disposition of that individual's body after death.

3062 Section 71. Section **26B-5-342**, which is renumbered from Section 62A-15-642 is
3063 renumbered and amended to read:

3064 ~~[62A-15-642]~~. **26B-5-342. Habeas corpus.**

3065 Any individual detained pursuant to this part is entitled to the writ of habeas corpus
3066 upon proper petition by himself or a friend, to the [~~district~~] court in the county in which he is
3067 detained.

3068 Section 72. Section **26B-5-343**, which is renumbered from Section 62A-15-643 is
3069 renumbered and amended to read:

3070 ~~[62A-15-643]~~. **26B-5-343. Confidentiality of information and records --**
3071 **Exceptions -- Penalty.**

3072 (1) All certificates, applications, records, and reports made for the purpose of this part,
3073 including those made on judicial proceedings for involuntary commitment, that directly or
3074 indirectly identify a patient or former patient or an individual whose commitment has been
3075 sought under this part, shall be kept confidential and may not be disclosed by any person except
3076 insofar as:

3077 (a) the individual identified or his legal guardian, if any, or, if a minor, his parent or
3078 legal guardian shall consent;

3079 (b) disclosure may be necessary to carry out the provisions of:

3080 (i) this part; or

3081 (ii) Section 53-10-208.1; or

3082 (c) a court may direct, upon its determination that disclosure is necessary for the
3083 conduct of proceedings before it, and that failure to make the disclosure would be contrary to
3084 the public interest.

3085 (2) A person who knowingly or intentionally discloses any information not authorized
3086 by this section is guilty of a class B misdemeanor.

3087 Section 73. Section **26B-5-344**, which is renumbered from Section 62A-15-644 is
3088 renumbered and amended to read:

3089 ~~[62A-15-644]~~. **26B-5-344. Additional powers of director -- Reports and**

3090 **records of division.**

3091 (1) In addition to specific authority granted by other provisions of this part, the director
3092 has authority to prescribe the form of applications, records, reports, and medical certificates
3093 provided for under this part, and the information required to be contained therein, and to adopt
3094 rules that are not inconsistent with the provisions of this part that the director finds to be
3095 reasonably necessary for the proper and efficient commitment of persons with a mental illness.

3096 (2) The division shall require reports relating to the admission, examination, diagnosis,
3097 release, or discharge of any patient and investigate complaints made by any patient or by any
3098 person on behalf of a patient.

3099 (3) A local mental health authority shall keep a record of the names and current status
3100 of all persons involuntarily committed to it under this chapter.

3101 Section 74. Section **26B-5-345**, which is renumbered from Section 62A-15-645 is
3102 renumbered and amended to read:

3103 ~~[62A-15-645].~~ **26B-5-345. Retrospective effect of provisions.**

3104 Patients who were in a mental health facility on May 8, 1951, shall be deemed to have
3105 been admitted under the provisions of this part appropriate in each instance, and their care,
3106 custody, and rights shall be governed by this part.

3107 Section 75. Section **26B-5-346**, which is renumbered from Section 62A-15-646 is
3108 renumbered and amended to read:

3109 ~~[62A-15-646].~~ **26B-5-346. Commitment and care of criminally insane.**

3110 Nothing contained in this part may be construed to alter or change the method presently
3111 employed for the commitment and care of the criminally insane as provided in Title 77,
3112 Chapter 15, Inquiry into Sanity of Defendant.

3113 Section 76. Section **26B-5-347**, which is renumbered from Section 62A-15-647 is
3114 renumbered and amended to read:

3115 ~~[62A-15-647].~~ **26B-5-347. Severability.**

3116 If any one or more provision, section, subsection, sentence, clause, phrase, or word of
3117 this part, or the application thereof to any person or circumstance, is found to be
3118 unconstitutional the same is hereby declared to be severable and the balance of this part shall
3119 remain effective notwithstanding that unconstitutionality. The Legislature hereby declares that
3120 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase,

3121 or word thereof, irrespective of the fact that any one or more provision, section, subsection,
3122 sentence, clause, phrase, or word be declared unconstitutional.

3123 Section 77. Section **26B-5-348**, which is renumbered from Section 62A-15-901 is
3124 renumbered and amended to read:

3125 ~~[62A-15-901]~~. **26B-5-348. Establishment.**

3126 The Utah Forensic Mental Health Facility is hereby established and shall be located on
3127 state land on the campus of the Utah State Hospital in Provo, Utah County.

3128 Section 78. Section **26B-5-349**, which is renumbered from Section 62A-15-902 is
3129 renumbered and amended to read:

3130 ~~[62A-15-902]~~. **26B-5-349. Design and operation -- Security.**

3131 (1) The forensic mental health facility is a secure treatment facility.

3132 (2) (a) The forensic mental health facility accommodates the following populations:

3133 (i) prison inmates displaying mental illness, as defined in Section 62A-15-602,
3134 necessitating treatment in a secure mental health facility;

3135 (ii) criminally adjudicated persons found guilty with a mental illness or guilty with a
3136 mental illness at the time of the offense undergoing evaluation for mental illness under Title
3137 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

3138 (iii) criminally adjudicated persons undergoing evaluation for competency or found
3139 guilty with a mental illness or guilty with a mental illness at the time of the offense under Title
3140 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, who also have
3141 an intellectual disability;

3142 (iv) persons undergoing evaluation for competency or found by a court to be
3143 incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry into Sanity of
3144 Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

3145 (v) persons who are civilly committed to the custody of a local mental health authority
3146 in accordance with Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health
3147 Facilities, and who may not be properly supervised by the Utah State Hospital because of a lack
3148 of necessary security, as determined by the superintendent or the superintendent's designee; and

3149 (vi) persons ordered to commit themselves to the custody of the [~~Division of Substance~~
3150 ~~Abuse and Mental Health~~] division for treatment at the Utah State Hospital as a condition of
3151 probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

3152 (b) Placement of an offender in the forensic mental health facility under any category
 3153 described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's
 3154 status as established by the court at the time of adjudication.

3155 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 3156 department shall make rules providing for the allocation of beds to the categories described in
 3157 Subsection (2)(a).

3158 (3) The department shall:

3159 (a) own and operate the forensic mental health facility;

3160 (b) provide and supervise administrative and clinical staff; and

3161 (c) provide security staff who are trained as psychiatric technicians.

3162 (4) Pursuant to Subsection 62A-15-603(3) the executive director shall designate
 3163 individuals to perform security functions for the state hospital.

3164 Section 79. Section **26B-5-350**, which is renumbered from Section 62A-15-801 is
 3165 renumbered and amended to read:

3166 ~~[62A-15-801]~~. **26B-5-350. Interstate compact on mental health -- Compact**
 3167 **provisions.**

3168 The Interstate Compact on Mental Health is hereby enacted and entered into with all
 3169 other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

3170 INTERSTATE COMPACT ON MENTAL HEALTH

3171 The contracting states solemnly agree that:

3172 Article I

3173 The proper and expeditious treatment of the mentally ill can be facilitated by
 3174 cooperative action, to the benefit of the patients, their families, and society as a whole. Further,
 3175 the party states find that the necessity of and desirability of furnishing that care and treatment
 3176 bears no primary relation to the residence or citizenship of the patient but that the controlling
 3177 factors of community safety and humanitarianism require that facilities and services be made
 3178 available for all who are in need of them. Consequently, it is the purpose of this compact and
 3179 of the party states to provide the necessary legal and constitutional basis for commitment or
 3180 other appropriate care and treatment of the mentally ill under a system that recognizes the
 3181 paramount importance of patient welfare and to establish the responsibilities of the party states.

3182 The appropriate authority in this state for making determinations under this compact is

3183 the director of the division or his designee.

3184 Article II

3185 As used in this compact:

3186 (1) "After-care" means care, treatment, and services provided to a patient on
3187 convalescent status or conditional release.

3188 (2) "Institution" means any hospital, program, or facility maintained by a party state or
3189 political subdivision for the care and treatment of persons with a mental illness.

3190 (3) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic
3191 and Statistical Manual of Mental Disorders, that substantially impairs a person's mental,
3192 emotional, behavioral, or related functioning to such an extent that he requires care and
3193 treatment for his own welfare, the welfare of others, or the community.

3194 (4) "Patient" means any person subject to or eligible, as determined by the laws of the
3195 sending state, for institutionalization or other care, treatment, or supervision pursuant to the
3196 provisions of this compact and constitutional due process requirements.

3197 (5) "Receiving state" means a party state to which a patient is transported pursuant to
3198 the provisions of the compact or to which it is contemplated that a patient may be sent.

3199 (6) "Sending state" means a party state from which a patient is transported pursuant to
3200 the provisions of the compact or from which it is contemplated that a patient may be sent.

3201 (7) "State" means any state, territory, or possession of the United States, the District of
3202 Columbia, and the Commonwealth of Puerto Rico.

3203 Article III

3204 (1) Whenever a person physically present in any party state is in need of
3205 institutionalization because of mental illness, he shall be eligible for care and treatment in an
3206 institution in that state, regardless of his residence, settlement, or citizenship qualifications.

3207 (2) Notwithstanding the provisions of Subsection (1) of this article, any patient may be
3208 transferred to an institution in another state whenever there are factors, based upon clinical
3209 determinations, indicating that the care and treatment of that patient would be facilitated or
3210 improved by that action. Any such institutionalization may be for the entire period of care and
3211 treatment or for any portion or portions thereof. The factors to be considered include the
3212 patient's full record with due regard for the location of the patient's family, the character of his
3213 illness and its probable duration, and other factors considered appropriate by authorities in the

3214 party state and the director of the division, or his designee.

3215 (3) No state is obliged to receive any patient pursuant to the provisions of Subsection

3216 (2) of this article unless the sending state has:

3217 (a) given advance notice of its intent to send the patient;

3218 (b) furnished all available medical and other pertinent records concerning the patient;

3219 (c) given the qualified medical or other appropriate clinical authorities of the receiving
3220 state an opportunity to examine the patient; and

3221 (d) determined that the receiving state agrees to accept the patient.

3222 (4) In the event that the laws of the receiving state establish a system of priorities for
3223 the admission of patients, an interstate patient under this compact shall receive the same
3224 priority as a local patient and shall be taken in the same order and at the same time that he
3225 would be taken if he were a local patient.

3226 (5) Pursuant to this compact, the determination as to the suitable place of
3227 institutionalization for a patient may be reviewed at any time and further transfer of the patient
3228 may be made as is deemed to be in the best interest of the patient, as determined by appropriate
3229 authorities in the receiving and sending states.

3230 Article IV

3231 (1) Whenever, pursuant to the laws of the state in which a patient is physically present,
3232 it is determined that the patient should receive after-care or supervision, that care or
3233 supervision may be provided in the receiving state. If the medical or other appropriate clinical
3234 authorities who have responsibility for the care and treatment of the patient in the sending state
3235 believe that after-care in another state would be in the best interest of the patient and would not
3236 jeopardize the public safety, they shall request the appropriate authorities in the receiving state
3237 to investigate the desirability of providing the patient with after-care in the receiving state.

3238 That request for investigation shall be accompanied by complete information concerning the
3239 patient's intended place of residence and the identity of the person in whose charge the patient
3240 would be placed, the complete medical history of the patient, and other pertinent documents.

3241 (2) If the medical or other appropriate clinical authorities who have responsibility for
3242 the care and treatment of the patient in the sending state, and the appropriate authorities in the
3243 receiving state find that the best interest of the patient would be served, and if the public safety
3244 would not be jeopardized, the patient may receive after-care or supervision in the receiving

3245 state.

3246 (3) In supervising, treating, or caring for a patient on after-care pursuant to the terms of
3247 this article, a receiving state shall employ the same standards of visitation, examination, care,
3248 and treatment as for similar local patients.

3249 Article V

3250 Whenever a dangerous or potentially dangerous patient escapes from an institution in
3251 any party state, that state shall promptly notify all appropriate authorities both within and
3252 without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy
3253 apprehension of the escapee. Immediately upon the apprehension and identification of that
3254 patient, he shall be detained in the state where found, pending disposition in accordance with
3255 the laws of that state.

3256 Article VI

3257 Accredited officers of any party state, upon the establishment of their authority and the
3258 identity of the patient, shall be permitted to transport any patient being moved pursuant to this
3259 compact through any and all states party to this compact, without interference.

3260 Article VII

3261 (1) No person may be deemed a patient of more than one institution at any given time.
3262 Completion of transfer of any patient to an institution in a receiving state has the effect of
3263 making the person a patient of the institution in the receiving state.

3264 (2) The sending state shall pay all costs of and incidental to the transportation of any
3265 patient pursuant to this compact, but any two or more party states may, by making a specific
3266 agreement for that purpose, arrange for a different allocation of costs among themselves.

3267 (3) No provision of this compact may be construed to alter or affect any internal
3268 relationships among the departments, agencies, and officers of a party state, or between a party
3269 state and its subdivisions, as to the payment of costs or responsibilities.

3270 (4) Nothing in this compact may be construed to prevent any party state or any of its
3271 subdivisions from asserting any right against any person, agency, or other entity with regard to
3272 costs for which that party state or its subdivision may be responsible under this compact.

3273 (5) Nothing in this compact may be construed to invalidate any reciprocal agreement
3274 between a party state and a nonparty state relating to institutionalization, care, or treatment of
3275 the mentally ill, or any statutory authority under which those agreements are made.

3276 Article VIII

3277 (1) Nothing in this compact may be construed to abridge, diminish, or in any way
3278 impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or
3279 with respect to any patient for whom he serves, except that when the transfer of a patient to
3280 another jurisdiction makes advisable the appointment of a supplemental or substitute guardian,
3281 a court of competent jurisdiction in the receiving state may make supplemental or substitute
3282 appointments. In that case, the court that appointed the previous guardian shall, upon being
3283 advised of the new appointment and upon the satisfactory completion of accounting and other
3284 acts as the court may require, relieve the previous guardian of power and responsibility to
3285 whatever extent is appropriate in the circumstances.

3286 However, in the case of any patient having settlement in the sending state, a court of
3287 competent jurisdiction in the sending state has the sole discretion to relieve a guardian
3288 appointed by it or to continue his power and responsibility, as it deems advisable. The court in
3289 the receiving state may, in its discretion, confirm or reappoint the person or persons previously
3290 serving as guardian in the sending state in lieu of making a supplemental or substitute
3291 appointment.

3292 (2) The term "guardian" as used in Subsection (1) of this article includes any guardian,
3293 trustee, legal committee, conservator, or other person or agency however denominated, who is
3294 charged by law with power to act for the person or property of a patient.

3295 Article IX

3296 (1) No provision of this compact except Article V applies to any person
3297 institutionalized while under sentence in a penal or correctional institution, while subject to
3298 trial on a criminal charge, or whose institutionalization is due to the commission of an offense
3299 for which, in the absence of mental illness, he would be subject to incarceration in a penal or
3300 correctional institution.

3301 (2) To every extent possible, it shall be the policy of party states that no patient be
3302 placed or detained in any prison, jail, or lockup, but shall, with all expedition, be taken to a
3303 suitable institutional facility for mental illness.

3304 Article X

3305 (1) Each party state shall appoint a "compact administrator" who, on behalf of his state,
3306 shall act as general coordinator of activities under the compact in his state and receive copies of

3307 all reports, correspondence, and other documents relating to any patient processed under the
3308 compact by his state, either in the capacity of sending or receiving state. The compact
3309 administrator, or his designee, shall deal with all matters relating to the compact and patients
3310 processed under the compact. In this state the director of the division, or his designee shall act
3311 as the "compact administrator."

3312 (2) The compact administrators of the respective party states have power to promulgate
3313 reasonable rules and regulations as are necessary to carry out the terms and provisions of this
3314 compact. In this state, the division has authority to establish those rules in accordance with the
3315 Utah Administrative Rulemaking Act.

3316 (3) The compact administrator shall cooperate with all governmental departments,
3317 agencies, and officers in this state and its subdivisions in facilitating the proper administration
3318 of the compact and any supplementary agreement or agreements entered into by this state under
3319 the compact.

3320 (4) The compact administrator is hereby authorized and empowered to enter into
3321 supplementary agreements with appropriate officials of other states pursuant to Articles VII
3322 and XI of this compact. In the event that supplementary agreements require or contemplate the
3323 use of any institution or facility of this state or require or contemplate the provision of any
3324 service by this state, that agreement shall have no force unless approved by the director of the
3325 department or agency under whose jurisdiction the institution or facility is operated, or whose
3326 department or agency will be charged with the rendering of services.

3327 (5) The compact administrator may make or arrange for any payments necessary to
3328 discharge financial obligations imposed upon this state by the compact or by any
3329 supplementary agreement entered into under the compact.

3330 Article XI

3331 Administrative authorities of any two or more party states may enter into supplementary
3332 agreements for the provision of any service or facility, or for the maintenance of any institution
3333 on a joint or cooperative basis whenever the states concerned find that those agreements will
3334 improve services, facilities, or institutional care and treatment of persons who are mentally ill.
3335 A supplementary agreement may not be construed to relieve a party state of any obligation that
3336 it otherwise would have under other provisions of this compact.

3337 Article XII

3338 This compact has full force and effect in any state when it is enacted into law in that
3339 state. Thereafter, that state is a party to the compact with any and all states that have legally
3340 joined.

3341 Article XIII

3342 A party state may withdraw from the compact by enacting a statute repealing the
3343 compact. Withdrawal takes effect one year after notice has been communicated officially and
3344 in writing to the compact administrators of all other party states. However, the withdrawal of a
3345 state does not change the status of any patient who has been sent to that state or sent out of that
3346 state pursuant to the compact.

3347 Article XIV

3348 This compact shall be liberally construed so as to effectuate its purposes. The
3349 provisions of this compact are severable, and if any phrase, clause, sentence or provision is
3350 declared to be contrary to the constitution of the United States or the applicability to any
3351 government, agency, person, or circumstance is held invalid, the validity of the remainder of
3352 this compact and its applicability to any government, agency, person, or circumstance shall not
3353 be affected thereby. If this compact is held to be contrary to the constitution of any party state
3354 the compact shall remain in full force and effect as to the remaining states and in full force and
3355 effect as to the state affected as to all severable matters.

3356 Section 80. Section **26B-5-351**, which is renumbered from Section 62A-15-802 is
3357 renumbered and amended to read:

3358 ~~[62A-15-802]~~. **26B-5-351. Requirement of conformity with this chapter.**

3359 All actions and proceedings taken under authority of this compact shall be in
3360 accordance with the procedures and constitutional requirements described in Part 6, Utah State
3361 Hospital and Other Mental Health Facilities.

3362 Section 81. Section **26B-5-352**, which is renumbered from Section 62A-15-1002 is
3363 renumbered and amended to read:

3364 ~~[62A-15-1002]~~. **26B-5-352. Declaration for mental health treatment.**

3365 (1) An adult who is not incapable may make a declaration of preferences or
3366 instructions regarding his mental health treatment. The declaration may include, but is not
3367 limited to, consent to or refusal of specified mental health treatment.

3368 (2) A declaration for mental health treatment shall designate a capable adult to act as

3369 attorney-in-fact to make decisions about mental health treatment for the declarant. An
3370 alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original
3371 designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the
3372 appointment in writing may make decisions about mental health treatment on behalf of the
3373 declarant only when the declarant is incapable. The decisions shall be consistent with any
3374 instructions or desires the declarant has expressed in the declaration.

3375 (3) A declaration is effective only if it is signed by the declarant and two capable adult
3376 witnesses. The witnesses shall attest that the declarant is known to them, signed the
3377 declaration in their presence, appears to be of sound mind and is not under duress, fraud, or
3378 undue influence. Persons specified in Subsection 62A-15-1003(6) may not act as witnesses.

3379 (4) A declaration becomes operative when it is delivered to the declarant's physician or
3380 other mental health treatment provider and remains valid until it expires or is revoked by the
3381 declarant. The physician or provider is authorized to act in accordance with an operative
3382 declaration when the declarant has been found to be incapable. The physician or provider shall
3383 continue to obtain the declarant's informed consent to all mental health treatment decisions if
3384 the declarant is capable of providing informed consent or refusal.

3385 (5) (a) An attorney-in-fact does not have authority to make mental health treatment
3386 decisions unless the declarant is incapable.

3387 (b) An attorney-in-fact is not, solely as a result of acting in that capacity, personally
3388 liable for the cost of treatment provided to the declarant.

3389 (c) Except to the extent that a right is limited by a declaration or by any federal law, an
3390 attorney-in-fact has the same right as the declarant to receive information regarding the
3391 proposed mental health treatment and to receive, review, and consent to disclosure of medical
3392 records relating to that treatment. This right of access does not waive any evidentiary privilege.

3393 (d) In exercising authority under the declaration, the attorney-in-fact shall act
3394 consistently with the instructions and desires of the declarant, as expressed in the declaration.
3395 If the declarant's desires are unknown, the attorney-in-fact shall act in what he, in good faith,
3396 believes to be the best interest of the declarant.

3397 (e) An attorney-in-fact is not subject to criminal prosecution, civil liability, or
3398 professional disciplinary action for any action taken in good faith pursuant to a declaration for
3399 mental health treatment.

3400 (6) (a) A declaration for mental health treatment remains effective for a period of three
3401 years or until revoked by the declarant. If a declaration for mental health treatment has been
3402 invoked and is in effect at the expiration of three years after its execution, the declaration
3403 remains effective until the declarant is no longer incapable.

3404 (b) The authority of a named attorney-in-fact and any alternative attorney-in-fact
3405 continues in effect as long as the declaration appointing the attorney-in-fact is in effect or until
3406 the attorney-in-fact has withdrawn.

3407 (7) A person may not be required to execute or to refrain from executing a declaration
3408 as a criterion for insurance, as a condition for receiving mental or physical health services, or as
3409 a condition of discharge from a facility.

3410 Section 82. Section **26B-5-353**, which is renumbered from Section 62A-15-1003 is
3411 renumbered and amended to read:

3412 ~~[62A-15-1003]~~. **26B-5-353. Physician and provider responsibilities --**
3413 **Provision of services contrary to declaration -- Revocation.**

3414 (1) Upon being presented with a declaration, a physician shall make the declaration a
3415 part of the declarant's medical record. When acting under authority of a declaration, a
3416 physician shall comply with it to the fullest extent possible, consistent with reasonable medical
3417 practice, the availability of treatments requested, and applicable law. If the physician or other
3418 provider is unwilling at any time to comply with the declaration, the physician or provider shall
3419 promptly notify the declarant and the attorney-in-fact, and document the notification in the
3420 declarant's medical record.

3421 (2) A physician or provider may subject a declarant to intrusive treatment in a manner
3422 contrary to the declarant's wishes, as expressed in a declaration for mental health treatment if:

3423 (a) the declarant has been committed to the custody of a local mental health authority
3424 in accordance with Part 6, Utah State Hospital and Other Mental Health Facilities; or

3425 (b) in cases of emergency endangering life or health.

3426 (3) A declaration does not limit any authority provided in Part 6, Utah State Hospital
3427 and Other Mental Health Facilities, to take a person into custody, or admit or retain a person in
3428 the custody of a local mental health authority.

3429 (4) A declaration may be revoked in whole or in part by the declarant at any time so
3430 long as the declarant is not incapable. That revocation is effective when the declarant

3431 communicates the revocation to the attending physician or other provider. The attending
3432 physician or other provider shall note the revocation as part of the declarant's medical record.

3433 (5) A physician who administers or does not administer mental health treatment
3434 according to and in good faith reliance upon the validity of a declaration is not subject to
3435 criminal prosecution, civil liability, or professional disciplinary action resulting from a
3436 subsequent finding that a declaration is invalid.

3437 (6) None of the following persons may serve as an attorney-in-fact or as witnesses to
3438 the signing of a declaration:

3439 (a) the declarant's attending physician or mental health treatment provider, or an
3440 employee of that physician or provider;

3441 (b) an employee of the division; or

3442 (c) an employee of a local mental health authority or any organization that contracts
3443 with a local mental health authority.

3444 (7) An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant
3445 is incapable, the attorney-in-fact may withdraw by giving notice to the attending physician or
3446 provider. The attending physician shall note the withdrawal as part of the declarant's medical
3447 record.

3448 Section 83. Section **26B-5-354**, which is renumbered from Section 62A-15-1004 is
3449 renumbered and amended to read:

3450 ~~[62A-15-1004]~~. **26B-5-354**. **Declaration for mental health treatment -- Form.**

3451 A declaration for mental health treatment shall be in substantially the following form:

3452 DECLARATION FOR MENTAL HEALTH TREATMENT

3453 I, _____, being an adult of sound mind, willfully and
3454 voluntarily make this declaration for mental health treatment, to be followed if it is determined
3455 by a court or by two physicians that my ability to receive and evaluate information effectively
3456 or to communicate my decisions is impaired to such an extent that I lack the capacity to refuse
3457 or consent to mental health treatment. "Mental health treatment" means convulsive treatment,
3458 treatment with psychoactive medication, and admission to and retention in a mental health
3459 facility for a period up to 17 days.

3460 I understand that I may become incapable of giving or withholding informed consent
3461 for mental health treatment due to the symptoms of a diagnosed mental disorder. These

3462 symptoms may include:

3463 _____

3464 _____

3465 _____

3466 PSYCHOACTIVE MEDICATIONS

3467 If I become incapable of giving or withholding informed consent for mental health
3468 treatment, my wishes regarding psychoactive medications are as follows:

3469 _____ I consent to the administration of the following medications:

3470 _____

3471 _____

3472 in the dosages:

3473 _____ considered appropriate by my attending physician.

3474 _____ approved by _____

3475 _____ as I hereby direct: _____

3476 _____ I do not consent to the administration of the following medications:

3477 _____

3478 _____

3479 _____

3480 _____

3481 CONVULSIVE TREATMENT

3482 If I become incapable of giving or withholding informed consent for mental health
3483 treatment, my wishes regarding convulsive treatment are as follows:

3484 _____ I consent to the administration of convulsive treatment of the following type:

3485 _____, the number of treatments to be:

3486 _____ determined by my attending physician.

3487 _____ approved by _____

3488 _____ as follows: _____

3489 _____ I do not consent to the administration of convulsive treatment.

3490 My reasons for consenting to or refusing convulsive treatment are as follows;

3491 _____

3492 _____

3493 _____

3494 _____

3495 ADMISSIION TO AND RETENTION IN A MENTAL HEALTH FACILITY

3496 If I become incapable of giving or withholding informed consent for mental health
3497 treatment, my wishes regarding admission to and retention in a mental health facility are as
3498 follows:

3499 _____ I consent to being admitted to the following mental health facilities:

3500 _____

3501 I may be retained in the facility for a period of time:

3502 _____ determined by my attending physician.

3503 _____ approved by _____

3504 _____ no longer than _____

3505 This directive cannot, by law, provide consent to retain me in a facility for more than 17 days.

3506 ADDITIONAL REFERENCES OR INSTRUCTIONS

3507 _____

3508 _____

3509 _____

3510 _____

3511 ATTORNEY-IN-FACT

3512 I hereby appoint:

3513 NAME _____

3514 ADDRESS _____

3515 TELEPHONE # _____

3516 to act as my attorney-in-fact to make decisions regarding my mental health treatment if I
3517 become incapable of giving or withholding informed consent for that treatment.

3518 If the person named above refuses or is unable to act on my behalf, or if I revoke that
3519 person's authority to act as my attorney-in-fact, I authorize the following person to act as my
3520 alternative attorney-in-fact:

3521 NAME _____

3522 ADDRESS _____

3523 TELEPHONE # _____

3524 My attorney-in-fact is authorized to make decisions which are consistent with the
3525 wishes I have expressed in this declaration. If my wishes are not expressed, my attorney-in-fact
3526 is to act in good faith according to what he or she believes to be in my best interest.

3527 _____
3528 (Signature of Declarant/Date)

3529 AFFIRMATION OF WITNESSES

3530 We affirm that the declarant is personally known to us, that the declarant signed or
3531 acknowledged the declarant's signature on this declaration for mental health treatment in our
3532 presence, that the declarant appears to be of sound mind and does not appear to be under
3533 duress, fraud, or undue influence. Neither of us is the person appointed as attorney-in-fact by
3534 this document, the attending physician, an employee of the attending physician, an employee of
3535 [~~the Division of Substance Abuse and Mental Health within~~] the Department of Health and
3536 Human Services, an employee of a local mental health authority, or an employee of any
3537 organization that contracts with a local mental health authority.

3538 Witnessed By:
3539 _____

3540 _____
3541 (Signature of Witness/Date)

(Printed Name of Witness)

3542 _____
3543 _____

3544 (Signature of Witness/Date)

(Printed Name of Witness)

3545 ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

3546 I accept this appointment and agree to serve as attorney-in-fact to make decisions about
3547 mental health treatment for the declarant. I understand that I have a duty to act consistently
3548 with the desires of the declarant as expressed in the declaration. I understand that this
3549 document gives me authority to make decisions about mental health treatment only while the
3550 declarant is incapable as determined by a court or two physicians. I understand that the
3551 declarant may revoke this appointment, or the declaration, in whole or in part, at any time and
3552 in any manner, when the declarant is not incapable.

3553 _____
3554 _____

3555 (Signature of Attorney-in-fact/Date) (Printed name)

3556 _____

3557 _____

3558 (Signature of Alternate Attorney-in-fact/Date) (Printed name)

3559 NOTICE TO PERSON MAKING A

3560 DECLARATION FOR MENTAL HEALTH TREATMENT

3561 This is an important legal document. It is a declaration that allows, or disallows, mental
3562 health treatment. Before signing this document, you should know that:

3563 (1) this document allows you to make decisions in advance about three types of mental
3564 health treatment: psychoactive medication, convulsive therapy, and short-term (up to 17 days)
3565 admission to a mental health facility;

3566 (2) the instructions that you include in this declaration will be followed only if a court
3567 or two physicians believe that you are incapable of otherwise making treatment decisions.
3568 Otherwise, you will be considered capable to give or withhold consent for treatment;

3569 (3) you may also appoint a person as your attorney-in-fact to make these treatment
3570 decisions for you if you become incapable. The person you appoint has a duty to act
3571 consistently with your desires as stated in this document or, if not stated, to make decisions in
3572 accordance with what that person believes, in good faith, to be in your best interest. For the
3573 appointment to be effective, the person you appoint must accept the appointment in writing.
3574 The person also has the right to withdraw from acting as your attorney-in-fact at any time;

3575 (4) this document will continue in effect for a period of three years unless you become
3576 incapable of participating in mental health treatment decisions. If this occurs, the directive will
3577 continue in effect until you are no longer incapable;

3578 (5) you have the right to revoke this document in whole or in part, or the appointment
3579 of an attorney-in-fact, at any time you have not been determined to be incapable. YOU MAY
3580 NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE
3581 CONSIDERED INCAPABLE BY A COURT OR TWO PHYSICIANS. A revocation is
3582 effective when it is communicated to your attending physician or other provider; and

3583 (6) if there is anything in this document that you do not understand, you should ask an
3584 attorney to explain it to you. This declaration is not valid unless it is signed by two qualified
3585 witnesses who are personally known to you and who are present when you sign or

3586 acknowledge your signature.

3587 Section 84. Section **26B-5-401**, which is renumbered from Section 62A-15-701 is
3588 renumbered and amended to read:

3589 **Part 4. Commitment of Persons Under Age 18**

3590 ~~[62A-15-701]~~. **26B-5-401. Definitions.**

3591 ~~[As]~~ In addition to the definitions in Section 26B-5-301, as used in this part:

3592 (1) "Child" means a person under 18 years of age.

3593 (2) "Commit" and "commitment" mean the transfer of physical custody in accordance
3594 with the requirements of this part.

3595 (3) "Legal custody" means:

3596 (a) the right to determine where and with whom the child shall live;

3597 (b) the right to participate in all treatment decisions and to consent or withhold consent
3598 for treatment in which a constitutionally protected liberty or privacy interest may be affected,
3599 including antipsychotic medication, electroshock therapy, and psychosurgery; and

3600 (c) the right to authorize surgery or other extraordinary medical care.

3601 (4) "Physical custody" means:

3602 (a) placement of a child in any residential or inpatient setting;

3603 (b) the right to physical custody of a child;

3604 (c) the right and duty to protect the child; and

3605 (d) the duty to provide, or insure that the child is provided with, adequate food,
3606 clothing, shelter, and ordinary medical care.

3607 (5) "Residential" means any out-of-home placement made by a local mental health
3608 authority, but does not include out-of-home respite care.

3609 (6) "Respite care" means temporary, periodic relief provided to parents or guardians
3610 from the daily care of children with serious emotional disorders for the limited time periods
3611 designated by the division.

3612 Section 85. Section **26B-5-402**, which is renumbered from Section 62A-15-702 is
3613 renumbered and amended to read:

3614 ~~[62A-15-702]~~. **26B-5-402. Treatment and commitment of minors in the**
3615 **public mental health system.**

3616 A child is entitled to due process proceedings, in accordance with the requirements of

3617 this part, whenever the child:

3618 (1) may receive or receives services through the public mental health system and is
3619 placed, by a local mental health authority, in a physical setting where his liberty interests are
3620 restricted, including residential and inpatient placements; or

3621 (2) receives treatment in which a constitutionally protected privacy or liberty interest
3622 may be affected, including the administration of antipsychotic medication, electroshock
3623 therapy, and psychosurgery.

3624 Section 86. Section **26B-5-403**, which is renumbered from Section 62A-15-703 is
3625 renumbered and amended to read:

3626 ~~[62A-15-703]~~. **26B-5-403. Residential and inpatient settings -- Commitment**
3627 **proceeding -- Child in physical custody of local mental health authority.**

3628 (1) A child may receive services from a local mental health authority in an inpatient or
3629 residential setting only after a commitment proceeding, for the purpose of transferring physical
3630 custody, has been conducted in accordance with the requirements of this section.

3631 (2) That commitment proceeding shall be initiated by a petition for commitment, and
3632 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
3633 to the procedures and requirements of this section. If the findings described in Subsection (4)
3634 exist, the proceeding shall result in the transfer of physical custody to the appropriate local
3635 mental health authority, and the child may be placed in an inpatient or residential setting.

3636 (3) The neutral and detached fact finder who conducts the inquiry:

3637 (a) shall be a designated examiner, as defined in Section 62A-15-602; and

3638 (b) may not profit, financially or otherwise, from the commitment or physical
3639 placement of the child in that setting.

3640 (4) Upon determination by a fact finder that the following circumstances clearly exist,
3641 the fact finder may order that the child be committed to the physical custody of a local mental
3642 health authority:

3643 (a) the child has a mental illness, as defined in Section 62A-15-602;

3644 (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or
3645 others;

3646 (c) the child will benefit from care and treatment by the local mental health authority;

3647 and

3648 (d) there is no appropriate less-restrictive alternative.

3649 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
3650 conducted in as informal manner as possible and in a physical setting that is not likely to have a
3651 harmful effect on the child.

3652 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of
3653 the appropriate local mental health authority:

3654 (i) shall receive informal notice of the date and time of the proceeding; and

3655 (ii) may appear and address the petition for commitment.

3656 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the
3657 testimony of any other person.

3658 (d) The fact finder may allow a child to waive the child's right to be present at the
3659 commitment proceeding, for good cause shown. If that right is waived, the purpose of the
3660 waiver shall be made a matter of record at the proceeding.

3661 (e) At the time of the commitment proceeding, the appropriate local mental health
3662 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
3663 commitment proceeding, shall provide the neutral and detached fact finder with the following
3664 information, as it relates to the period of current admission:

3665 (i) the petition for commitment;

3666 (ii) the admission notes;

3667 (iii) the child's diagnosis;

3668 (iv) physicians' orders;

3669 (v) progress notes;

3670 (vi) nursing notes; and

3671 (vii) medication records.

3672 (f) The information described in Subsection (5)(e) shall also be provided to the child's
3673 parent or legal guardian upon written request.

3674 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
3675 duration of the commitment. Any commitment to the physical custody of a local mental health
3676 authority may not exceed 180 days. Prior to expiration of the commitment, and if further
3677 commitment is sought, a hearing shall be conducted in the same manner as the initial
3678 commitment proceeding, in accordance with the requirements of this section.

3679 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for
3680 commitment is made, the neutral and detached fact finder shall inform the child and the child's
3681 parent or legal guardian of that decision and of the reasons for ordering commitment.

3682 (iii) The neutral and detached fact finder shall state in writing the basis of the decision,
3683 with specific reference to each of the criteria described in Subsection (4), as a matter of record.

3684 (6) A child may be temporarily committed for a maximum of 72 hours, excluding
3685 Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health
3686 authority in accordance with the procedures described in Section 62A-15-629 and upon
3687 satisfaction of the risk factors described in Subsection (4). A child who is temporarily
3688 committed shall be released at the expiration of the 72 hours unless the procedures and findings
3689 required by this section for the commitment of a child are satisfied.

3690 (7) A local mental health authority shall have physical custody of each child committed
3691 to it under this section. The parent or legal guardian of a child committed to the physical
3692 custody of a local mental health authority under this section, retains legal custody of the child,
3693 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
3694 when the Division of Child and Family Services or the Division of Juvenile Justice Services
3695 has legal custody of a child, that division shall retain legal custody for purposes of this part.

3696 (8) The cost of caring for and maintaining a child in the physical custody of a local
3697 mental health authority shall be assessed to and paid by the child's parents, according to their
3698 ability to pay. For purposes of this section, the Division of Child and Family Services or the
3699 Division of Juvenile Justice Services shall be financially responsible, in addition to the child's
3700 parents, if the child is in the legal custody of either of those divisions at the time the child is
3701 committed to the physical custody of a local mental health authority under this section, unless
3702 Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services
3703 shall assist those divisions in collecting the costs assessed pursuant to this section.

3704 (9) Whenever application is made for commitment of a minor to a local mental health
3705 authority under any provision of this section by a person other than the child's parent or
3706 guardian, the local mental health authority or its designee shall notify the child's parent or
3707 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
3708 proceeding.

3709 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30

3710 days after any order for commitment. The appeal may be brought on the child's own petition or
3711 on petition of the child's parent or legal guardian, to the juvenile court in the district where the
3712 child resides or is currently physically located. With regard to a child in the custody of the
3713 Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney
3714 general's office shall handle the appeal, otherwise the appropriate county attorney's office is
3715 responsible for appeals brought pursuant to this Subsection (10)(a).

3716 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
3717 examiner previously unrelated to the case, to conduct an examination of the child in accordance
3718 with the criteria described in Subsection (4), and file a written report with the court. The court
3719 shall then conduct an appeal hearing to determine whether the findings described in Subsection
3720 (4) exist by clear and convincing evidence.

3721 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
3722 its designee, or the mental health professional who has been in charge of the child's care prior
3723 to commitment, shall provide the court and the designated examiner for the appeal hearing with
3724 the following information, as it relates to the period of current admission:

- 3725 (i) the original petition for commitment;
- 3726 (ii) admission notes;
- 3727 (iii) diagnosis;
- 3728 (iv) physicians' orders;
- 3729 (v) progress notes;
- 3730 (vi) nursing notes; and
- 3731 (vii) medication records.

3732 (d) Both the neutral and detached fact finder and the designated examiner appointed for
3733 the appeal hearing shall be provided with an opportunity to review the most current
3734 information described in Subsection (10)(c) prior to the appeal hearing.

3735 (e) The child, the child's parent or legal guardian, the person who submitted the
3736 original petition for commitment, and a representative of the appropriate local mental health
3737 authority shall be notified by the court of the date and time of the appeal hearing. Those
3738 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the
3739 court shall review the record and findings of the neutral and detached fact finder, the report of
3740 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,

3741 allow or require the testimony of the neutral and detached fact finder, the designated examiner,
3742 the child, the child's parent or legal guardian, the person who brought the initial petition for
3743 commitment, or any other person whose testimony the court deems relevant. The court may
3744 allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that
3745 waiver is granted, the purpose shall be made a part of the court's record.

3746 (11) Each local mental health authority has an affirmative duty to conduct periodic
3747 evaluations of the mental health and treatment progress of every child committed to its physical
3748 custody under this section, and to release any child who has sufficiently improved so that the
3749 criteria justifying commitment no longer exist.

3750 (12) (a) A local mental health authority or its designee, in conjunction with the child's
3751 current treating mental health professional may release an improved child to a less restrictive
3752 environment, as they determine appropriate. Whenever the local mental health authority or its
3753 designee, and the child's current treating mental health professional, determine that the
3754 conditions justifying commitment no longer exist, the child shall be discharged and released to
3755 the child's parent or legal guardian. With regard to a child who is in the physical custody of the
3756 State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the
3757 child's current treating mental health professional.

3758 (b) A local mental health authority or its designee, in conjunction with the child's
3759 current treating mental health professional, is authorized to issue a written order for the
3760 immediate placement of a child not previously released from an order of commitment into a
3761 more restrictive environment, if the local authority or its designee and the child's current
3762 treating mental health professional has reason to believe that the less restrictive environment in
3763 which the child has been placed is exacerbating the child's mental illness, or increasing the risk
3764 of harm to self or others.

3765 (c) The written order described in Subsection (12)(b) shall include the reasons for
3766 placement in a more restrictive environment and shall authorize any peace officer to take the
3767 child into physical custody and transport the child to a facility designated by the appropriate
3768 local mental health authority in conjunction with the child's current treating mental health
3769 professional. Prior to admission to the more restrictive environment, copies of the order shall
3770 be personally delivered to the child, the child's parent or legal guardian, the administrator of the
3771 more restrictive environment, or the administrator's designee, and the child's former treatment

3772 provider or facility.

3773 (d) If the child has been in a less restrictive environment for more than 30 days and is
3774 aggrieved by the change to a more restrictive environment, the child or the child's
3775 representative may request a review within 30 days of the change, by a neutral and detached
3776 fact finder as described in Subsection (3). The fact finder shall determine whether:

3777 (i) the less restrictive environment in which the child has been placed is exacerbating
3778 the child's mental illness or increasing the risk of harm to self or others; or

3779 (ii) the less restrictive environment in which the child has been placed is not
3780 exacerbating the child's mental illness or increasing the risk of harm to self or others, in which
3781 case the fact finder shall designate that the child remain in the less restrictive environment.

3782 (e) Nothing in this section prevents a local mental health authority or its designee, in
3783 conjunction with the child's current mental health professional, from discharging a child from
3784 commitment or from placing a child in an environment that is less restrictive than that
3785 designated by the neutral and detached fact finder.

3786 (13) Each local mental health authority or its designee, in conjunction with the child's
3787 current treating mental health professional shall discharge any child who, in the opinion of that
3788 local authority, or its designee, and the child's current treating mental health professional, no
3789 longer meets the criteria specified in Subsection (4), except as provided by Section
3790 62A-15-705. The local authority and the mental health professional shall assure that any further
3791 supportive services required to meet the child's needs upon release will be provided.

3792 (14) Even though a child has been committed to the physical custody of a local mental
3793 health authority under this section, the child is still entitled to additional due process
3794 proceedings, in accordance with Section 62A-15-704, before any treatment that may affect a
3795 constitutionally protected liberty or privacy interest is administered. Those treatments include,
3796 but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

3797 Section 87. Section **26B-5-404**, which is renumbered from Section 62A-15-704 is
3798 renumbered and amended to read:

3799 ~~[62A-15-704]~~. **26B-5-404. Invasive treatment -- Due process proceedings.**

3800 (1) For purposes of this section, "invasive treatment" means treatment in which a
3801 constitutionally protected liberty or privacy interest may be affected, including antipsychotic
3802 medication, electroshock therapy, and psychosurgery.

3803 (2) The requirements of this section apply to all children receiving services or
3804 treatment from a local mental health authority, its designee, or its provider regardless of
3805 whether a local mental health authority has physical custody of the child or the child is
3806 receiving outpatient treatment from the local authority, its designee, or provider.

3807 (3) (a) The division shall promulgate rules, in accordance with Title 63G, Chapter 3,
3808 Utah Administrative Rulemaking Act, establishing due process procedures for children prior to
3809 any invasive treatment as follows:

3810 (i) with regard to antipsychotic medications, if either the parent or child disagrees with
3811 that treatment, a due process proceeding shall be held in compliance with the procedures
3812 established under this Subsection (3);

3813 (ii) with regard to psychosurgery and electroshock therapy, a due process proceeding
3814 shall be conducted pursuant to the procedures established under this Subsection (3), regardless
3815 of whether the parent or child agree or disagree with the treatment; and

3816 (iii) other possible invasive treatments may be conducted unless either the parent or
3817 child disagrees with the treatment, in which case a due process proceeding shall be conducted
3818 pursuant to the procedures established under this Subsection (3).

3819 (b) In promulgating the rules required by Subsection (3)(a), the division shall consider
3820 the advisability of utilizing an administrative law judge, court proceedings, a neutral and
3821 detached fact finder, and other methods of providing due process for the purposes of this
3822 section. The division shall also establish the criteria and basis for determining when invasive
3823 treatment should be administered.

3824 Section 88. Section **26B-5-405**, which is renumbered from Section 62A-15-705 is
3825 renumbered and amended to read:

3826 ~~[62A-15-705]~~. **26B-5-405. Commitment proceedings in juvenile court --**
3827 **Criteria -- Custody.**

3828 (1) (a) Subject to Subsection (1)(b), a commitment proceeding for a child may be
3829 commenced by filing a written application with the juvenile court of the county in which the
3830 child resides or is found, in accordance with the procedures described in Section 62A-15-631.

3831 (b) A commitment proceeding under this section may be commenced only after a
3832 commitment proceeding under Section 62A-15-703 has concluded without the child being
3833 committed.

3834 (2) The juvenile court shall order commitment to the physical custody of a local mental
3835 health authority if, upon completion of the hearing and consideration of the record, the juvenile
3836 court finds by clear and convincing evidence that:

3837 (a) the child has a mental illness, as defined in Section 62A-15-602;

3838 (b) the child demonstrates a risk of harm to the child or others;

3839 (c) the child is experiencing significant impairment in the child's ability to perform
3840 socially;

3841 (d) the child will benefit from the proposed care and treatment; and

3842 (e) there is no appropriate less restrictive alternative.

3843 (3) The juvenile court may not commit a child under Subsection (1) directly to the
3844 Utah State Hospital.

3845 (4) The local mental health authority has an affirmative duty to:

3846 (a) conduct periodic reviews of children committed to the local mental health
3847 authority's custody in accordance with this section; and

3848 (b) release any child who has sufficiently improved so that the local mental health
3849 authority, or the local mental authority's designee, determines that commitment is no longer
3850 appropriate.

3851 (5) If a child is committed to the custody of a local mental health authority, or the local
3852 mental health authority's designee, by the juvenile court, the local mental health authority, or
3853 the local mental health authority's designee, shall give the juvenile court written notice of the
3854 intention to release the child not fewer than five days before the day on which the child is
3855 released.

3856 Section 89. Section **26B-5-406**, which is renumbered from Section 62A-15-706 is
3857 renumbered and amended to read:

3858 ~~[62A-15-706].~~ **26B-5-406. Parent advocate.**

3859 The division shall establish the position of a parent advocate to assist parents of
3860 children with a mental illness who are subject to the procedures required by this part.

3861 Section 90. Section **26B-5-407**, which is renumbered from Section 62A-15-707 is
3862 renumbered and amended to read:

3863 ~~[62A-15-707].~~ **26B-5-407. Confidentiality of information and records --**
3864 **Exceptions -- Penalty.**

3865 (1) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records
3866 Access and Management Act, all certificates, applications, records, and reports made for the
3867 purpose of this part that directly or indirectly identify a patient or former patient or an
3868 individual whose commitment has been sought under this part, shall be kept confidential and
3869 may not be disclosed by any person except as follows:

3870 (a) the individual identified consents after reaching 18 years of age;
3871 (b) the child's parent or legal guardian consents;
3872 (c) disclosure is necessary to carry out any of the provisions of this part; or
3873 (d) a court may direct, upon its determination that disclosure is necessary for the
3874 conduct of proceedings before it, and that failure to make the disclosure would be contrary to
3875 the public interest.

3876 (2) A person who violates any provision of this section is guilty of a class B
3877 misdemeanor.

3878 Section 91. Section **26B-5-408**, which is renumbered from Section 62A-15-708 is
3879 renumbered and amended to read:

3880 ~~[62A-15-708]~~. **26B-5-408. Mechanical restraints -- Clinical record.**

3881 Mechanical restraints may not be applied to a child unless it is determined, by the local
3882 mental health authority or its designee in conjunction with the child's current treating mental
3883 health professional, that they are required by the needs of that child. Every use of a mechanical
3884 restraint and the reasons for that use shall be made a part of the child's clinical record, under the
3885 signature of the local mental health authority, its designee, and the child's current treating
3886 mental health professional.

3887 Section 92. Section **26B-5-409**, which is renumbered from Section 62A-15-709 is
3888 renumbered and amended to read:

3889 ~~[62A-15-709]~~. **26B-5-409. Habeas corpus.**

3890 Any child committed in accordance with Section 62A-15-703 is entitled to a writ of
3891 habeas corpus upon proper petition by himself or next of friend to the [~~district~~] court in the
3892 district in which he is detained.

3893 Section 93. Section **26B-5-410**, which is renumbered from Section 62A-15-710 is
3894 renumbered and amended to read:

3895 ~~[62A-15-710]~~. **26B-5-410. Restrictions and limitations -- Civil rights and**

3896 **privileges.**

3897 (1) Subject to the specific rules of the division, and except to the extent that the local
3898 mental health authority or its designee, in conjunction with the child's current treating mental
3899 health professional, determines that it is necessary for the welfare of the person to impose
3900 restrictions, every child committed to the physical custody of a local mental health authority
3901 under Section 62A-15-703 is entitled to:

3902 (a) communicate, by sealed mail or otherwise, with persons, including official
3903 agencies, inside or outside of the facility;

3904 (b) receive visitors; and

3905 (c) exercise his civil rights.

3906 (2) When any right of a child is limited or denied, the nature, extent, and reason for that
3907 limitation or denial shall be entered in the child's treatment record. Any continuing denial or
3908 limitation shall be reviewed every 30 days and shall also be entered in that treatment record.
3909 Notice of that continuing denial in excess of 30 days shall be sent to the division.

3910 (3) Notwithstanding any limitations authorized under this section on the right of
3911 communication, each child committed to the physical custody of a local mental health authority
3912 is entitled to communicate by sealed mail with his attorney, the local mental health authority,
3913 its designee, his current treating mental health professional, and the court, if commitment was
3914 court ordered. In no case may the child be denied a visit with the legal counsel or clergy of his
3915 choice.

3916 (4) Each local mental health authority shall provide appropriate and reasonable means
3917 and arrangements for informing children and their parents or legal guardians of their rights as
3918 provided in this part, and for assisting them in making and presenting requests for release.

3919 (5) All local mental health facilities shall post a statement, promulgated by the
3920 division, describing patient's rights under Utah law.

3921 Section 94. Section **26B-5-411**, which is renumbered from Section 62A-15-711 is
3922 renumbered and amended to read:

3923 ~~[62A-15-711]~~. **26B-5-411. Standards for care and treatment.**

3924 Every child is entitled to humane care and treatment and to medical care and treatment
3925 in accordance with the prevailing standards accepted in medical practice, psychiatric nursing
3926 practice, social work practice, and the practice of clinical psychology.

3927 Section 95. Section **26B-5-412**, which is renumbered from Section 62A-15-712 is
3928 renumbered and amended to read:

3929 ~~[62A-15-712]~~. **26B-5-412. Responsibilities of the division.**

3930 (1) The division shall ensure that the requirements of this part are met and applied
3931 uniformly by local mental health authorities across the state.

3932 (2) Because the division must, under Section 62A-15-103, contract with, review,
3933 approve, and oversee local mental health authority plans, and withhold funds from local mental
3934 health authorities and public and private providers for contract noncompliance or misuse of
3935 public funds, the division shall:

3936 (a) require each local mental health authority to submit its plan to the division by May
3937 1 of each year; and

3938 (b) conduct an annual program audit and review of each local mental health authority
3939 in the state, and its contract provider.

3940 (3) The annual audit and review described in Subsection (2)(b) shall, in addition to
3941 items determined by the division to be necessary and appropriate, include a review and
3942 determination regarding whether or not:

3943 (a) public funds allocated to local mental health authorities are consistent with services
3944 rendered and outcomes reported by it or its contract provider; and

3945 (b) each local mental health authority is exercising sufficient oversight and control over
3946 public funds allocated for mental health programs and services.

3947 (4) The Legislature may refuse to appropriate funds to the division if the division fails
3948 to comply with the procedures and requirements of this section.

3949 Section 96. Section **26B-5-413**, which is renumbered from Section 62A-15-713 is
3950 renumbered and amended to read:

3951 ~~[62A-15-713]~~. **26B-5-413. Contracts with local mental health authorities --**
3952 **Provisions.**

3953 When the division contracts with a local mental health authority to provide mental
3954 health programs and services in accordance with the provisions of this chapter and Title 17,
3955 Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include
3956 at least the following provisions:

3957 (1) that an independent auditor shall conduct any audit of the local mental health

3958 authority or its contract provider's programs or services, pursuant to the provisions of Title 51,
3959 Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
3960 Other Local Entities Act;

3961 (2) in addition to the requirements described in Title 51, Chapter 2a, Accounting
3962 Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the
3963 division:

3964 (a) shall prescribe guidelines and procedures, in accordance with those formulated by
3965 the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of
3966 officers, directors, and specified employees of the private contract provider, to assure the state
3967 that no personal benefit is gained from travel or other expenses; and

3968 (b) may prescribe specific items to be addressed by that audit, depending upon the
3969 particular needs or concerns relating to the local mental health authority or contract provider at
3970 issue;

3971 (3) the local mental health authority or its contract provider shall invite and include all
3972 funding partners in its auditor's pre- and exit conferences;

3973 (4) each member of the local mental health authority shall annually certify that he has
3974 received and reviewed the independent audit and has participated in a formal interview with the
3975 provider's executive officers;

3976 (5) requested information and outcome data will be provided to the division in the
3977 manner and within the timelines defined by the division;

3978 (6) all audit reports by state or county persons or entities concerning the local mental
3979 health authority or its contract provider shall be provided to the executive director of the
3980 department, the local mental health authority, and members of the contract provider's governing
3981 board; and

3982 (7) the local mental health authority or its contract provider will offer and provide
3983 mental health services to residents who are indigent and who meet state criteria for serious and
3984 persistent mental illness or severe emotional disturbance.

3985 Section 97. Section **26B-5-414**, which is renumbered from Section 62A-1-108.5 is
3986 renumbered and amended to read:

3987 ~~[62A-1-108.5]~~. **26B-5-414. Mental illness and intellectual disability**
3988 **examinations -- Responsibilities of the department.**

3989 (1) In accomplishing the department's duties to conduct a competency evaluation under
3990 Title 77, Utah Code of Criminal Procedure, and a juvenile competency evaluation under
3991 Section 80-6-402, the department shall proceed as outlined in this section and within
3992 appropriations authorized by the Legislature.

3993 (2) When the department is ordered by a court to conduct a competency evaluation, the
3994 department shall designate a forensic evaluator, selected under Subsection (4), to evaluate the
3995 defendant in the defendant's current custody or status.

3996 (3) When the department is ordered by the juvenile court to conduct a juvenile
3997 competency evaluation under Section 80-6-402, the department shall:

3998 (a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor;
3999 and

4000 (b) upon a finding of good cause and order of the court, designate a second examiner to
4001 evaluate the minor.

4002 (4) The department shall establish criteria, in consultation with the Commission on
4003 Criminal and Juvenile Justice, and shall contract with persons to conduct competency
4004 evaluations and juvenile competency evaluations under Subsections (2) and (3)(b). In making
4005 this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah
4006 Procurement Code.

4007 (5) Nothing in this section prohibits the department, at the request of defense counsel
4008 or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal
4009 Procedure, and for good cause shown, from proposing a person who has not been previously
4010 selected under Subsection (4) to contract with the department to conduct the evaluation. In
4011 selecting that person, the criteria of the department established under Subsection (4) and the
4012 provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

4013 Section 98. Section **26B-5-501**, which is renumbered from Section 62A-15-1202 is
4014 renumbered and amended to read:

4015 **Part 5. Essential Treatment and Intervention**

4016 ~~[62A-15-1202]~~. **26B-5-501. Definitions.**

4017 As used in this part:

4018 (1) "Emergency, life saving treatment" means treatment that is:

4019 (a) provided at a licensed health care facility or licensed human services program;

- 4020 (b) provided by a licensed health care professional;
- 4021 (c) necessary to save the life of the patient; and
- 4022 (d) required due to the patient's:
- 4023 (i) use of an illegal substance; or
- 4024 (ii) excessive use or misuse of a prescribed medication.
- 4025 (2) "Essential treatment examiner" means:
- 4026 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as
- 4027 specifically qualified by training or experience in the diagnosis of substance use disorder; or
- 4028 (b) a licensed mental health professional designated by the division as specially
- 4029 qualified by training and who has at least five years' continual experience in the treatment of
- 4030 substance use disorder.
- 4031 (3) "Relative" means an adult who is a spouse, parent, stepparent, grandparent, child,
- 4032 or sibling of an individual.
- 4033 (4) "Serious harm" means the individual, due to substance use disorder, is at serious
- 4034 risk of:
- 4035 (a) drug overdose;
- 4036 (b) suicide;
- 4037 (c) serious bodily self-injury;
- 4038 (d) serious bodily injury because the individual is incapable of providing the basic
- 4039 necessities of life, including food, clothing, or shelter; or
- 4040 (e) causing or attempting to cause serious bodily injury to another individual.
- 4041 (5) "Substance use disorder" means the same as that term is defined in the current
- 4042 edition of the Diagnostic and Statistical Manual of Mental Disorders published by the
- 4043 American Psychiatric Association.

4044 Section 99. Section **26B-5-502**, which is renumbered from Section 62A-15-1201 is

4045 renumbered and amended to read:

4046 ~~[62A-15-1201]~~. **26B-5-502**. **Statement of legislative intent.**

4047 To address the serious public health crisis of substance use disorder related deaths and

4048 life-threatening opioid addiction, and to allow and enable caring relatives to seek essential

4049 treatment and intervention, as may be necessary, on behalf of a sufferer of a substance use

4050 disorder, the Legislature enacts the Essential Treatment and Intervention Act.

4051 Section 100. Section **26B-5-503**, which is renumbered from Section 62A-15-1203 is
4052 renumbered and amended to read:

4053 ~~[62A-15-1203]~~. **26B-5-503. Petition for essential treatment -- Contents --**
4054 **Commitment to pay.**

4055 (1) A relative seeking essential treatment and intervention for a sufferer of a substance
4056 use disorder may file a petition with the [~~district~~] court of the county in which the sufferer of
4057 the substance use disorder resides or is found.

4058 (2) The petition shall include:

4059 (a) the respondent's:

4060 (i) legal name;

4061 (ii) date of birth, if known;

4062 (iii) social security number, if known; and

4063 (iv) residence and current location, if known;

4064 (b) the petitioner's relationship to the respondent;

4065 (c) the name and residence of the respondent's legal guardian, if any and if known;

4066 (d) a statement that the respondent:

4067 (i) is suffering from a substance use disorder; and

4068 (ii) if not treated for the substance use disorder presents a serious harm to self or

4069 others;

4070 (e) the factual basis for the statement described in Subsection (2)(d); and

4071 (f) at least one specified local substance abuse authority or approved treatment facility

4072 or program where the respondent may receive essential treatment.

4073 (3) Any petition filed under this section:

4074 (a) may be accompanied by proof of health insurance to provide for the respondent's
4075 essential treatment;

4076 (b) shall be accompanied by a binding commitment to pay, signed by the petitioner or
4077 another individual, obligating the petitioner or other individual to pay all treatment costs
4078 beyond those covered by the respondent's health insurance policy for court-ordered essential
4079 treatment for the respondent; and

4080 (c) may be accompanied by documentation of emergency, life saving treatment
4081 provided to the respondent.

4082 (4) Nothing in this section alters the contractual relationship between a health insurer
4083 and an insured individual.

4084 Section 101. Section **26B-5-504**, which is renumbered from Section 62A-15-1204 is
4085 renumbered and amended to read:

4086 ~~[62A-15-1204]~~. **26B-5-504. Criteria for essential treatment and intervention.**

4087 A [district] court shall order an individual to undergo essential treatment for a substance
4088 use disorder when the [district] court determines by clear and convincing evidence that the
4089 individual:

- 4090 (1) suffers from a substance use disorder;
- 4091 (2) can reasonably benefit from the essential treatment;
- 4092 (3) is unlikely to substantially benefit from a less-restrictive alternative treatment; and
- 4093 (4) presents a serious harm to self or others.

4094 Section 102. Section **26B-5-505**, which is renumbered from Section 62A-15-1205 is
4095 renumbered and amended to read:

4096 ~~[62A-15-1205]~~. **26B-5-505. Proceeding for essential treatment -- Duties of**
4097 **court -- Disposition.**

4098 (1) A [district] court shall review the assertions contained in the verified petition
4099 described in Section 62A-15-1203.

4100 (2) If the court determines that the assertions, if true, are sufficient to order the
4101 respondent to undergo essential treatment, the court shall:

4102 (a) set an expedited date for a time-sensitive hearing to determine whether the court
4103 should order the respondent to undergo essential treatment for a substance use disorder;

4104 (b) provide notice of:

4105 (i) the contents of the petition, including all assertions made;

4106 (ii) a copy of any order for detention or examination;

4107 (iii) the date of the hearing;

4108 (iv) the purpose of the hearing;

4109 (v) the right of the respondent to be represented by legal counsel; and

4110 (vi) the right of the respondent to request a preliminary hearing before submitting to an
4111 order for examination;

4112 (c) provide notice to:

- 4113 (i) the respondent;
- 4114 (ii) the respondent's guardian, if any; and
- 4115 (iii) the petitioner; and
- 4116 (d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be
- 4117 examined before the hearing date:
- 4118 (i) by two essential treatment examiners; or
- 4119 (ii) by one essential treatment examiner, if documentation before the court
- 4120 demonstrates that the respondent received emergency, life saving treatment:
- 4121 (A) within 30 days before the day on which the petition for essential treatment and
- 4122 intervention was filed; or
- 4123 (B) during the pendency of the petition for essential treatment and intervention.
- 4124 (3) An essential treatment examiner shall examine the respondent to determine:
- 4125 (a) whether the respondent meets each of the criteria described in Section
- 4126 62A-15-1204;
- 4127 (b) the severity of the respondent's substance use disorder, if any;
- 4128 (c) what forms of treatment would substantially benefit the respondent, if the examiner
- 4129 determines that the respondent has a substance use disorder; and
- 4130 (d) the appropriate duration for essential treatment, if essential treatment is
- 4131 recommended.
- 4132 (4) An essential treatment examiner shall certify the examiner's findings to the court
- 4133 within 24 hours after completion of the examination.
- 4134 (5) The court may, based upon the findings of an essential treatment examiner,
- 4135 terminate the proceedings and dismiss the petition.
- 4136 (6) The parties may, at any time, make a binding stipulation to an essential treatment
- 4137 plan and submit that plan to the court for court order.
- 4138 (7) At the hearing, the petitioner and the respondent may testify and may
- 4139 cross-examine witnesses.
- 4140 (8) If, upon completion of the hearing, the court finds that the criteria in Section
- 4141 62A-15-1204 are met, the court shall order essential treatment for an initial period that:
- 4142 (a) does not exceed 360 days, subject to periodic review as provided in Section
- 4143 62A-15-1206; and

4144 (b) (i) is recommended by an essential treatment examiner; or

4145 (ii) is otherwise agreed to at the hearing.

4146 (9) The court shall designate the facility for the essential treatment, as:

4147 (a) described in the petition;

4148 (b) recommended by an essential treatment examiner; or

4149 (c) agreed to at the hearing.

4150 (10) The court shall issue an order that includes the court's findings and the reasons for

4151 the court's determination.

4152 (11) The court may order the petitioner to be the respondent's personal representative,

4153 as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

4154 Section 103. Section **26B-5-506**, which is renumbered from Section 62A-15-1205.5 is

4155 renumbered and amended to read:

4156 ~~[62A-15-1205.5].~~ **26B-5-506. Failure to comply with court order.**

4157 (1) The provisions of this section apply after a respondent has been afforded full due
4158 process rights, as provided in this Essential Treatment and Intervention Act, including notice,
4159 an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that
4160 the evidence meets the clear and convincing standard, as described in Section 62A-15-1204, for
4161 a court to order essential treatment and intervention.

4162 (2) When a respondent fails to comply with a court order issued under Subsection
4163 62A-15-1205(2)(d) or (10), the court may:

4164 (a) find the respondent in contempt under Subsection 78B-6-301(5); and

4165 (b) issue a warrant of commitment under Section 78B-6-312.

4166 (3) When a peace officer executes a warrant issued under this section, the officer shall
4167 take the respondent into protective custody and transport the respondent to the location
4168 specified by the court.

4169 (4) Notwithstanding Subsection (3), if a peace officer determines through the peace
4170 officer's experience and training that taking the respondent into protective custody or
4171 transporting the respondent would increase the risk of substantial danger to the respondent or
4172 others, a peace officer may exercise discretion to not take the respondent into custody or
4173 transport the respondent, as permitted by policies and procedures established by the peace
4174 officer's law enforcement agency and any applicable federal or state statute, or case law.

4175 Section 104. Section **26B-5-507**, which is renumbered from Section 62A-15-1206 is
4176 renumbered and amended to read:

4177 ~~[62A-15-1206]~~. **26B-5-507**. **Periodic review -- Discharge.**

4178 A local substance abuse authority or an approved treatment facility or program that
4179 provides essential treatment shall:

4180 (1) at least every 90 days after the day on which a patient is admitted, unless a court
4181 orders otherwise, examine or cause to be examined a patient who has been ordered to receive
4182 essential treatment;

4183 (2) notify the patient and the patient's personal representative or guardian, if any, of the
4184 substance and results of the examination;

4185 (3) discharge an essential treatment patient if the examination determines that the
4186 conditions justifying essential treatment and intervention no longer exist; and

4187 (4) after discharging an essential treatment patient, send a report describing the reasons
4188 for discharge to the clerk of the court where the proceeding for essential treatment was held and
4189 to the patient's personal representative or guardian, if any.

4190 Section 105. Section **26B-5-508**, which is renumbered from Section 62A-15-1207 is
4191 renumbered and amended to read:

4192 ~~[62A-15-1207]~~. **26B-5-508**. **Seventy-two-hour emergency treatment pending**
4193 **a final court order.**

4194 (1) A court may order a respondent to be hospitalized for up to 72 hours if:

4195 (a) an essential treatment examiner has examined the respondent and certified that the
4196 respondent meets the criteria described in Section 62A-15-1204; and

4197 (b) the court finds by clear and convincing evidence that the respondent presents an
4198 imminent threat of serious harm to self or others as a result of a substance use disorder.

4199 (2) An individual who is admitted to a hospital under this section shall be released
4200 from the hospital within 72 hours after admittance, unless a treating physician or essential
4201 treatment examiner determines that the individual continues to pose an imminent threat of
4202 serious harm to self or others.

4203 (3) If a treating physician or essential treatment examiner makes the determination
4204 described in Subsection (2), the individual may be detained for as long as the threat of serious
4205 harm remains imminent, but not more than 10 days after the day on which the individual was

4206 hospitalized, unless a court orders otherwise.

4207 (4) A treating physician or an essential treatment examiner shall, as frequently as
4208 practicable, examine an individual hospitalized under this section and release the individual if
4209 it is determined that a threat of imminent serious harm no longer exists.

4210 Section 106. Section **26B-5-509**, which is renumbered from Section 62A-15-1207.5 is
4211 renumbered and amended to read:

4212 ~~[62A-15-1207.5]~~. **26B-5-509. Emergency, life saving treatment -- Temporary**
4213 **personal representative.**

4214 (1) When an individual receives emergency, life saving treatment:

4215 (a) a licensed health care professional, at the health care facility where the emergency,
4216 life saving treatment is provided, may ask the individual who, if anyone, may be contacted and
4217 informed regarding the individual's treatment;

4218 (b) a treating physician may hold the individual in the health care facility for up to 48
4219 hours, if the treating physician determines that the individual poses a serious harm to self or
4220 others; and

4221 (c) a relative of the individual may petition a court to be designated as the individual's
4222 personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the
4223 individual's medical and mental health care related to a substance use disorder.

4224 (2) The petition described in Subsection (1)(c) shall include:

4225 (a) the respondent's:

4226 (i) legal name;

4227 (ii) date of birth, if known;

4228 (iii) social security number, if known; and

4229 (iv) residence and current location, if known;

4230 (b) the petitioner's relationship to the respondent;

4231 (c) the name and residence of the respondent's legal guardian, if any and if known;

4232 (d) a statement that the respondent:

4233 (i) is suffering from a substance use disorder; and

4234 (ii) has received, within the last 72 hours, emergency, life saving treatment;

4235 (e) the factual basis for the statement described in Subsection (2)(d); and

4236 (f) the name of any other individual, if any, who may be designated as the respondent's

4237 personal representative.

4238 (3) A court shall grant a petition for designation as a personal representative, ex parte,
4239 if it appears from the petition for designation as a court-designated personal representative that:

4240 (a) the respondent is suffering from a substance use disorder;

4241 (b) the respondent received emergency, life saving treatment within 10 days before the
4242 day on which the petition for designation as a personal representative is filed;

4243 (c) the petitioner is a relative of the respondent; and

4244 (d) no other individual is otherwise designated as the respondent's personal
4245 representative.

4246 (4) When a court grants, ex parte, a petition for designation as a personal
4247 representative, the court:

4248 (a) shall provide notice to the respondent;

4249 (b) shall order the petitioner to be the respondent's personal representative for 10 days
4250 after the day on which the court designates the petitioner as the respondent's personal

4251 representative; and

4252 (c) may extend the duration of the order:

4253 (i) for good cause shown, after the respondent has been notified and given a proper and
4254 sufficient opportunity to respond; or

4255 (ii) if the respondent consents to an extension.

4256 Section 107. Section **26B-5-510**, which is renumbered from Section 62A-15-1208 is
4257 renumbered and amended to read:

4258 ~~[62A-15-1208].~~ **26B-5-510. Confidentiality.**

4259 (1) The purpose of [~~Part 12, Essential Treatment and Intervention Act,~~] this part is to
4260 provide a process for essential treatment and intervention to save lives, preserve families, and
4261 reduce substance use disorder, including opioid addiction.

4262 (2) An essential treatment petition and any other document filed in connection with the
4263 petition for essential treatment is confidential and protected.

4264 (3) A hearing on an essential treatment petition is closed to the public, and only the
4265 following individuals and their legal counsel may be admitted to the hearing:

4266 (a) parties to the petition;

4267 (b) the essential treatment examiners who completed the court-ordered examination

4268 under Subsection 62A-15-1205(3);

4269 (c) individuals who have been asked to give testimony; and

4270 (d) individuals to whom notice of the hearing is required to be given under Subsection
4271 62A-15-1205(2)(c).

4272 (4) Testimony, medical evaluations, the petition, and other documents directly related
4273 to the adjudication of the petition and presented to the court in the interest of the respondent
4274 may not be construed or applied as an admission of guilt to a criminal offense.

4275 (5) A court may, if applicable, enforce a previously existing warrant for a respondent or
4276 a warrant for a charge that is unrelated to the essential treatment petition filed under this part.

4277 Section 108. Section **26B-5-511**, which is renumbered from Section 62A-15-1209 is
4278 renumbered and amended to read:

4279 ~~[62A-15-1209]~~. **26B-5-511**. **Essential treatment for substance use disorder --**
4280 **Rights of patient.**

4281 All applicable rights guaranteed to a patient by Sections 62A-15-641 and 62A-15-642
4282 shall be guaranteed to an individual who is ordered to undergo essential treatment for a
4283 substance use disorder.

4284 Section 109. Section **26B-5-601**, which is renumbered from Section 62A-17-102 is
4285 renumbered and amended to read:

4286 **Part 6. Mental Health Intervention and Treatment Programs**

4287 ~~[62A-17-102]~~. **26B-5-601**. **Definitions.**

4288 As used in this ~~[chapter]~~ part:

4289 (1) "211" means the abbreviated dialing code assigned by the Federal Communications
4290 Commission for consumer access to community information and referral services.

4291 (2) "ACT team personnel" means a licensed psychiatrist or mental health therapist, or
4292 another individual, as determined by the division, who is part of an ACT team.

4293 ~~[(2)]~~ (3) "Approved 211 service provider" means a public or nonprofit agency or
4294 organization designated by the department to provide 211 services.

4295 (4) "Assertive community treatment team" or "ACT team" means a mobile team of
4296 medical and mental health professionals that provides assertive community outreach treatment
4297 and, based on the individual circumstances of each case, coordinates with other medical
4298 providers and appropriate community resources.

4299 (5) (a) "Assertive community treatment" means mental health services and on-site
 4300 intervention that a person renders to an individual with a mental illness.

4301 (b) "Assertive community treatment" includes the provision of assessment and
 4302 treatment plans, rehabilitation, support services, and referrals to other community resources.

4303 (6) "Mental health therapist" means the same as that term is defined in Section
 4304 58-60-102.

4305 (7) "Mental illness" means the same as that term is defined in Section 62A-15-602.

4306 (8) "Psychiatrist" means the same as that term is defined in Section 62A-15-1601.

4307 ~~[(3)]~~ (9) (a) "Utah 211" means an information and referral system that:

4308 (i) maintains a database of:

4309 (A) providers of health and human services; and

4310 (B) volunteer opportunities and coordinators throughout the state;

4311 (ii) assists individuals, families, and communities at no cost in identifying,

4312 understanding, and accessing the providers of health and human services; and

4313 (iii) works collaboratively with state agencies, local governments, community-based
 4314 organizations, not-for-profit organizations, organizations active in disaster relief, and
 4315 faith-based organizations.

4316 (b) "Utah 211" does not mean service provided by 911 and first responders.

4317 Section 110. Section **26B-5-602**, which is renumbered from Section 62A-17-103 is
 4318 renumbered and amended to read:

4319 ~~[62A-17-103].~~ **26B-5-602. Designated approved 211 service provider --**

4320 **Department responsibilities.**

4321 (1) The department shall designate an approved 211 service provider to provide
 4322 information to Utah citizens about health and human services available in the citizen's
 4323 community.

4324 (2) Only a service provider approved by the department may provide 211 telephone
 4325 services in this state.

4326 (3) The department shall approve a 211 service provider after considering the
 4327 following:

4328 (a) the ability of the proposed 211 service provider to meet the national 211 standards
 4329 recommended by the Alliance of Information and Referral Systems;

- 4330 (b) the financial stability of the proposed 211 service provider;
4331 (c) the community support for the proposed 211 service provider;
4332 (d) the relationship between the proposed 211 service provider and other information
4333 and referral services; and
4334 (e) other criteria as the department considers appropriate.

4335 (4) The department shall coordinate with the approved 211 service provider and other
4336 state and local agencies to ensure the joint development and maintenance of a statewide
4337 information database for use by the approved 211 service provider.

4338 Section 111. Section **26B-5-603**, which is renumbered from Section 62A-17-104 is
4339 renumbered and amended to read:

4340 ~~[62A-17-104]~~. **26B-5-603**. **Utah 211 created -- Responsibilities.**

4341 (1) The designated 211 service provider described in Section 62A-17-102 shall be
4342 known as Utah 211.

4343 (2) Utah 211 shall, as appropriations allow:

4344 (a) by 2014:

4345 (i) provide the services described in this Subsection (2) 24 hours a day, seven days a
4346 week;

4347 (ii) abide by the key standards for 211 programs, as specified in the Standards for
4348 Professional Information and Referral Requirements for Alliance of Information Systems
4349 Accreditation and Operating 211 systems; and

4350 (iii) be a point of entry for disaster-related information and referral;

4351 (b) track types of calls received and referrals made;

4352 (c) develop, coordinate, and implement a statewide information and referral system
4353 that integrates existing community-based structures with state and local agencies;

4354 (d) provide information relating to:

4355 (i) health and human services; and

4356 (ii) volunteer opportunities;

4357 (e) create an online, searchable database to provide information to the public about the
4358 health and human services provided by public or private entities throughout the state, and
4359 ensure that:

4360 (i) the material on the searchable database is indexed:

4361 (A) geographically to inform an individual about the health and human services
4362 provided in the area where the individual lives; and

4363 (B) by type of service provided; and

4364 (ii) the searchable database contains links to the Internet sites of any local provider of
4365 health and human services, if possible, and include:

4366 (A) the name, address, and phone number of organizations providing health and human
4367 services in a county; and

4368 (B) a description of the type of services provided;

4369 (f) be responsible, in collaboration with state agencies, for raising community
4370 awareness about available health and human services; and

4371 (g) host meetings on a quarterly basis until calendar year 2014, and on a biannual basis
4372 beginning in 2014, to seek input and guidance from state agencies, local governments,
4373 community-based organizations, not-for-profit organizations, and faith-based organizations.

4374 Section 112. Section **26B-5-604**, which is renumbered from Section 62A-17-105 is
4375 renumbered and amended to read:

4376 ~~[62A-17-105]~~. **26B-5-604. Other state agencies and local governments.**

4377 (1) A state agency or local government institution that provides health and human
4378 services, or a public or private entity receiving state-appropriated funds to provide health and
4379 human services, shall provide Utah 211 with information, in a form determined by Utah 211,
4380 about the services the agency or entity provides for inclusion in the statewide information and
4381 referral system.

4382 (2) A state agency or local government institution that provides health and human
4383 services may not establish a new public telephone line or hotline, other than an emergency first
4384 responder hotline, to provide information or referrals unless the agency or institution first:

4385 (a) consults with Utah 211 about using the existing 211 to provide access to the
4386 information or referrals; and

4387 (b) assesses whether a new line or the existing 211 program would be more cost
4388 effective.

4389 (3) Nothing in this section prohibits a state agency or local government institution from
4390 starting a public telephone line or hotline in an emergency situation.

4391 (4) State agencies, local governments, community-based organizations, not-for-profit

4392 organizations, faith-based organizations, and businesses that engage in providing human
4393 services may contract with Utah 211 to provide specialized projects, including:

- 4394 (a) public health campaigns;
- 4395 (b) seasonal community services; and
- 4396 (c) expanded point of entry services.

4397 Section 113. Section **26B-5-605**, which is renumbered from Section 62A-17-106 is
4398 renumbered and amended to read:

4399 ~~[62A-17-106]~~. **26B-5-605. Immunity from liability.**

4400 (1) Except as provided in Subsection (2), Utah 211, its employees, directors, officers,
4401 and information specialists are not liable to any person in a civil action for injury or loss as a
4402 result of an act or omission of Utah 211, its employees, directors, officers, or information
4403 specialists, in connection with:

- 4404 (a) developing, adopting, implementing, maintaining, or operating the Utah 211
4405 system;
- 4406 (b) making Utah 211 available for use by the public; or
- 4407 (c) providing 211 services.

4408 (2) Utah 211, its employees, directors, officers, and information specialists shall be
4409 liable to any person in a civil action for an injury or loss resulting from willful or wanton
4410 misconduct.

4411 Section 114. Section **26B-5-606**, which is renumbered from Section 62A-15-1802 is
4412 renumbered and amended to read:

4413 ~~[62A-15-1802]~~. **26B-5-606. Division duties -- ACT team license creation.**

4414 (1) To promote the availability of assertive community treatment, the division shall
4415 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4416 that create a certificate for ACT team personnel and ACT teams, that includes:

- 4417 (a) the standards the division establishes under Subsection (2); and
- 4418 (b) guidelines for:
 - 4419 (i) required training and experience of ACT team personnel; and
 - 4420 (ii) the coordination of assertive community treatment and other community resources.

4421 (2) (a) The division shall:

- 4422 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

4423 make rules that establish standards that an applicant is required to meet to qualify for the
4424 certifications described in Subsection (1); and

4425 (ii) create a statewide ACT team plan that:

4426 (A) identifies statewide assertive community treatment needs, objectives, and
4427 priorities; and

4428 (B) identifies the equipment, facilities, personnel training, and other resources
4429 necessary to provide assertive community treatment.

4430 (b) The division may delegate the ACT team plan requirement described in Subsection
4431 (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community
4432 outreach treatment.

4433 Section 115. Section **26B-5-607**, which is renumbered from Section 62A-15-1803 is
4434 renumbered and amended to read:

4435 ~~[62A-15-1803]~~. **26B-5-607. Grants for development of an ACT team.**

4436 (1) The division shall award grants for the development of one ACT team to provide
4437 assertive community treatment to individuals in the state.

4438 (2) The division shall prioritize the award of a grant described in Subsection (1) to
4439 entities, based on:

4440 (a) the number of individuals the proposed ACT team will serve; and

4441 (b) the percentage of matching funds the entity will provide to develop the proposed
4442 ACT team.

4443 (3) An entity does not need to have resources already in place to be awarded a grant
4444 described in Subsection (1).

4445 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
4446 Administrative Rulemaking Act, for the application and award of the grants described in
4447 Subsection (1).

4448 Section 116. Section **26B-5-608**, which is renumbered from Section 62A-15-1804 is
4449 renumbered and amended to read:

4450 ~~[62A-15-1804]~~. **26B-5-608. Housing assistance program for individuals**
4451 **discharged from the Utah State Hospital and receiving assertive community treatment.**

4452 (1) (a) The division shall, within funds appropriated by the Legislature for this purpose,
4453 implement and manage the operation of a housing assistance program in consultation with the

4454 Utah State Hospital, established in Section 62A-15-601, and one or more housing authorities,
4455 associations of governments, or nonprofit entities.

4456 (b) The housing assistance program shall provide the housing assistance described in
4457 Subsection (1)(c) to individuals:

4458 (i) who are discharged from the Utah State Hospital; and

4459 (ii) who the division determines would benefit from assertive community treatment.

4460 (c) The housing assistance provided under the housing assistance program may
4461 include:

4462 (i) subsidizing rent payments for housing;

4463 (ii) subsidizing the provision of temporary or transitional housing; or

4464 (iii) providing money for one-time housing barrier assistance, including rental housing
4465 application fees, utility hookup fees, or rental housing security deposits.

4466 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
4467 Administrative Rulemaking Act, to establish procedures for the operation of the housing
4468 assistance program described in Subsection (1).

4469 (3) The division shall report to the Health and Human Services Interim Committee
4470 each year before November 30 regarding:

4471 (a) the entities the division consulted with under Subsection (1)(a);

4472 (b) the number of individuals who are benefitting from the housing assistance program
4473 described in Subsection (1);

4474 (c) the type of housing assistance provided under the housing assistance program
4475 described in Subsection (1);

4476 (d) the average monthly dollar amount provided to individuals under the housing
4477 assistance program described in Subsection (1); and

4478 (e) recommendations regarding improvements or changes to the housing assistance
4479 program described in Subsection (1).

4480 Section 117. Section **26B-5-609**, which is renumbered from Section 62A-15-1402 is
4481 renumbered and amended to read:

4482 ~~[62A-15-1402]~~. **26B-5-609**. **Department and division duties -- MCOT license**
4483 **creation.**

4484 (1) As used in this section:

4485 (a) "Commission" means the Behavioral Health Crisis Response Commission created
4486 in Section 63C-18-202.

4487 (b) "Emergency medical service personnel" means the same as that term is defined in
4488 Section 26-8a-102.

4489 (c) "Emergency medical services" means the same as that term is defined in Section
4490 26-8a-102.

4491 (d) "MCOT certification" means the certification created in this part for MCOT
4492 personnel and mental health crisis outreach services.

4493 (e) "MCOT personnel" means a licensed mental health therapist or other mental health
4494 professional, as determined by the division, who is a part of a mobile crisis outreach team.

4495 (f) "Mental health crisis" means a mental health condition that manifests itself by
4496 symptoms of sufficient severity that a prudent layperson who possesses an average knowledge
4497 of mental health issues could reasonably expect the absence of immediate attention or
4498 intervention to result in:

4499 (i) serious jeopardy to the individual's health or well-being; or

4500 (ii) a danger to others.

4501 (g) (i) "Mental health crisis services" means mental health services and on-site
4502 intervention that a person renders to an individual suffering from a mental health crisis.

4503 (ii) "Mental health crisis services" includes the provision of safety and care plans,
4504 stabilization services offered for a minimum of 60 days, and referrals to other community
4505 resources.

4506 (h) "Mental health therapist" means the same as that term is defined in Section
4507 58-60-102.

4508 (i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
4509 mental health professionals that provides mental health crisis services and, based on the
4510 individual circumstances of each case, coordinates with local law enforcement, emergency
4511 medical service personnel, and other appropriate state or local resources.

4512 [+](2) To promote the availability of comprehensive mental health crisis services
4513 throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3,
4514 Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and
4515 MCOTs, including:

- 4516 (a) the standards the division establishes under Subsection [~~(2)~~] (3); and
 4517 (b) guidelines for:
 4518 (i) credit for training and experience; and
 4519 (ii) the coordination of:
 4520 (A) emergency medical services and mental health crisis services;
 4521 (B) law enforcement, emergency medical service personnel, and mobile crisis outreach
 4522 teams; and
 4523 (C) temporary commitment in accordance with Section 62A-15-629.
 4524 [~~(2)~~] (3) (a) With recommendations from the commission, the division shall:
 4525 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 4526 make rules that establish standards that an applicant is required to meet to qualify for the
 4527 MCOT certification described in Subsection (1); and
 4528 (ii) create a statewide MCOT plan that:
 4529 (A) identifies statewide mental health crisis services needs, objectives, and priorities;
 4530 and
 4531 (B) identifies the equipment, facilities, personnel training, and other resources
 4532 necessary to provide mental health crisis services.
 4533 (b) The division may delegate the MCOT plan requirement described in Subsection
 4534 (2)(a)(ii) to a contractor with which the division contracts to provide mental health crisis
 4535 services.
 4536 Section 118. Section **26B-5-610**, which is renumbered from Section 62A-15-1302 is
 4537 renumbered and amended to read:
 4538 **[62A-15-1302]. 26B-5-610. Contracts for statewide mental health crisis line**
 4539 **and statewide warm line -- Crisis worker and certified peer support specialist**
 4540 **qualification or certification -- Operational standards.**
 4541 (1) As used in this section:
 4542 (a) "Certified peer support specialist" means an individual who:
 4543 (i) meets the standards of qualification or certification that the division sets, in
 4544 accordance with Subsection (3); and
 4545 (ii) staffs the statewide warm line under the supervision of at least one mental health
 4546 therapist.

4547 (b) "Commission" means the Behavioral Health Crisis Response Commission created
4548 in Section 63C-18-202.

4549 (c) "Crisis worker" means an individual who:

4550 (i) meets the standards of qualification or certification that the division sets, in
4551 accordance with Subsection (3); and

4552 (ii) staffs the statewide mental health crisis line, the statewide warm line, or a local
4553 mental health crisis line under the supervision of at least one mental health therapist.

4554 (d) "Local mental health crisis line" means a phone number or other response system
4555 that is:

4556 (i) accessible within a particular geographic area of the state; and

4557 (ii) intended to allow an individual to contact and interact with a qualified mental or
4558 behavioral health professional.

4559 (e) "Mental health crisis" means the same as that term is defined in Section
4560 62A-15-1401.

4561 (f) "Mental health therapist" means the same as that term is defined in Section
4562 58-60-102.

4563 (g) "Statewide mental health crisis line" means a statewide phone number or other
4564 response system that allows an individual to contact and interact with a qualified mental or
4565 behavioral health professional 24 hours per day, 365 days per year.

4566 (h) "Statewide warm line" means a statewide phone number or other response system
4567 that allows an individual to contact and interact with a qualified mental or behavioral health
4568 professional or a certified peer support specialist.

4569 ~~(1)~~ (2) (a) The division shall enter into a new contract or modify an existing contract
4570 to manage and operate, in accordance with this part, the statewide mental health crisis line and
4571 the statewide warm line.

4572 (b) Through the contracts described in Subsection ~~(1)(a)~~ (2)(a) and in consultation
4573 with the commission, the division shall set standards of care and practice for:

4574 (i) the mental health therapists and crisis workers who staff the statewide mental health
4575 crisis line; and

4576 (ii) the mental health therapists, crisis workers, and certified peer support specialists
4577 who staff the statewide warm line.

4578 ~~(2)~~ (3) (a) The division shall establish training and minimum standards for the
4579 qualification or certification of:

4580 (i) crisis workers who staff the statewide mental health crisis line, the statewide warm
4581 line, and local mental health crisis lines; and

4582 (ii) certified peer support specialists who staff the statewide warm line.

4583 (b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
4584 Administrative Rulemaking Act, necessary to establish the training and minimum standards
4585 described in Subsection (2)(a).

4586 Section 119. Section **26B-5-611**, which is renumbered from Section 62A-15-1101 is
4587 renumbered and amended to read:

4588 ~~[62A-15-1101]~~. **26B-5-611. Suicide prevention -- Reporting requirements.**

4589 (1) As used in this section:

4590 (a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory
4591 Council created in Section 63M-7-301.

4592 (b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201
4593 within the Department of Public Safety.

4594 (c) "Coalition" means the Statewide Suicide Prevention Coalition created under
4595 Subsection (3).

4596 (d) "Coordinator" means the state suicide prevention coordinator appointed under
4597 Subsection (2).

4598 (e) "Fund" means the Governor's Suicide Prevention Fund created in Section
4599 26A-1-3XX.

4600 (f) "Intervention" means an effort to prevent a person from attempting suicide.

4601 (g) "Legal intervention" means an incident in which an individual is shot by another
4602 individual who has legal authority to use deadly force.

4603 (h) "Postvention" means intervention after a suicide attempt or a suicide death to
4604 reduce risk and promote healing.

4605 (i) "Shooter" means an individual who uses a gun in an act that results in the death of
4606 the actor or another individual, whether the act was a suicide, homicide, legal intervention, act
4607 of self-defense, or accident.

4608 ~~(+)~~ (2) The division shall appoint a state suicide prevention coordinator to administer

4609 a state suicide prevention program composed of suicide prevention, intervention, and
4610 postvention programs, services, and efforts.

4611 ~~[(2)]~~ (3) The coordinator shall:

4612 (a) establish a Statewide Suicide Prevention Coalition with membership from public
4613 and private organizations and Utah citizens; and

4614 (b) appoint a chair and co-chair from among the membership of the coalition to lead
4615 the coalition.

4616 ~~[(3)]~~ (4) The state suicide prevention program may include the following components:

4617 (a) delivery of resources, tools, and training to community-based coalitions;

4618 (b) evidence-based suicide risk assessment tools and training;

4619 (c) town hall meetings for building community-based suicide prevention strategies;

4620 (d) suicide prevention gatekeeper training;

4621 (e) training to identify warning signs and to manage an at-risk individual's crisis;

4622 (f) evidence-based intervention training;

4623 (g) intervention skills training;

4624 (h) postvention training; or

4625 (i) a public education campaign to improve public awareness about warning signs of
4626 suicide and suicide prevention resources.

4627 ~~[(4)]~~ (5) The coordinator shall coordinate with the following to gather statistics, among
4628 other duties:

4629 (a) local mental health and substance abuse authorities;

4630 (b) the State Board of Education, including the public education suicide prevention
4631 coordinator described in Section 53G-9-702;

4632 (c) the Department of Health;

4633 (d) health care providers, including emergency rooms;

4634 (e) federal agencies, including the Federal Bureau of Investigation;

4635 (f) other unbiased sources; and

4636 (g) other public health suicide prevention efforts.

4637 ~~[(5)]~~ (6) The coordinator shall provide a written report to the Health and Human
4638 Services Interim Committee, at or before the October meeting every year, on:

4639 (a) implementation of the state suicide prevention program, as described in Subsections

4640 ~~[(1) and (3)] (2) and (4);~~

4641 (b) data measuring the effectiveness of each component of the state suicide prevention
4642 program;

4643 (c) funds appropriated for each component of the state suicide prevention program; and

4644 (d) five-year trends of suicides in Utah, including subgroups of youths and adults and
4645 other subgroups identified by the state suicide prevention coordinator.

4646 ~~[(6)] (7)~~ The coordinator shall, in consultation with the bureau, implement and manage
4647 the operation of the firearm safety program described in Subsection 62A-15-103(3).

4648 ~~[(7)] (8)~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
4649 Act, the division shall make rules:

4650 (a) governing the implementation of the state suicide prevention program, consistent
4651 with this section; and

4652 (b) in conjunction with the bureau, defining the criteria for employers to apply for
4653 grants under the Suicide Prevention Education Program described in Section 62A-15-103.1,
4654 which shall include:

4655 (i) attendance at the suicide prevention education course described in Subsection
4656 62A-15-103(3); and

4657 (ii) distribution of the firearm safety brochures or packets created in Subsection
4658 62A-15-103(3), but does not require the distribution of a cable-style gun lock with a firearm if
4659 the firearm already has a trigger lock or comparable safety mechanism.

4660 ~~[(8)] (9)~~ As funding by the Legislature allows, the coordinator shall award grants, not
4661 to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the
4662 needs of children who have been served by the Division of Juvenile Justice Services.

4663 ~~[(9)] (10)~~ The coordinator and the coalition shall submit to the advisory council, no
4664 later than October 1 each year, a written report detailing the previous fiscal year's activities to
4665 fund, implement, and evaluate suicide prevention activities described in this section.

4666 Section 120. Section **26B-5-612**, which is renumbered from Section 26-1-43 is
4667 renumbered and amended to read:

4668 ~~[26-1-43]~~. **26B-5-612**. **Integrated behavioral health care grant program.**

4669 (1) As used in this section:

4670 (a) "Integrated behavioral health care services" means coordinated physical and

4671 behavioral health care services for one patient.

4672 (b) "Local mental health authority" means a local mental health authority described in
4673 Section 17-43-301.

4674 (c) "Project" means a project described in Subsection (2).

4675 (2) Before July 1 of each year, the department shall issue a request for proposals in
4676 accordance with this section to award a grant to a local mental health authority for development
4677 or expansion of a project to provide effective delivery of integrated behavioral health care
4678 services.

4679 (3) To be considered for a grant award under Subsection (2), a local mental health
4680 authority shall submit an application to the department that:

4681 (a) explains the benefits of integrated behavioral health care services to a patient who is
4682 receiving mental health or substance use disorder treatment;

4683 (b) describes the local mental health authority's operational plan for delivery of
4684 integrated behavioral health care services under the proposed project and any data or
4685 evidence-based practices supporting the likely success of the operational plan;

4686 (c) includes:

4687 (i) the number of patients to be served by the local mental health authority's proposed
4688 project; and

4689 (ii) the cost of the local mental health authority's proposed project; and

4690 (d) provides details regarding:

4691 (i) any plan to use funding sources in addition to the grant award under this section for
4692 the local mental health authority's proposed project;

4693 (ii) any existing or planned contracts or partnerships between the local mental health
4694 authority and other individuals or entities to develop or implement the local mental health
4695 authority's proposed project; and

4696 (iii) the sustainability and reliability of the local mental health authority's proposed
4697 project.

4698 (4) In evaluating a local mental health authority's application under Subsection (3) to
4699 determine the grant award under Subsection (2), the department shall consider:

4700 (a) how the local mental health authority's proposed project will ensure effective
4701 provision of integrated behavioral health care services;

- 4702 (b) the cost of the local mental health authority's proposed project;
- 4703 (c) the extent to which any existing or planned contracts or partnerships or additional
- 4704 funding sources described in the local mental health authority's application are likely to benefit
- 4705 the proposed project; and
- 4706 (d) the sustainability and reliability of the local mental health authority's proposed
- 4707 project.

4708 (5) Before July 1, 2025, the department shall report to the Health and Human Services

4709 Interim Committee regarding:

- 4710 (a) any knowledge gained or obstacles encountered in providing integrated behavioral
- 4711 health care services under each project;
- 4712 (b) data gathered in relation to each project; and
- 4713 (c) recommendations for expanding a project statewide.

4714 Section 121. Section **26B-6-101** is amended to read:

4715 **CHAPTER 6. LONG TERM SERVICES AND SUPPORTS, AGING, AND**

4716 **DISABILITIES**

4717 **Part 1. Aging and Adult Services**

4718 **26B-6-101. Chapter definitions.**

4719 As used in this chapter:

4720 (1) "Adult" or "high risk adult" means a person 18 years of age or older who

4721 experiences a condition:

4722 (a) that places the person at a high risk of being unable to care for himself:

4723 (i) as determined by assessment; and

4724 (ii) due to the onset of a physical or cognitive impairment or frailty; and

4725 (b) for which the person is not eligible to receive services under:

4726 (i) Chapter 5, Services for People with Disabilities; or

4727 (ii) Chapter 15, Substance Abuse and Mental Health Act.

4728 (2) "Aging" and "aged" means a person 60 years of age or older.

4729 (3) "Area agency" means an area agency that provides services to the aged, high risk

4730 adults, or both within a planning and service area.

4731 (4) "Area agency on aging" means a public or private nonprofit agency or office

4732 designated by the division to:

- 4733 (a) operate within a planning and service area of the state; and
4734 (b) develop and implement a broad range of services for the aged in the area described
4735 in Subsection (4)(a).
- 4736 (5) "Area agency on high risk adults" means a public or private nonprofit agency or
4737 office designated by the division to:
- 4738 (a) operate within a planning and service area of the state; and
4739 (b) develop and implement services for high risk adults in the area described in
4740 Subsection (5)(a).
- 4741 (6) "Board" means the Board of Aging and Adult Services.
4742 (7) "Director" means the director of the division.
4743 (8) "Division" means the Division of Aging and Adult Services within the department.
4744 (9) "Personal care attendant" means a person who:
- 4745 (a) is selected by:
- 4746 (i) an aged person;
4747 (ii) an agent of an aged person;
4748 (iii) a high risk adult; or
4749 (iv) an agent of a high risk adult; and
- 4750 (b) provides personal services to the:
- 4751 (i) aged person described in Subsection (9)(a)(i); or
4752 (ii) high risk adult described in Subsection (9)(a)(iii).
- 4753 (10) "Personal services" means nonmedical care and support, including assisting a
4754 person with:
- 4755 (a) meal preparation;
4756 (b) eating;
4757 (c) bathing;
4758 (d) dressing;
4759 (e) personal hygiene; or
4760 (f) daily living activities.
- 4761 (11) "Planning and service area" means a geographical area of the state designated by
4762 the division for purposes of planning, development, delivery, and overall administration of
4763 services for the aged or high risk adults.

4764 (12) (a) "Public funds" means state or federal funds that are disbursed by:

4765 (i) the Department of Health;

4766 (ii) the division;

4767 (iii) an area agency; or

4768 (iv) an area agency on aging.

4769 (b) "Public funds" includes:

4770 (i) Medicaid funds; and

4771 (ii) Medicaid waiver funds.

4772 Section 122. Section **26B-6-102**, which is renumbered from Section 62A-3-102 is
4773 renumbered and amended to read:

4774 **[62A-3-102]. 26B-6-102. Division created.**

4775 There is created a Division of Aging and Adult Services within the department, under
4776 the administration and general supervision of the executive director.

4777 Section 123. Section **26B-6-103**, which is renumbered from Section 62A-3-103 is
4778 renumbered and amended to read:

4779 **[62A-3-103]. 26B-6-103. Director of division -- Appointment --**
4780 **Qualifications.**

4781 (1) The director of the division shall be appointed by the executive director with the
4782 concurrence of the board.

4783 (2) The director shall have a bachelor's degree from an accredited university or college,
4784 be experienced in administration, and be knowledgeable in matters concerning the aging and
4785 adult populations.

4786 (3) The director is the administrative head of the division.

4787 Section 124. Section **26B-6-104**, which is renumbered from Section 62A-3-104 is
4788 renumbered and amended to read:

4789 **[62A-3-104]. 26B-6-104. Authority of division.**

4790 (1) The division is the sole state agency, as defined by the Older Americans Act of
4791 1965, 42 U.S.C. 3001 et seq., to:

4792 (a) serve as an effective and visible advocate for the aging and adult population of this
4793 state;

4794 (b) develop and administer a state plan under the policy direction of the board; and

4795 (c) take primary responsibility for state activities relating to provisions of the Older
4796 Americans Act of 1965, as amended.

4797 (2) (a) The division has authority to designate:

4798 (i) planning and service areas for the state; and

4799 (ii) an area agency on aging within each planning and service area to design and
4800 implement a comprehensive and coordinated system of services and programs for the aged
4801 within appropriations from the Legislature.

4802 (b) Designation as an area agency on aging may be withdrawn:

4803 (i) upon request of the area agency on aging; or

4804 (ii) upon noncompliance with the provisions of the:

4805 (A) Older Americans Act of 1965, 42 U.S.C. 3001 et seq.;

4806 (B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C.
4807 3001 et seq.;

4808 (C) provisions of this chapter; or

4809 (D) rules, policies, or procedures established by the division.

4810 (3) (a) The division has the authority to designate:

4811 (i) planning and service areas for the state; and

4812 (ii) subject to Subsection (3)(b), an area agency on high risk adults within each
4813 planning and service area to design and implement a comprehensive and coordinated system of
4814 case management and programs for high risk adults within appropriations from the Legislature.

4815 (b) For purposes of Subsection (3)(a)(ii), before October 1, 1998, the division shall
4816 designate as the area agency on high risk adults in a planning and service area:

4817 (i) the area agency on aging that operates within the same geographic area if that
4818 agency requests, before July 1, 1998, to expand that agency's current contract with the division
4819 to include the responsibility of:

4820 (A) being the area agency on high risk adults; or

4821 (B) operating the area agency on high risk adults:

4822 (I) through joint cooperation with one or more existing area agencies on aging; and

4823 (II) without reducing geographical coverage in any service area; or

4824 (ii) a public or private nonprofit agency or office if the area agency on aging that
4825 operates within the same geographic area has not made a request in accordance with Subsection

- 4826 (3)(b)(i).
- 4827 (c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.
- 4828 (ii) The division's efforts to establish area agencies on high risk adults shall start with
- 4829 counties with a population of more than 150,000 people.
- 4830 (d) Designation as an area agency on high risk adults may be withdrawn:
- 4831 (i) upon request by the area agency; or
- 4832 (ii) upon noncompliance with:
- 4833 (A) state law;
- 4834 (B) federal law; or
- 4835 (C) rules, policies, or procedures established by the division.
- 4836 (4) (a) The division may, by following the procedures and requirements of Title 63J,
- 4837 Chapter 5, Federal Funds Procedures Act:
- 4838 (i) seek federal grants, loans, or participation in federal programs; and
- 4839 (ii) receive and distribute state and federal funds for the division's programs and
- 4840 services to the aging and adult populations of the state.
- 4841 (b) The division may not disburse public funds to a personal care attendant as payment
- 4842 for personal services rendered to an aged person or high risk adult, except as provided in
- 4843 Section 62A-3-104.3.
- 4844 (5) The division has authority to establish, either directly or by contract, programs of
- 4845 advocacy, monitoring, evaluation, technical assistance, and public education to enhance the
- 4846 quality of life for aging and adult citizens of the state.
- 4847 (6) In accordance with the rules of the division and Title 63G, Chapter 6a, Utah
- 4848 Procurement Code, the division may contract with:
- 4849 (a) the governing body of an area agency to provide a comprehensive program of
- 4850 services; or
- 4851 (b) public and private entities for special services.
- 4852 (7) The division has authority to provide for collection, compilation, and dissemination
- 4853 of information, statistics, and reports relating to issues facing aging and adult citizens.
- 4854 (8) The division has authority to prepare and submit reports regarding the operation
- 4855 and administration of the division to the department, the Legislature, and the governor, as
- 4856 requested.

- 4857 (9) The division shall:
- 4858 (a) implement and enforce policies established by the board governing all aspects of
- 4859 the division's programs for aging and adult persons in the state;
- 4860 (b) in order to ensure compliance with all applicable state and federal statutes, policies,
- 4861 and procedures, monitor and evaluate programs provided by or under contract with:
- 4862 (i) the division;
- 4863 (ii) area agencies; and
- 4864 (iii) an entity that receives funds from an area agency;
- 4865 (c) examine expenditures of public funds;
- 4866 (d) withhold funds from programs based on contract noncompliance;
- 4867 (e) review and approve plans of area agencies in order to ensure:
- 4868 (i) compliance with division policies; and
- 4869 (ii) a statewide comprehensive program;
- 4870 (f) in order to further programs for aging and adult persons and prevent duplication of
- 4871 services, promote and establish cooperative relationships with:
- 4872 (i) state and federal agencies;
- 4873 (ii) social and health agencies;
- 4874 (iii) education and research organizations; and
- 4875 (iv) other related groups;
- 4876 (g) advocate for the aging and adult populations;
- 4877 (h) promote and conduct research on the problems and needs of aging and adult
- 4878 persons;
- 4879 (i) submit recommendations for changes in policies, programs, and funding to the:
- 4880 (i) governor; and
- 4881 (ii) Legislature; and
- 4882 (j) (i) accept contributions to and administer the funds contained in the "Out and
- 4883 About" Homebound Transportation Assistance Fund created in Section 62A-3-110; and
- 4884 (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 4885 Rulemaking Act, to facilitate the administration of the "Out and About" Homebound
- 4886 Transportation Assistance Fund in accordance with Section 62A-3-110.
- 4887 Section 125. Section **26B-6-105**, which is renumbered from Section 62A-3-104.1 is

4888 renumbered and amended to read:

4889 ~~[62A-3-104.1]~~. **26B-6-105. Powers and duties of area agencies --**

4890 **Registration as a limited purpose entity.**

4891 (1) An area agency that provides services to an aged person, or a high risk adult shall
4892 within the area agency's respective jurisdiction:

4893 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,
4894 hearings, and levies that affect a person described in this Subsection (1);

4895 (b) design and implement a comprehensive and coordinated system of services within a
4896 designated planning and service area;

4897 (c) conduct periodic reviews and evaluations of needs and services;

4898 (d) prepare and submit to the division plans for funding and service delivery for
4899 services within the designated planning and service area;

4900 (e) establish, either directly or by contract, programs licensed under Chapter 2,
4901 Licensure of Programs and Facilities;

4902 (f) (i) appoint an area director;

4903 (ii) prescribe the area director's duties; and

4904 (iii) provide adequate and qualified staff to carry out the area plan described in
4905 Subsection (1)(d);

4906 (g) establish rules not contrary to policies of the board and rules of the division,
4907 regulating local services and facilities;

4908 (h) operate other services and programs funded by sources other than those
4909 administered by the division;

4910 (i) establish mechanisms to provide direct citizen input, including an area agency
4911 advisory council with a majority of members who are eligible for services from the area
4912 agency;

4913 (j) establish fee schedules; and

4914 (k) comply with the requirements and procedures of:

4915 (i) Title 11, Chapter 13, Interlocal Cooperation Act; and

4916 (ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
4917 Organizations, and Other Local Entities Act.

4918 (2) Before disbursing any public funds, an area agency shall require that all entities

4919 receiving any public funds agree in writing that:

4920 (a) the division may examine the entity's program and financial records; and

4921 (b) the auditor of the local area agency may examine and audit the entity's program and
4922 financial records, if requested by the local area agency.

4923 (3) An area agency on aging may not disburse public funds to a personal care attendant
4924 as payment for personal services rendered to an aged person or high risk adult, except as
4925 provided in Section 62A-3-104.3.

4926 (4) (a) For the purpose of providing services pursuant to this part, a local area agency
4927 may receive:

4928 (i) property;

4929 (ii) grants;

4930 (iii) gifts;

4931 (iv) supplies;

4932 (v) materials;

4933 (vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);

4934 and

4935 (vii) contributions.

4936 (b) If a gift is conditioned upon the gift's use for a specified service or program, the gift
4937 shall be used for the specific service or program.

4938 (5) (a) Area agencies shall award all public funds in compliance with:

4939 (i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

4940 (ii) a county procurement ordinance that requires procurement procedures similar to
4941 those described in Subsection (5)(a)(i).

4942 (b) (i) If all initial bids on a project are rejected, the area agency shall publish a new
4943 invitation to bid.

4944 (ii) If no satisfactory bid is received by the area agency described in Subsection
4945 (5)(b)(i), when the bids received from the second invitation are opened the area agency may
4946 execute a contract without requiring competitive bidding.

4947 (c) (i) An area agency need not comply with the procurement provisions of this section
4948 when it disburses public funds to another governmental entity.

4949 (ii) For purposes of this Subsection (5)(c), "governmental entity" means any political

4950 subdivision or institution of higher education of the state.

4951 (d) (i) Contracts awarded by an area agency shall be for a:

4952 (A) fixed amount; and

4953 (B) limited period.

4954 (ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in

4955 available funding for the same contract purpose without competition.

4956 (6) Local area agencies shall comply with:

4957 (a) applicable state and federal:

4958 (i) statutes;

4959 (ii) policies; and

4960 (iii) audit requirements; and

4961 (b) directives resulting from an audit described in Subsection (6)(a)(iii).

4962 (7) (a) Each area agency shall register and maintain the area agency's registration as a

4963 limited purpose entity, in accordance with Section 67-1a-15.

4964 (b) An area agency that fails to comply with Subsection (7)(a) or Section 67-1a-15 is

4965 subject to enforcement by the state auditor, in accordance with Section 67-3-1.

4966 Section 126. Section **26B-6-106**, which is renumbered from Section 62A-3-104.2 is

4967 renumbered and amended to read:

4968 ~~[62A-3-104.2].~~ **26B-6-106. Contracts for services.**

4969 When an area agency has established a plan to provide services authorized by this

4970 chapter, and those services meet standards fixed by rules of the board, the area agency may

4971 enter into a contract with the division for services to be furnished by that area agency for an

4972 agreed compensation to be paid by the division.

4973 Section 127. Section **26B-6-107**, which is renumbered from Section 62A-3-104.3 is

4974 renumbered and amended to read:

4975 ~~[62A-3-104.3].~~ **26B-6-107. Disbursal of public funds -- Background check of**

4976 **a personal care attendant.**

4977 (1) ~~[For purposes of]~~ As used in this section, "office" means [the same as that term is

4978 ~~defined in Section 62A-2-101]~~ Office of Licensing and Background Checks within the

4979 department.

4980 (2) Public funds may not be disbursed to a personal care attendant as payment for

4981 personal services rendered to an aged person or high risk adult unless the office approves the
4982 personal care attendant to have direct access and provide services to children or vulnerable
4983 adults pursuant to Section 62A-2-120.

4984 (3) For purposes of Subsection (2), the office shall conduct a background check of a
4985 personal care attendant:

4986 (a) who desires to receive public funds as payment for the personal services described
4987 in Subsection (2); and

4988 (b) using the same procedures established for a background check of an applicant for a
4989 license under Section 62A-2-120.

4990 Section 128. Section **26B-6-108**, which is renumbered from Section 62A-3-105 is
4991 renumbered and amended to read:

4992 ~~[62A-3-105]~~. **26B-6-108. Matching requirements for state and federal**
4993 **Older American funds.**

4994 (1) Except as provided in Subsection (2), a local area agency on aging that receives
4995 state or federal Older Americans Act Supportive Services, Older Americans Act Congregate
4996 Meals, or Older Americans Act Home Delivered Meals related funds from the division to
4997 provide programs and services under this chapter shall match those funds in an amount at least
4998 equal to:

4999 (a) 15% of service dollars; and

5000 (b) 25% of administrative dollars.

5001 (2) A local area agency on aging is not required to match cash-in-lieu funds related to
5002 the Home Delivered Meals program or congregate meals.

5003 (3) A local area agency on aging may include services, property, or other in-kind
5004 contributions to meet the administrative dollars match but may only use cash to meet the
5005 service dollars match.

5006 Section 129. Section **26B-6-109**, which is renumbered from Section 62A-3-106 is
5007 renumbered and amended to read:

5008 ~~[62A-3-106]~~. **26B-6-109. Eligibility criteria.**

5009 Eligibility for services provided by the division directly or through contractual
5010 arrangements shall be determined by criteria established by the division and approved by the
5011 board.

5012 Section 130. Section **26B-6-110**, which is renumbered from Section 62A-3-106.5 is
5013 renumbered and amended to read:

5014 ~~[62A-3-106.5]~~. **26B-6-110**. **Agency responsible to investigate and provide**
5015 **services.**

5016 (1) ~~[For purposes of]~~ As used in this section, "responsible agency" means the agency
5017 responsible to investigate or provide services in a particular case under the rules established
5018 under Subsection (2)(a).

5019 (2) In order to avoid duplication in responding to a report of alleged abuse, neglect, or
5020 exploitation of a vulnerable adult who resides in a long-term care facility, the division shall
5021 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5022 that establish procedures to:

5023 (a) determine whether Adult Protective Services or the Long-Term Care Ombudsman
5024 Program will be responsible to investigate or provide services in a particular case; and

5025 (b) determine whether, and under what circumstances, the agency described in
5026 Subsection (2)(a) that is not the responsible agency will provide assistance to the responsible
5027 agency in a particular case.

5028 (3) Notwithstanding Subsection (2), or the rules made pursuant to Subsection (2),
5029 Adult Protective Services shall be the agency within the division that is responsible for
5030 receiving all reports of alleged abuse, neglect, or exploitation of a vulnerable adult as provided
5031 in Section 62A-3-305.

5032 Section 131. Section **26B-6-111**, which is renumbered from Section 62A-3-107 is
5033 renumbered and amended to read:

5034 ~~[62A-3-107]~~. **26B-6-111**. **Requirements for establishing division policy.**

5035 (1) The board is the program policymaking body for the division and for programs
5036 funded with state and federal money under Sections 62A-3-104.1 and 62A-3-104.2. In
5037 establishing policy and reviewing existing policy, the board shall seek input from local area
5038 agencies, consumers, providers, advocates, division staff, and other interested parties as
5039 determined by the board.

5040 (2) The board shall establish, by rule, procedures for developing its policies which
5041 ensure that local area agencies are given opportunity to comment and provide input on any new
5042 policy of the board and on any proposed changes in the board's existing policy. The board

5043 shall also provide a mechanism for review of its existing policy and for consideration of policy
5044 changes that are proposed by those local area agencies.

5045 (3) A member may not receive compensation or benefits for the member's service, but,
5046 at the executive director's discretion, may receive per diem and travel expenses in accordance
5047 with:

5048 (a) Section 63A-3-106;

5049 (b) Section 63A-3-107; and

5050 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5051 63A-3-107.

5052 Section 132. Section **26B-6-112**, which is renumbered from Section 62A-3-107.5 is
5053 renumbered and amended to read:

5054 ~~[62A-3-107.5]~~. **26B-6-112. Allocation of funds to acquire facilities.**

5055 (1) (a) The board may make grants to local area agencies on aging to acquire facilities
5056 to provide community-based services for aged persons. Grants under this section shall be made
5057 solely from appropriations made to the division for implementation of this section.

5058 (b) Acquisition of a facility may include acquisition of real property, construction of a
5059 new facility, acquisition of an existing facility, or alteration, renovation, or improvement of an
5060 existing facility.

5061 (c) The local area agency may allocate grants received under this section to a local
5062 nonprofit or governmental agency that owns or operates a facility to provide community-based
5063 services for aged persons.

5064 (2) A local area agency on aging or the local nonprofit or governmental agency that
5065 owns or operates the facility and receives grant money from the area agency shall provide a
5066 matching contribution of at least 25% of the grant funds it receives under this section. A
5067 matching contribution may include funds, services, property, or other in-kind contributions.

5068 (3) In making grants under this section, the board may consider:

5069 (a) the extent and availability of public and private funding to operate programs in the
5070 facility to be acquired and to provide for maintenance of that facility;

5071 (b) the need for community-based services in the geographical area served by the area
5072 agency on aging;

5073 (c) the availability of private and local funds to assist in acquisition, alteration,

5074 renovation, or improvement of the facility; and

5075 (d) the extent and level of support for acquisition of the facility from local government
5076 officials, private citizens, interest groups, and others.

5077 (4) Grants to local area agencies on aging and any local nonprofit or governmental
5078 agency that owns or operates a facility and receives grant money from the area agency under
5079 this section are subject to the oversight and control by the division described in Subsection
5080 62A-3-104(8).

5081 (5) It is the intent of the Legislature that the grants made under this section serve the
5082 statewide purpose of providing support for senior citizens throughout the state, and that the
5083 grants shall be made to serve as effectively as possible the facilities in greatest need of
5084 assistance.

5085 Section 133. Section **26B-6-113**, which is renumbered from Section 62A-3-108 is
5086 renumbered and amended to read:

5087 ~~[62A-3-108]~~. **26B-6-113**. **Allocation of funds to local area agencies --**
5088 **Formulas.**

5089 (1) (a) The board shall establish by rule formulas for allocating funds to local area
5090 agencies through contracts to provide programs and services in accordance with this part based
5091 on need.

5092 (b) Determination of need shall be based on the number of eligible persons located in
5093 the local area which the division is authorized to serve, unless federal regulations require
5094 otherwise or the board establishes, by valid and accepted data, that other defined factors are
5095 relevant and reliable indicators of need.

5096 (c) Formulas established by the board shall include a differential to compensate for
5097 additional costs of providing services in rural areas.

5098 (2) Formulas established under Subsection (1) shall be in effect on or before July 1,
5099 1998, and apply to all state and federal funds appropriated by the Legislature to the division for
5100 local area agencies, but does not apply to:

5101 (a) funds that local area agencies receive from sources other than the division;

5102 (b) funds that local area agencies receive from the division to operate a specific
5103 program within its jurisdiction which is available to all residents of the state;

5104 (c) funds that a local area agency receives from the division to meet a need that exists

5105 only within that local area; and

5106 (d) funds that a local area agency receives from the division for research projects.

5107 Section 134. Section **26B-6-114**, which is renumbered from Section 62A-3-109 is

5108 renumbered and amended to read:

5109 ~~[62A-3-109]~~. **26B-6-114. Adjudicative proceedings.**

5110 Adjudicative proceedings held by, or relating to, the division or the board shall comply

5111 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

5112 Section 135. Section **26B-6-201**, which is renumbered from Section 62A-3-301 is

5113 renumbered and amended to read:

5114 **Part 2. Abuse, Neglect, or Exploitation of a Vulnerable Adult**

5115 ~~[62A-3-301]~~. **26B-6-201. Definitions.**

5116 As used in this part:

5117 (1) "Abandonment" means any knowing or intentional action or failure to act,

5118 including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the

5119 vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or

5120 medical or other health care.

5121 (2) "Abuse" means:

5122 (a) knowingly or intentionally:

5123 (i) attempting to cause harm;

5124 (ii) causing harm; or

5125 (iii) placing another in fear of harm;

5126 (b) unreasonable or inappropriate use of physical restraint, medication, or isolation that

5127 causes or is likely to cause harm to a vulnerable adult;

5128 (c) emotional or psychological abuse;

5129 (d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the

5130 Individual; or

5131 (e) deprivation of life sustaining treatment, or medical or mental health treatment,

5132 except:

5133 (i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

5134 (ii) when informed consent, as defined in Section 76-5-111, has been obtained.

5135 (3) "Adult" means an individual who is 18 years old or older.

5136 (4) "Adult protection case file" means a record, stored in any format, contained in a
5137 case file maintained by Adult Protective Services.

5138 (5) "Adult Protective Services" means the unit within the division responsible to
5139 investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate
5140 protective services.

5141 (6) "Capacity to consent" means the ability of an individual to understand and
5142 communicate regarding the nature and consequences of decisions relating to the individual, and
5143 relating to the individual's property and lifestyle, including a decision to accept or refuse
5144 services.

5145 (7) "Caretaker" means a person or public institution that is entrusted with or assumes
5146 the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision,
5147 medical or other health care, resource management, or other necessities for pecuniary gain, by
5148 contract, or as a result of friendship, or who is otherwise in a position of trust and confidence
5149 with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a
5150 neighbor, a person who is employed or who provides volunteer work, a court-appointed or
5151 voluntary guardian, or a person who contracts or is under court order to provide care.

5152 (8) "Counsel" means an attorney licensed to practice law in this state.

5153 (9) "Database" means the statewide database maintained by the division under Section
5154 62A-3-311.1.

5155 (10) (a) "Dependent adult" means an individual 18 years old or older, who has a
5156 physical or mental impairment that restricts the individual's ability to carry out normal
5157 activities or to protect the individual's rights.

5158 (b) "Dependent adult" includes an individual who has physical or developmental
5159 disabilities or whose physical or mental capacity has substantially diminished because of age.

5160 (11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

5161 (12) "Elder adult" means an individual 65 years old or older.

5162 (13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate
5163 risk of death, serious physical injury, or serious physical, emotional, or financial harm.

5164 (14) "Emergency protective services" means measures taken by Adult Protective
5165 Services under time-limited, court-ordered authority for the purpose of remediating an
5166 emergency.

5167 (15) (a) "Emotional or psychological abuse" means knowing or intentional verbal or
5168 nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering
5169 mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

5170 (b) "Emotional or psychological abuse" includes intimidating, threatening, isolating,
5171 coercing, or harassing.

5172 (c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct
5173 by a vulnerable adult who lacks the capacity to intentionally or knowingly:

5174 (i) engage in the conduct; or

5175 (ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation,
5176 or confusion.

5177 (16) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or
5178 76-5b-202.

5179 (17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or
5180 psychological damage, physical injury, serious physical injury, suffering, or distress inflicted
5181 knowingly or intentionally.

5182 (18) "Inconclusive" means a finding by the division that there is not a reasonable basis
5183 to conclude that abuse, neglect, or exploitation occurred.

5184 (19) "Intimidation" means communication through verbal or nonverbal conduct which
5185 threatens deprivation of money, food, clothing, medicine, shelter, social interaction,
5186 supervision, health care, or companionship, or which threatens isolation or abuse.

5187 (20) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult
5188 from having contact with another person, unless the restriction of personal rights is authorized
5189 by court order, by:

5190 (i) preventing the vulnerable adult from communicating, visiting, interacting, or
5191 initiating interaction with others, including receiving or inviting visitors, mail, or telephone
5192 calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor
5193 that the vulnerable adult is not present or does not want to meet with or talk to the visitor,
5194 knowing that communication to be false;

5195 (ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult
5196 from meeting with a visitor; or

5197 (iii) making false or misleading statements to the vulnerable adult in order to induce

5198 the vulnerable adult to refuse to receive communication from visitors or other family members.

5199 (b) "Isolation" does not include an act:

5200 (i) intended in good faith to protect the physical or mental welfare of the vulnerable
5201 adult; or

5202 (ii) performed pursuant to the treatment plan or instructions of a physician or other
5203 professional advisor of the vulnerable adult.

5204 (21) "Lacks capacity to consent" is as defined in Section 76-5-111.4.

5205 (22) (a) "Neglect" means:

5206 (i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing,
5207 shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable
5208 adult, unless the vulnerable adult is able to provide or obtain the necessary care without
5209 assistance; or

5210 (B) failure of a caretaker to provide protection from health and safety hazards or
5211 maltreatment;

5212 (ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and
5213 with the degree of care that a reasonable person in a like position would exercise;

5214 (iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed
5215 consent, resulting in deprivation of food, water, medication, health care, shelter, cooling,
5216 heating, or other services necessary to maintain the vulnerable adult's well being;

5217 (iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment
5218 plan that causes or is likely to cause harm to the vulnerable adult;

5219 (v) self-neglect by the vulnerable adult; or

5220 (vi) abandonment by a caretaker.

5221 (b) "Neglect" does not include conduct, or failure to take action, that is permitted or
5222 excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

5223 (23) "Physical injury" includes the damage and conditions described in Section
5224 76-5-111.

5225 (24) "Protected person" means a vulnerable adult for whom the court has ordered
5226 protective services.

5227 (25) "Protective services" means services to protect a vulnerable adult from abuse,
5228 neglect, or exploitation.

5229 (26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food,
5230 water, medication, health care, shelter, cooling, heating, safety, or other services necessary to
5231 maintain the vulnerable adult's well being when that failure is the result of the adult's mental or
5232 physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be
5233 evidence of self-neglect.

5234 (27) "Serious physical injury" is as defined in Section 76-5-111.

5235 (28) "Supported" means a finding by the division that there is a reasonable basis to
5236 conclude that abuse, neglect, or exploitation occurred.

5237 (29) "Undue influence" occurs when a person:

5238 (a) uses influence to take advantage of a vulnerable adult's mental or physical
5239 impairment; or

5240 (b) uses the person's role, relationship, or power:

5241 (i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or
5242 fear of a vulnerable adult; or

5243 (ii) to gain control deceptively over the decision making of the vulnerable adult.

5244 (30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or
5245 physical impairment which substantially affects that person's ability to:

5246 (a) provide personal protection;

5247 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

5248 (c) obtain services necessary for health, safety, or welfare;

5249 (d) carry out the activities of daily living;

5250 (e) manage the adult's own financial resources; or

5251 (f) comprehend the nature and consequences of remaining in a situation of abuse,
5252 neglect, or exploitation.

5253 (31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

5254 Section 136. Section **26B-6-202**, which is renumbered from Section 62A-3-302 is
5255 renumbered and amended to read:

5256 ~~[62A-3-302]~~. **26B-6-202. Purpose of Adult Protective Services Program.**

5257 Subject to the rules made by the division under Section 62A-3-106.5, Adult Protective
5258 Services:

5259 (1) shall investigate or cause to be investigated reports of alleged abuse, neglect, or

5260 exploitation of vulnerable adults;

5261 (2) shall, where appropriate, provide short-term, limited protective services with the
5262 permission of the affected vulnerable adult or the guardian or conservator of the vulnerable
5263 adult;

5264 (3) shall, subject to Section 62A-3-320, provide emergency protective services; and

5265 (4) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
5266 Rulemaking Act, and develop procedures and policies relating to:

5267 (a) reporting and investigating incidents of abuse, neglect, or exploitation; and

5268 (b) providing protective services to the extent that funds are appropriated by the
5269 Legislature for this purpose.

5270 Section 137. Section **26B-6-203**, which is renumbered from Section 62A-3-303 is
5271 renumbered and amended to read:

5272 ~~[62A-3-303]~~. **26B-6-203. Powers and duties of Adult Protective Services.**

5273 In addition to all other powers and duties that Adult Protective Services is given under
5274 this part, Adult Protective Services:

5275 (1) shall maintain an intake system for receiving and screening reports;

5276 (2) shall investigate referrals that meet the intake criteria;

5277 (3) shall conduct assessments of vulnerability and functional capacity as it relates to an
5278 allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;

5279 (4) shall perform assessments based on protective needs and risks for a vulnerable
5280 adult who is the subject of a report;

5281 (5) may address any protective needs by making recommendations to and coordinating
5282 with the vulnerable adult or by making referrals to community resources;

5283 (6) may provide short-term, limited services to a vulnerable adult when family or
5284 community resources are not available to provide for the protective needs of the vulnerable
5285 adult;

5286 (7) shall have access to facilities licensed by, or contracted with, the department or the
5287 Department of Health for the purpose of conducting investigations;

5288 (8) shall be given access to, or provided with, written statements, documents, exhibits,
5289 and other items related to an investigation, including private, controlled, or protected medical
5290 or financial records of a vulnerable adult who is the subject of an investigation if:

5291 (a) for a vulnerable adult who has the capacity to consent, the vulnerable adult signs a
5292 release of information; or

5293 (b) for a vulnerable adult who lacks capacity to consent, an administrative subpoena is
5294 issued by Adult Protective Services;

5295 (9) may initiate proceedings in a court of competent jurisdiction to seek relief
5296 necessary to carry out the provisions of this chapter;

5297 (10) shall, subject to Section 62A-3-320, provide emergency protective services;

5298 (11) may require all persons, including family members of a vulnerable adult and any
5299 caretaker, to cooperate with Adult Protective Services in carrying out its duties under this
5300 chapter, including the provision of statements, documents, exhibits, and other items that assist
5301 Adult Protective Services in conducting investigations and providing protective services;

5302 (12) may require all officials, agencies, departments, and political subdivisions of the
5303 state to assist and cooperate within their jurisdictional power with the court, the division, and
5304 Adult Protective Services in furthering the purposes of this chapter;

5305 (13) may conduct studies and compile data regarding abuse, neglect, and exploitation;
5306 and

5307 (14) may issue reports and recommendations.

5308 Section 138. Section **26B-6-204**, which is renumbered from Section 62A-3-304 is
5309 renumbered and amended to read:

5310 ~~[62A-3-304]~~. **26B-6-204. Cooperation by caretaker.**

5311 A caretaker, facility, or other institution shall, regardless of the confidentiality standards
5312 of the caretaker, facility, or institution:

5313 (1) report abuse, neglect, or exploitation of a vulnerable adult in accordance with this
5314 chapter;

5315 (2) cooperate with any Adult Protective Services investigation;

5316 (3) provide Adult Protective Services with access to records or documents relating to
5317 the vulnerable adult who is the subject of an investigation; or

5318 (4) provide evidence in any judicial or administrative proceeding relating to a
5319 vulnerable adult who is the subject of an investigation.

5320 Section 139. Section **26B-6-205**, which is renumbered from Section 62A-3-305 is
5321 renumbered and amended to read:

5322 ~~[62A-3-305]~~. 26B-6-205. Reporting requirements -- Investigation --
5323 **Exceptions -- Immunity -- Penalties -- Nonmedical healing.**

5324 (1) Except as provided in Subsection (4), if an individual has reason to believe that a
5325 vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual
5326 shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective
5327 Services or to the nearest peace officer or law enforcement agency.

5328 (2) (a) If a peace officer or a law enforcement agency receives a report under
5329 Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult
5330 Protective Services.

5331 (b) Adult Protective Services and the peace officer or the law enforcement agency shall
5332 coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide
5333 protection to the vulnerable adult.

5334 (3) When a report under Subsection (1), or a subsequent investigation by Adult
5335 Protective Services, indicates that a criminal offense may have occurred against a vulnerable
5336 adult:

5337 (a) Adult Protective Services shall notify the nearest local law enforcement agency
5338 regarding the potential offense; and

5339 (b) the law enforcement agency shall initiate an investigation in cooperation with Adult
5340 Protective Services.

5341 (4) Subject to Subsection (5), the reporting requirement described in Subsection (1)
5342 does not apply to:

5343 (a) a member of the clergy, with regard to any confession made to the member of the
5344 clergy while functioning in the ministerial capacity of the member of the clergy and without the
5345 consent of the individual making the confession, if:

5346 (i) the perpetrator made the confession directly to the member of the clergy; and

5347 (ii) the member of the clergy is, under canon law or church doctrine or practice, bound
5348 to maintain the confidentiality of that confession; or

5349 (b) an attorney, or an individual employed by the attorney, if knowledge of the
5350 suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of
5351 a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation
5352 of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in

5353 accordance with Utah Rules of Professional Conduct, Rule 1.6.

5354 (5) (a) When a member of the clergy receives information about abuse, neglect, or
5355 exploitation of a vulnerable adult from any source other than confession of the perpetrator, the
5356 member of the clergy is required to report that information even though the member of the
5357 clergy may have also received information about abuse, neglect, or exploitation from the
5358 confession of the perpetrator.

5359 (b) Exemption of the reporting requirement for an individual described in Subsection
5360 (4) does not exempt the individual from any other efforts required by law to prevent further
5361 abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

5362 (6) (a) As used in this Subsection (6), "physician" means an individual licensed to
5363 practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical
5364 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

5365 (b) The physician-patient privilege does not:

5366 (i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a
5367 vulnerable adult under Subsection (1); or

5368 (ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or
5369 the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding
5370 resulting from a report under Subsection (1).

5371 (7) (a) An individual who in good faith makes a report under Subsection (1), or who
5372 otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is
5373 immune from civil and criminal liability in connection with the report or notification.

5374 (b) A covered provider or covered contractor, as defined in Section 26-21-201, that
5375 knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to
5376 Adult Protective Services, or to the nearest peace officer or law enforcement agency, under
5377 Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or
5378 exploitation of a vulnerable adult that is committed by the individual who was not reported to
5379 Adult Protective Services or to the nearest peace officer or law enforcement agency.

5380 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of
5381 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity
5382 Act of Utah.

5383 (8) If Adult Protective Services has substantial grounds to believe that an individual

5384 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in
5385 accordance with this section, Adult Protective Services shall file a complaint with:

5386 (a) the Division of Professional Licensing if the individual is a health care provider, as
5387 defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

5388 (b) the appropriate law enforcement agency if the individual is a law enforcement
5389 officer, as defined in Section 53-13-103; and

5390 (c) the State Board of Education if the individual is an educator, as defined in Section
5391 53E-6-102.

5392 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
5393 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective
5394 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

5395 (b) If an individual is convicted under Subsection (9)(a), the court may order the
5396 individual, in addition to any other sentence the court imposes, to:

5397 (i) complete community service hours; or

5398 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable
5399 adults.

5400 (c) In determining whether it would be appropriate to charge an individual with a
5401 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a
5402 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a
5403 vulnerable adult because reporting would have placed the individual in immediate danger of
5404 death or serious bodily injury.

5405 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
5406 an individual's violation of Subsection (9)(a) as the basis for charging the individual with
5407 another offense.

5408 (e) A prosecution for failure to report under Subsection (9)(a) shall be commenced
5409 within two years after the day on which the individual had knowledge of the suspected abuse,
5410 neglect, or exploitation and willfully failed to report.

5411 (10) Under circumstances not amounting to a violation of Section 76-8-508, an
5412 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
5413 attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1),
5414 the individual who made the report under Subsection (1), a witness, or any other person

5415 cooperating with an investigation conducted in accordance with this chapter.

5416 (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason
5417 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of
5418 medical care.

5419 Section 140. Section **26B-6-206**, which is renumbered from Section 62A-3-307 is
5420 renumbered and amended to read:

5421 ~~[62A-3-307]~~. **26B-6-206. Photographing, video, and audio taping.**

5422 Law enforcement or Adult Protective Services investigators may collect evidence
5423 regarding alleged abuse, neglect, or exploitation of a vulnerable adult by taking, or causing to
5424 be taken, photographs, video tape recordings, or audio or video tape accounts of a vulnerable
5425 adult, if the vulnerable adult:

5426 (1) consents to the taking of the photographs, video tape recordings, or audio or video
5427 tape accounts; or

5428 (2) lacks the capacity to give the consent described in Subsection (1).

5429 Section 141. Section **26B-6-207**, which is renumbered from Section 62A-3-308 is
5430 renumbered and amended to read:

5431 ~~[62A-3-308]~~. **26B-6-207. Peace officer's authority to transport --**
5432 **Notification.**

5433 (1) A peace officer may remove and transport, or cause to have transported, a
5434 vulnerable adult to an appropriate medical or shelter facility, if:

5435 (a) the officer has probable cause to believe that:

5436 (i) by reason of abuse, neglect, or exploitation there exist exigent circumstances; and

5437 (ii) the vulnerable adult will suffer serious physical injury or death if not immediately
5438 placed in a safe environment;

5439 (b) the vulnerable adult refuses to consent or lacks capacity to consent; and

5440 (c) there is not time to notify interested parties or to apply for a warrant or other court
5441 order.

5442 (2) A peace officer described in Subsection (1) shall, within four hours after a
5443 vulnerable adult is transported to an appropriate medical or shelter facility:

5444 (a) notify Adult Protective Services intake; and

5445 (b) request that Adult Protective Services or the division file a petition with the court

5446 for an emergency protective order.

5447 Section 142. Section **26B-6-208**, which is renumbered from Section 62A-3-309 is
5448 renumbered and amended to read:

5449 ~~[62A-3-309]~~. **26B-6-208. Enforcement by division -- Duty of county or**
5450 **district attorney.**

5451 (1) It is the duty of the county or district attorney, as appropriate under Sections
5452 17-18a-202 and 17-18a-203, to:

- 5453 (a) assist and represent the division;
5454 (b) initiate legal proceedings to protect vulnerable adults; and
5455 (c) take appropriate action to prosecute the alleged offenders.

5456 (2) If the county or district attorney fails to act upon the request of the division to
5457 provide legal assistance within five business days after the day on which the request is made:

- 5458 (a) the division may request the attorney general to act; and
5459 (b) the attorney general may, in the attorney general's discretion, assume the
5460 responsibilities and carry the action forward in place of the county or district attorney.

5461 Section 143. Section **26B-6-209**, which is renumbered from Section 62A-3-311 is
5462 renumbered and amended to read:

5463 ~~[62A-3-311]~~. **26B-6-209. Requests for records.**

5464 (1) Requests for records maintained by Adult Protective Services shall be made in
5465 writing to Adult Protective Services.

5466 (2) Classification and disclosure of records shall be made in accordance with Title
5467 63G, Chapter 2, Government Records Access and Management Act.

5468 Section 144. Section **26B-6-210**, which is renumbered from Section 62A-3-311.1 is
5469 renumbered and amended to read:

5470 ~~[62A-3-311.1]~~. **26B-6-210. Statewide database -- Restricted use and access.**

5471 (1) The division shall maintain a database for reports of vulnerable adult abuse,
5472 neglect, or exploitation made pursuant to this part.

5473 (2) The database shall include:

- 5474 (a) the names and identifying data of the alleged abused, neglected, or exploited
5475 vulnerable adult and the alleged perpetrator;
5476 (b) information regarding whether or not the allegation of abuse, neglect, or

5477 exploitation was found to be:

5478 (i) supported;

5479 (ii) inconclusive;

5480 (iii) without merit; or

5481 (iv) for reports for which the finding is made before May 5, 2008:

5482 (A) substantiated; or

5483 (B) unsubstantiated; and

5484 (c) any other information that may be helpful in furthering the purposes of this part, as
5485 determined by the division.

5486 (3) Information obtained from the database may be used only:

5487 (a) for statistical summaries compiled by the department that do not include names or
5488 other identifying data;

5489 (b) where identification of an individual as a perpetrator may be relevant in a
5490 determination regarding whether to grant or deny a license, privilege, or approval made by:

5491 (i) the department;

5492 (ii) the Division of Professional Licensing;

5493 (iii) the Bureau of Licensing, within the Department of Health;

5494 (iv) the Bureau of Emergency Medical Services and Preparedness, within the
5495 Department of Health, or a designee of the Bureau of Emergency Medical Services and
5496 Preparedness;

5497 (v) any government agency specifically authorized by statute to access or use the
5498 information in the database; or

5499 (vi) an agency of another state that performs a similar function to an agency described
5500 in Subsections (3)(b)(i) through (iv); or

5501 (c) as otherwise specifically provided by law.

5502 Section 145. Section **26B-6-211**, which is renumbered from Section 62A-3-311.5 is
5503 renumbered and amended to read:

5504 ~~[62A-3-311.5]~~. **26B-6-211**. **Notice of supported finding -- Procedure for**
5505 **challenging finding -- Limitations.**

5506 (1) (a) Except as provided in Subsection (1)(b), within 15 days after the day on which
5507 the division makes a supported finding that a person committed abuse, neglect, or exploitation

5508 of a vulnerable adult, the division shall serve the person with a notice of agency action, in
5509 accordance with Subsections (2) and (3).

5510 (b) The division may serve the notice described in Subsection (1)(a) within a
5511 reasonable time after the 15 day period described in Subsection (1)(a) if:

5512 (i) the delay is necessary in order to:

5513 (A) avoid impeding an ongoing criminal investigation or proceeding; or

5514 (B) protect the safety of a person; and

5515 (ii) the notice is provided before the supported finding is used as a basis to deny the
5516 person a license or otherwise adversely impact the person.

5517 (2) The division shall cause the notice described in Subsection (1)(a) to be served by
5518 personal service or certified mail.

5519 (3) The notice described in Subsection (1)(a) shall:

5520 (a) indicate that the division has conducted an investigation regarding alleged abuse,
5521 neglect, or exploitation of a vulnerable adult by the alleged perpetrator;

5522 (b) indicate that, as a result of the investigation described in Subsection (3)(a), the
5523 division made a supported finding that the alleged perpetrator committed abuse, neglect, or
5524 exploitation of a vulnerable adult;

5525 (c) include a summary of the facts that are the basis for the supported finding;

5526 (d) indicate that the supported finding may result in disqualifying the person from:

5527 (i) being licensed, certified, approved, or employed by a government agency;

5528 (ii) being employed by a service provider, person, or other entity that contracts with, or
5529 is licensed by, a government agency; or

5530 (iii) qualifying as a volunteer for an entity described in Subsection (3)(d)(i) or (ii);

5531 (e) indicate that, as a result of the supported finding, the alleged perpetrator's
5532 identifying information is listed in the database;

5533 (f) indicate that the alleged perpetrator may request a copy of the report of the alleged
5534 abuse, neglect, or exploitation; and

5535 (g) inform the alleged perpetrator of:

5536 (i) the right described in Subsection (4)(a); and

5537 (ii) the consequences of failing to exercise the right described in Subsection (4)(a) in a
5538 timely manner.

5539 (4) (a) The alleged perpetrator has the right, within 30 days after the day on which the
5540 notice described in Subsection (1)(a) is served, to challenge the supported finding by filing a
5541 request for an informal adjudicative proceeding, under Title 63G, Chapter 4, Administrative
5542 Procedures Act.

5543 (b) If the alleged perpetrator fails to file a request for an informal adjudicative
5544 proceeding within the time described in Subsection (4)(a), the supported finding will become
5545 final and will not be subject to challenge or appeal.

5546 (5) At the hearing described in Subsection (4)(a), the division has the burden of
5547 proving, by a preponderance of the evidence, that the alleged perpetrator committed abuse,
5548 neglect, or exploitation of a vulnerable adult.

5549 (6) Notwithstanding any provision of this section, an alleged perpetrator described in
5550 this section may not challenge a supported finding if a court of competent jurisdiction entered a
5551 finding in a proceeding to which the alleged perpetrator was a party, that the alleged perpetrator
5552 committed the abuse, neglect, or exploitation of a vulnerable adult, upon which the supported
5553 finding is based.

5554 (7) A person who was listed in the database as a perpetrator before May 5, 2008, and
5555 who did not have an opportunity to challenge the division's finding that resulted in the listing,
5556 may at any time:

5557 (a) request that the division reconsider the division's finding; or

5558 (b) request an informal adjudicative proceeding, under Title 63G, Chapter 4,
5559 Administrative Procedures Act, to challenge the finding.

5560 Section 146. Section **26B-6-212**, which is renumbered from Section 62A-3-312 is
5561 renumbered and amended to read:

5562 ~~[62A-3-312]~~. **26B-6-212**. **Access to information in database.**

5563 The database and the adult protection case file:

5564 (1) shall be made available to law enforcement agencies, the attorney general's office,
5565 city attorneys, the Division of Professional Licensing, and county or district attorney's offices;

5566 (2) shall be released as required under Subsection 63G-2-202(4)(c); and

5567 (3) may be made available, at the discretion of the division, to:

5568 (a) subjects of a report as follows:

5569 (i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or

5570 that adult's attorney or legal guardian; and

5571 (ii) a person identified in a report as having abused, neglected, or exploited a
5572 vulnerable adult, or that person's attorney; and

5573 (b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

5574 (i) an employee or contractor of the department who is responsible for the evaluation or
5575 assessment of an adult protection case file;

5576 (ii) a multidisciplinary team approved by the division to assist Adult Protective
5577 Services in the evaluation, assessment, and disposition of a vulnerable adult case;

5578 (iii) an authorized person or agency providing services to, or responsible for, the care,
5579 treatment, assessment, or supervision of a vulnerable adult named in the report as a victim,
5580 when in the opinion of the division, that information will assist in the protection of, or provide
5581 other benefits to, the victim;

5582 (iv) a licensing authority for a facility, program, or person providing care to a victim
5583 named in a report; and

5584 (v) legally authorized protection and advocacy agencies when they represent a victim
5585 or have been requested by the division to assist on a case, including:

5586 (A) the Office of Public Guardian, created in Section 62A-14-103; and

5587 (B) the Long-Term Care Ombudsman Program, created in Section 62A-3-203.

5588 Section 147. Section **26B-6-213**, which is renumbered from Section 62A-3-314 is
5589 renumbered and amended to read:

5590 **~~62A-3-314~~. 26B-6-213. Private right of action -- Estate asset -- Attorney**
5591 **fees.**

5592 (1) A vulnerable adult who suffers harm or financial loss as a result of exploitation has
5593 a private right of action against the perpetrator.

5594 (2) Upon the death of a vulnerable adult, any cause of action under this section shall
5595 constitute an asset of the estate of the vulnerable adult.

5596 (3) If the plaintiff prevails in an action brought under this section, the court may order
5597 that the defendant pay the costs and reasonable attorney fees of the plaintiff.

5598 (4) If the defendant prevails in an action brought under this section, the court may
5599 order that the plaintiff pay the costs and reasonable attorney fees of the defendant, if the court
5600 finds that the action was frivolous, unreasonable, or taken in bad faith.

5601 Section 148. Section **26B-6-214**, which is renumbered from Section 62A-3-315 is
5602 renumbered and amended to read:

5603 ~~[62A-3-315]~~. **26B-6-214**. **Protective services voluntary unless court**
5604 **ordered.**

5605 (1) Vulnerable adults who receive protective services under this part shall do so
5606 knowingly or voluntarily or upon district court order.

5607 (2) Protective services may be provided without a court order for a vulnerable adult
5608 who has the capacity to consent and who requests or knowingly or voluntarily consents to those
5609 services. Protective services may also be provided for a vulnerable adult whose guardian or
5610 conservator with authority to consent does consent to those services. When short-term, limited
5611 protective services are provided, the division and the recipient, or the recipient's guardian or
5612 conservator, shall execute a written agreement setting forth the purposes and limitations of the
5613 services to be provided. If consent is subsequently withdrawn by the recipient, the recipient's
5614 guardian or conservator, or the court, services, including any investigation, shall cease.

5615 (3) A court may order emergency protective services to be provided to a vulnerable
5616 adult who does not consent or who lacks capacity to consent to protective services in
5617 accordance with Section 62A-3-320.

5618 Section 149. Section **26B-6-215**, which is renumbered from Section 62A-3-316 is
5619 renumbered and amended to read:

5620 ~~[62A-3-316]~~. **26B-6-215**. **Costs incurred in providing of protective**
5621 **services.**

5622 Costs incurred in providing protective services are the responsibility of the vulnerable
5623 adult when:

5624 (1) the vulnerable adult is financially able to pay for those services, according to rates
5625 established by the division, and that payment is provided for as part of the written agreement
5626 for services described in Section 62A-3-315;

5627 (2) the vulnerable adult to be protected is eligible for those services from another
5628 governmental agency; or

5629 (3) the court appoints a guardian or conservator and orders that the costs be paid from
5630 the vulnerable adult's estate.

5631 Section 150. Section **26B-6-216**, which is renumbered from Section 62A-3-317 is

5632 renumbered and amended to read:

5633 ~~[62A-3-317]~~. **26B-6-216. Venue for protective services proceedings.**

5634 Venue for all proceedings related to protective services and emergency protective
5635 services under this ~~chapter~~ part is in the county where the vulnerable adult resides or is
5636 present.

5637 Section 151. Section **26B-6-217**, which is renumbered from Section 62A-3-320 is
5638 renumbered and amended to read:

5639 ~~[62A-3-320]~~. **26B-6-217. Emergency protective services -- Forcible entry.**

5640 (1) Adult Protective Services shall, immediately upon court order, provide emergency
5641 protective services to a court-designated vulnerable adult.

5642 (2) A court may, without notice, order emergency protective services immediately upon
5643 receipt of a petition for emergency protective services when a court finds that:

5644 (a) the subject of the petition is a vulnerable adult;

5645 (b) (i) the vulnerable adult does not have a court-appointed guardian or conservator; or

5646 (ii) the guardian or conservator is not effectively performing the guardian's or
5647 conservator's duties;

5648 (c) an emergency exists; and

5649 (d) the welfare, safety, or best interests of the vulnerable adult requires emergency
5650 protective services.

5651 (3) An emergency protective services order shall specifically designate the services that
5652 are approved and the facts that support the provision of those services.

5653 (4) Services authorized in an emergency protective services order may include
5654 hospitalization, nursing, custodial care, or a change in residence.

5655 (5) An emergency protective services order expires five business days after the day on
5656 which the court issues the order unless an appropriate party petitions for temporary
5657 guardianship pursuant to Section 75-5-310 or the division files a new petition for an emergency
5658 services order.

5659 (6) If a petition for guardianship or an additional emergency protective services petition
5660 is filed within five business days after the day on which the court issues the original emergency
5661 protective services order, a court may extend the duration of the original order an additional 15
5662 business days after the day on which the subsequent petition is filed to allow for a court hearing

5663 on the petition.

5664 (7) To implement an emergency protective services order, a court may authorize
5665 forcible entry by a peace officer into the premises where the vulnerable adult may be found.

5666 Section 152. Section **26B-6-218**, which is renumbered from Section 62A-3-321 is
5667 renumbered and amended to read:

5668 ~~[62A-3-321]~~. **26B-6-218. Petition for injunctive relief when caretaker**
5669 **refuses to allow protective services.**

5670 (1) When a vulnerable adult is in need of protective services and the caretaker refuses
5671 to allow the provision of those services, the division may petition the court for injunctive relief
5672 prohibiting the caretaker from interfering with the provision of protective services.

5673 (2) The division's petition under Subsection (1) shall allege facts sufficient to show that
5674 the vulnerable adult is in need of protective services, that the vulnerable adult either consents
5675 or lacks capacity to consent to those services, and that the caretaker refuses to allow the
5676 provision of those services.

5677 (3) The court may, on appropriate findings and conclusions in accordance with Rule
5678 65A, Utah Rules of Civil Procedure, issue an order enjoining the caretaker from interfering
5679 with the provision of protective services.

5680 (4) The petition under Subsection (1) may be joined with a petition under Section
5681 62A-3-320.

5682 Section 153. Section **26B-6-219**, which is renumbered from Section 62A-3-322 is
5683 renumbered and amended to read:

5684 ~~[62A-3-322]~~. **26B-6-219. Medical cannabis use by a vulnerable adult or**
5685 **guardian.**

5686 A peace officer or an employee or agent of the division may not solicit or provide, and a
5687 court may not order, emergency services for a vulnerable adult based solely on:

5688 (1) the vulnerable adult's possession or use of cannabis in accordance with Title 26,
5689 Chapter 61a, Utah Medical Cannabis Act; or

5690 (2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis
5691 in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

5692 Section 154. Section **26B-6-301**, which is renumbered from Section 62A-14-102 is
5693 renumbered and amended to read:

5694 CHAPTER CHAPTER 20. UTAH INNOVATION LAB ACT

5695 Part 3. Office of Public Guardian

5696 ~~[62A-14-102].~~ 26B-6-301. Definitions.5697 As used in this ~~[chapter]~~ part:

5698 (1) "Conservator" is as defined in Section 75-1-201.

5699 (2) "Court" is as defined in Section 75-1-201.

5700 (3) "Estate" is as defined in Section 75-1-201.

5701 (4) "Guardian" is as defined in Section 75-1-201.

5702 (5) "Incapacitated" means a person who has been determined by a court, pursuant to
5703 Section 75-5-303, to be incapacitated, as defined in Section 75-1-201, after the office has
5704 determined that the person is 18 years of age or older and suffers from a mental or physical
5705 impairment as part of the prepetition assessment in Section 62A-14-107.

5706 (6) "Office" means the Office of Public Guardian.

5707 (7) "Property" is as defined in Section 75-1-201.

5708 (8) "Ward" means an incapacitated person for whom the office has been appointed as
5709 guardian or conservator.5710 Section 155. Section 26B-6-302, which is renumbered from Section 62A-14-103 is
5711 renumbered and amended to read:5712 ~~[62A-14-103].~~ 26B-6-302. Office of Public Guardian -- Creation.5713 (1) There is created within the department the Office of Public Guardian which has the
5714 powers and duties provided in this ~~[chapter]~~ part.5715 (2) The office is under the administrative and general supervision of the executive
5716 director.5717 Section 156. Section 26B-6-303, which is renumbered from Section 62A-14-104 is
5718 renumbered and amended to read:5719 ~~[62A-14-104].~~ 26B-6-303. Director of the office -- Appointment --
5720 Qualifications.

5721 (1) The director of the office shall be appointed by the executive director.

5722 (2) The director shall have a bachelor's degree from an accredited university or college,
5723 be experienced in administration, and be knowledgeable in matters concerning guardianship
5724 and conservatorship.

5725 (3) The director is the administrative head of the office.

5726 Section 157. Section **26B-6-304**, which is renumbered from Section 62A-14-105 is
5727 renumbered and amended to read:

5728 ~~[62A-14-105]~~. **26B-6-304. Powers and duties of the office.**

5729 (1) The office shall:

5730 (a) develop and operate a statewide program to:

5731 (i) educate the public about the role and function of guardians and conservators;

5732 (ii) educate guardians and conservators on:

5733 (A) the duties of a guardian and a conservator; and

5734 (B) standards set by the National Guardianship Association for guardians and
5735 conservators; and

5736 (iii) serve as a guardian, conservator, or both for a ward upon appointment by a court
5737 when no other person is able and willing to do so and the office petitioned for or agreed in
5738 advance to the appointment;

5739 (b) possess and exercise all the powers and duties specifically given to the office by
5740 virtue of being appointed as guardian or conservator of a ward, including the power to access a
5741 ward's records;

5742 (c) review and monitor the personal and, if appropriate, financial status of each ward
5743 for whom the office has been appointed to serve as guardian or conservator;

5744 (d) train and monitor each employee and volunteer, and monitor each contract provider
5745 to whom the office has delegated a responsibility for a ward;

5746 (e) retain all court-delegated powers and duties for a ward;

5747 (f) report on the personal and financial status of a ward as required by a court in
5748 accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their
5749 Property;

5750 (g) handle a ward's funds in accordance with the department's trust account system;

5751 (h) request that the department's audit plan, established pursuant to Section 63I-5-401,
5752 include the requirement of an annual audit of all funds and property held by the office on behalf
5753 of wards;

5754 (i) maintain accurate records concerning each ward, the ward's property, and office
5755 services provided to the ward;

5756 (j) make reasonable and continuous efforts to find a family member, friend, or other
5757 person to serve as a ward's guardian or conservator;

5758 (k) after termination as guardian or conservator, distribute a ward's property in
5759 accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their
5760 Property; and

5761 (l) submit recommendations for changes in state law and funding to the governor and
5762 the Legislature and report to the governor and Legislature, upon request.

5763 (2) The office may:

5764 (a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under
5765 Disability and Their Property, to be appointed an incapacitated person's guardian, conservator,
5766 or both after conducting a prepetition assessment under Section 62A-14-107;

5767 (b) develop and operate a statewide program to recruit, train, supervise, and monitor
5768 volunteers to assist the office in providing guardian and conservator services;

5769 (c) delegate one or more responsibilities for a ward to an employee, volunteer, or
5770 contract provider, except as provided in Subsection 62A-14-107(1);

5771 (d) solicit and receive private donations to provide guardian and conservator services
5772 under this ~~[chapter]~~ part; and

5773 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
5774 Rulemaking Act, to:

5775 (i) effectuate policy; and

5776 (ii) carry out the office's role as guardian and conservator of wards as provided in this
5777 chapter.

5778 Section 158. Section **26B-6-305**, which is renumbered from Section 62A-14-107 is
5779 renumbered and amended to read:

5780 ~~[62A-14-107]~~. **26B-6-305. Prepetition assessment and plan.**

5781 (1) Before the office may file a petition in court to be appointed guardian or
5782 conservator of a person, the office shall:

5783 (a) conduct a face-to-face needs assessment, by someone other than a volunteer, to
5784 determine whether the person suffers from a mental or physical impairment that renders the
5785 person substantially incapable of:

5786 (i) caring for his personal safety;

5787 (ii) managing his financial affairs; or
5788 (iii) attending to and providing for such necessities as food, shelter, clothing, and
5789 medical care, to the extent that physical injury or illness may result;
5790 (b) assess the financial resources of the person based on information supplied to the
5791 office at the time of assessment;
5792 (c) inquire and, if appropriate, search to determine whether any other person may be
5793 willing and able to serve as the person's guardian or conservator; and
5794 (d) determine the form of guardianship or conservatorship to request of a court, if any,
5795 giving preference to the least intensive form of guardianship or conservatorship, consistent
5796 with the best interests of the person.

5797 (2) The office shall prepare an individualized guardianship or conservator plan for each
5798 ward within 60 days of appointment.

5799 Section 159. Section **26B-6-306**, which is renumbered from Section 62A-14-108 is
5800 renumbered and amended to read:

5801 ~~[62A-14-108]~~. **26B-6-306. Office volunteers.**

5802 (1) A person who desires to be an office volunteer shall:

5803 (a) possess demonstrated personal characteristics of honesty, integrity, compassion,
5804 and concern for incapacitated persons; and

5805 (b) upon request, submit information for a background check pursuant to Section
5806 26B-1-211.

5807 (2) An office volunteer may not receive compensation or benefits, but may be
5808 reimbursed by the office for expenses actually and reasonably incurred, consistent with Title
5809 67, Chapter 20, Volunteer Government Workers Act.

5810 (3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8,
5811 Immunity for Persons Performing Voluntary Services Act.

5812 Section 160. Section **26B-6-307**, which is renumbered from Section 62A-14-109 is
5813 renumbered and amended to read:

5814 ~~[62A-14-109]~~. **26B-6-307. Contract for services.**

5815 (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the office may
5816 contract with one or more providers to perform guardian and conservator duties.

5817 (2) The office shall review and monitor the services provided by a contract provider to

5818 a ward for whom the office has been appointed guardian or conservator.

5819 Section 161. Section **26B-6-308**, which is renumbered from Section 62A-14-110 is
5820 renumbered and amended to read:

5821 ~~[62A-14-110]~~. **26B-6-308. Court, legal, and other costs.**

5822 (1) The office may not be appointed as the guardian or conservator of a person unless
5823 the office petitioned for or agreed in advance to the appointment.

5824 (2) Except as provided in Subsection (4), the court shall order the ward or the ward's
5825 estate to pay for the cost of services rendered under this chapter, including court costs and
5826 reasonable attorneys' fees.

5827 (3) If the office recovers attorneys' fees under Subsection (2), the office shall transmit
5828 those fees to the attorneys who represented the ward or the office in connection with the ward's
5829 case.

5830 (4) If a ward is indigent, the office shall provide guardian and conservator services free
5831 of charge and shall make reasonable efforts to secure pro bono legal services for the ward.

5832 (5) Under no circumstances may court costs or attorneys' fees be assessed to the office.

5833 Section 162. Section **26B-6-309**, which is renumbered from Section 62A-14-111 is
5834 renumbered and amended to read:

5835 ~~[62A-14-111]~~. **26B-6-309. Duty of the county attorney or district attorney.**

5836 (1) The attorney general shall advise the office on legal matters and represent the office
5837 in legal proceedings.

5838 (2) Upon the request of the attorney general, a county attorney may represent the office
5839 in connection with the filing of a petition for appointment as guardian or conservator of an
5840 incapacitated person and with routine, subsequent appearances.

5841 Section 163. Section **26B-6-401**, which is renumbered from Section 62A-5-101 is
5842 renumbered and amended to read:

5843 **Part 4. Division of Services for People with Disabilities**

5844 ~~[62A-5-101]~~. **26B-6-401. Definitions.**

5845 As used in this [chapter] part:

5846 (1) "Approved provider" means a person approved by the division to provide
5847 home-based services.

5848 (2) "Board" means the Utah State Developmental Center Board created under Section

5849 62A-5-202.5.

5850 (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in
5851 nature, including a cerebral vascular accident.

5852 (b) "Brain injury" does not include a deteriorating disease.

5853 (4) "Designated intellectual disability professional" means:

5854 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,
5855 who:

5856 (i) (A) has at least one year of specialized training in working with persons with an
5857 intellectual disability; or

5858 (B) has at least one year of clinical experience with persons with an intellectual
5859 disability; and

5860 (ii) is designated by the division as specially qualified, by training and experience, in
5861 the treatment of an intellectual disability; or

5862 (b) a clinical social worker, certified social worker, marriage and family therapist, or
5863 professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional
5864 Practice Act, who:

5865 (i) has at least two years of clinical experience with persons with an intellectual
5866 disability; and

5867 (ii) is designated by the division as specially qualified, by training and experience, in
5868 the treatment of an intellectual disability.

5869 (5) "Deteriorating disease" includes:

5870 (a) multiple sclerosis;

5871 (b) muscular dystrophy;

5872 (c) Huntington's chorea;

5873 (d) Alzheimer's disease;

5874 (e) ataxia; or

5875 (f) cancer.

5876 (6) "Developmental center" means the Utah State Developmental Center, established in
5877 accordance with Part 2, Utah State Developmental Center.

5878 (7) "Director" means the director of the Division of Services for People with
5879 Disabilities.

5880 (8) "Direct service worker" means a person who provides services to a person with a
5881 disability:

5882 (a) when the services are rendered in:

5883 (i) the physical presence of the person with a disability; or

5884 (ii) a location where the person rendering the services has access to the physical
5885 presence of the person with a disability; and

5886 (b) (i) under a contract with the division;

5887 (ii) under a grant agreement with the division; or

5888 (iii) as an employee of the division.

5889 (9) (a) "Disability" means a severe, chronic disability that:

5890 (i) is attributable to:

5891 (A) an intellectual disability;

5892 (B) a condition that qualifies a person as a person with a related condition, as defined
5893 in 42 C.F.R. 435.1010;

5894 (C) a physical disability; or

5895 (D) a brain injury;

5896 (ii) is likely to continue indefinitely;

5897 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a
5898 substantial functional limitation in three or more of the following areas of major life activity:

5899 (I) self-care;

5900 (II) receptive and expressive language;

5901 (III) learning;

5902 (IV) mobility;

5903 (V) self-direction;

5904 (VI) capacity for independent living; or

5905 (VII) economic self-sufficiency; or

5906 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial
5907 limitation in three or more of the following areas:

5908 (I) memory or cognition;

5909 (II) activities of daily life;

5910 (III) judgment and self-protection;

- 5911 (IV) control of emotions;
- 5912 (V) communication;
- 5913 (VI) physical health; or
- 5914 (VII) employment; and
- 5915 (iv) requires a combination or sequence of special interdisciplinary or generic care,
- 5916 treatment, or other services that:
- 5917 (A) may continue throughout life; and
- 5918 (B) must be individually planned and coordinated.
- 5919 (b) "Disability" does not include a condition due solely to:
- 5920 (i) mental illness;
- 5921 (ii) personality disorder;
- 5922 (iii) deafness or being hard of hearing;
- 5923 (iv) visual impairment;
- 5924 (v) learning disability;
- 5925 (vi) behavior disorder;
- 5926 (vii) substance abuse; or
- 5927 (viii) the aging process.
- 5928 (10) "Division" means the Division of Services for People with Disabilities.
- 5929 (11) "Eligible to receive division services" or "eligibility" means qualification, based
- 5930 on criteria established by the division, to receive services that are administered by the division.
- 5931 (12) "Endorsed program" means a facility or program that:
- 5932 (a) is operated:
- 5933 (i) by the division; or
- 5934 (ii) under contract with the division; or
- 5935 (b) provides services to a person committed to the division under Part 3, Admission to
- 5936 an Intermediate Care Facility for People with an Intellectual Disability.
- 5937 (13) "Licensed physician" means:
- 5938 (a) an individual licensed to practice medicine under:
- 5939 (i) Title 58, Chapter 67, Utah Medical Practice Act; or
- 5940 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 5941 (b) a medical officer of the United States Government while in this state in the

5942 performance of official duties.

5943 (14) "Limited support services" means services that are administered by the division to
5944 individuals with a disability:

5945 (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for
5946 Medicare and Medicaid Services that permits the division to limit services to an individual who
5947 is eligible to receive division services; and

5948 (b) through a program that:

5949 (i) was not operated by the division on or before January 1, 2020; and

5950 (ii) (A) limits the kinds of services that an individual may receive; or

5951 (B) sets a maximum total dollar amount for program services provided to each
5952 individual.

5953 (15) "Physical disability" means a medically determinable physical impairment that has
5954 resulted in the functional loss of two or more of a person's limbs.

5955 (16) "Public funds" means state or federal funds that are disbursed by the division.

5956 (17) "Resident" means an individual under observation, care, or treatment in an
5957 intermediate care facility for people with an intellectual disability.

5958 (18) "Sustainability fund" means the Utah State Developmental Center Long-Term
5959 Sustainability Fund created in Section 62A-5-206.7.

5960 Section 164. Section **26B-6-402**, which is renumbered from Section 62A-5-102 is
5961 renumbered and amended to read:

5962 ~~[62A-5-102]~~. **26B-6-402. Division of Services for People with Disabilities --**
5963 **Creation -- Authority -- Direction -- Provision of services.**

5964 (1) There is created within the department the Division of Services for People with
5965 Disabilities, under the administrative direction of the executive director of the department.

5966 (2) In accordance with this ~~chapter~~ part, the division has the responsibility to plan and
5967 deliver an appropriate array of services and supports to persons with disabilities and their
5968 families in this state.

5969 (3) Within appropriations from the Legislature, the division shall provide services to
5970 any individual with a disability who is eligible to receive division services.

5971 (4) (a) Except as provided in Subsection (4)(c), any new appropriations designated to
5972 serve eligible individuals waiting for services from the division shall be allocated, as

5973 determined by the division by rule based on the:

5974 (i) severity of the disability;

5975 (ii) urgency of the need for services;

5976 (iii) ability of a parent or guardian to provide the individual with appropriate care and
5977 supervision; and

5978 (iv) length of time during which the individual has not received services from the
5979 division.

5980 (b) Funds from Subsection (4)(a) that are not spent by the division at the end of the
5981 fiscal year may be used as set forth in Subsection (7).

5982 (c) Subsections (4)(a) and (b) do not apply to any new appropriations designated to
5983 provide limited support services.

5984 (5) The division:

5985 (a) has the functions, powers, duties, rights, and responsibilities described in Section
5986 62A-5-103; and

5987 (b) is authorized to work in cooperation with other state, governmental, and private
5988 agencies to carry out the responsibilities described in Subsection (5)(a).

5989 (6) Within appropriations authorized by the Legislature, and to the extent allowed
5990 under Title XIX of the Social Security Act, the division shall ensure that the services and
5991 support that the division provides to an individual with a disability:

5992 (a) are provided in the least restrictive and most enabling environment;

5993 (b) ensure opportunities to access employment; and

5994 (c) enable reasonable personal choice in selecting services and support that:

5995 (i) best meet individual needs; and

5996 (ii) promote:

5997 (A) independence;

5998 (B) productivity; and

5999 (C) integration in community life.

6000 (7) (a) Appropriations to the division are nonlapsing.

6001 (b) After an individual stops receiving services under this section, the division shall use
6002 the funds that paid for the individual's services to provide services under this section to another
6003 eligible individual in an intermediate care facility transitioning to division services, if the funds

6004 were allocated under a program established under Section 26-18-3 to transition individuals
6005 with intellectual disabilities from an intermediate care facility.

6006 (c) Except as provided in Subsection (7)(b), if an individual receiving services under
6007 Subsection (4)(a) ceases to receive those services, the division shall use the funds that were
6008 allocated to that individual to provide services to another eligible individual waiting for
6009 services as described in Subsection (4)(a).

6010 (d) Funds unexpended by the division at the end of the fiscal year may be used only for
6011 one-time expenditures unless otherwise authorized by the Legislature.

6012 (e) A one-time expenditure under this section:

6013 (i) is not an entitlement;

6014 (ii) may be withdrawn at any time; and

6015 (iii) may provide short-term, limited services, including:

6016 (A) respite care;

6017 (B) service brokering;

6018 (C) family skill building and preservation classes;

6019 (D) after school group services; and

6020 (E) other professional services.

6021 Section 165. Section **26B-6-403**, which is renumbered from Section 62A-5-103 is
6022 renumbered and amended to read:

6023 ~~[62A-5-103]~~. **26B-6-403. Responsibility and authority of division.**

6024 (1) For purposes of this section "administer" means to:

6025 (a) plan;

6026 (b) develop;

6027 (c) manage;

6028 (d) monitor; and

6029 (e) conduct certification reviews.

6030 (2) The division has the authority and responsibility to:

6031 (a) administer an array of services and supports for persons with disabilities and their
6032 families throughout the state;

6033 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
6034 Rulemaking Act, that establish eligibility criteria for the services and supports described in

6035 Subsection (2)(a);
6036 (c) consistent with Section 62A-5-206, supervise the programs and facilities of the
6037 Developmental Center;
6038 (d) in order to enhance the quality of life for a person with a disability, establish either
6039 directly, or by contract with private, nonprofit organizations, programs of:
6040 (i) outreach;
6041 (ii) information and referral;
6042 (iii) prevention;
6043 (iv) technical assistance; and
6044 (v) public awareness;
6045 (e) supervise the programs and facilities operated by, or under contract with, the
6046 division;
6047 (f) cooperate with other state, governmental, and private agencies that provide services
6048 to a person with a disability;
6049 (g) subject to Subsection (3), ensure that a person with a disability is not deprived of
6050 that person's constitutionally protected rights without due process procedures designed to
6051 minimize the risk of error when a person with a disability is admitted to an intermediate care
6052 facility for people with an intellectual disability, including:
6053 (i) the developmental center; and
6054 (ii) facilities within the community;
6055 (h) determine whether to approve providers;
6056 (i) monitor and sanction approved providers, as specified in the providers' contract;
6057 (j) subject to Section 62A-5-103.5, receive and disburse public funds;
6058 (k) review financial actions of a provider who is a representative payee appointed by
6059 the Social Security Administration;
6060 (l) establish standards and rules for the administration and operation of programs
6061 conducted by, or under contract with, the division;
6062 (m) approve and monitor division programs to insure compliance with the board's rules
6063 and standards;
6064 (n) establish standards and rules necessary to fulfill the division's responsibilities under
6065 Part 2, Utah State Developmental Center, and Part 3, Admission to an Intermediate Care

- 6066 Facility for People with an Intellectual Disability, with regard to an intermediate care facility
6067 for people with an intellectual disability;
- 6068 (o) assess and collect equitable fees for a person who receives services provided under
6069 this chapter;
- 6070 (p) maintain records of, and account for, the funds described in Subsection (2)(o);
- 6071 (q) establish and apply rules to determine whether to approve, deny, or defer the
6072 division's services to a person who is:
- 6073 (i) applying to receive the services; or
- 6074 (ii) currently receiving the services;
- 6075 (r) in accordance with state law, establish rules:
- 6076 (i) relating to an intermediate care facility for people with an intellectual disability that
6077 is an endorsed program; and
- 6078 (ii) governing the admission, transfer, and discharge of a person with a disability;
- 6079 (s) manage funds for a person residing in a facility operated by the division:
- 6080 (i) upon request of a parent or guardian of the person; or
- 6081 (ii) under administrative or court order; and
- 6082 (t) fulfill the responsibilities described in Chapter 5a, Coordinating Council for Persons
6083 with Disabilities.
- 6084 (3) The due process procedures described in Subsection (2)(g):
- 6085 (a) shall include initial and periodic reviews to determine the constitutional
6086 appropriateness of the placement; and
- 6087 (b) with regard to facilities in the community, do not require commitment to the
6088 division.
- 6089 Section 166. Section **26B-6-404**, which is renumbered from Section 62A-5-104 is
6090 renumbered and amended to read:
- 6091 ~~62A-5-104~~. **26B-6-404. Director -- Qualifications -- Responsibilities.**
- 6092 (1) The director of the division shall be appointed by the executive director.
- 6093 (2) The director shall have a bachelor's degree from an accredited university or college,
6094 be experienced in administration, and be knowledgeable in developmental disabilities,
6095 intellectual disabilities, and other disabilities.
- 6096 (3) The director is the administrative head of the division.

6097 (4) The director shall appoint the superintendent of the developmental center and the
6098 necessary and appropriate administrators for other facilities operated by the division with the
6099 concurrence of the executive director.

6100 Section 167. Section **26B-6-405**, which is renumbered from Section 62A-5-105 is
6101 renumbered and amended to read:

6102 ~~[62A-5-105]~~. **26B-6-405. Division responsibilities -- Policy mediation.**

6103 (1) The division shall establish its rules in accordance with:

6104 (a) the policy of the Legislature as set forth by this chapter; and

6105 (b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

6106 (2) The division shall:

6107 (a) establish program policy for the division, the developmental center, and programs
6108 and facilities operated by or under contract with the division;

6109 (b) establish rules for the assessment and collection of fees for programs within the
6110 division;

6111 (c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay
6112 and implement the schedule with respect to service recipients and their families where not
6113 otherwise prohibited by federal law or regulation or not otherwise provided for in Section
6114 62A-5-109;

6115 (d) establish procedures to ensure that private citizens, consumers, private contract
6116 providers, allied state and local agencies, and others are provided with an opportunity to
6117 comment and provide input regarding any new policy or proposed revision to an existing
6118 policy;

6119 (e) provide a mechanism for systematic and regular review of existing policy and for
6120 consideration of policy changes proposed by the persons and agencies described under
6121 Subsection (2)(d);

6122 (f) establish and periodically review the criteria used to determine who may receive
6123 services from the division and how the delivery of those services is prioritized within available
6124 funding;

6125 (g) review implementation and compliance by the division with policies established by
6126 the board to ensure that the policies established by the Legislature in this chapter are carried
6127 out; and

6128 (h) annually report to the executive director.

6129 (3) The executive director shall mediate any differences which arise between the
6130 policies of the division and those of any other policy board or division in the department.

6131 Section 168. Section **26B-6-406**, which is renumbered from Section 62A-5-106 is
6132 renumbered and amended to read:

6133 ~~[62A-5-106]~~. **26B-6-406. Powers of other state agencies -- Severability.**

6134 Nothing in this part shall be construed to supersede or limit the authority granted by law
6135 to any other state agency. If any provision of this part, or the application of any provision to
6136 the person or circumstance, is held invalid, the remainder of this part shall not be affected.

6137 Section 169. Section **26B-6-407**, which is renumbered from Section 62A-5-103.1 is
6138 renumbered and amended to read:

6139 ~~[62A-5-103.1]~~. **26B-6-407. Program for provision of supported employment**
6140 **services.**

6141 (1) There is established a program for the provision of supported employment services
6142 to be administered by the division.

6143 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
6144 Administrative Rulemaking Act, as necessary for the implementation and administration of the
6145 program described in this section.

6146 (3) In accordance with Subsection (4), within funds appropriated by the Legislature for
6147 the program described in this section, the division shall provide supported employment
6148 services to a person with a disability who:

6149 (a) is eligible to receive services from the division;

6150 (b) has applied for, and is waiting to, receive services from the division;

6151 (c) is not receiving other ongoing services from the division;

6152 (d) is not able to receive sufficient supported employment services from other sources;

6153 (e) the division determines would substantially benefit from the provision of supported
6154 employment services; and

6155 (f) does not require the provision of other ongoing services from the division in order
6156 to substantially benefit from the provision of supported employment services.

6157 (4) (a) The division shall provide supported employment services under this section
6158 outside of the prioritization criteria established by the division for the receipt of other services

6159 from the division.

6160 (b) The division shall establish criteria to determine the priority, between persons
6161 eligible for services under this section, for receiving services under this section.

6162 (5) It is the intent of the Legislature that the services provided under the program
6163 described in this section:

6164 (a) shall be provided separately from the Medicaid program described in Title XIX of
6165 the Social Security Act;

6166 (b) may not be supported with Medicaid funds;

6167 (c) may not be provided as part of a Medicaid waiver;

6168 (d) do not constitute an entitlement of any kind; and

6169 (e) may be withdrawn from a person at any time.

6170 (6) The division shall report to the Health and Human Services Interim Committee in
6171 even calendar years regarding the success and progress of employment services offered under
6172 this section.

6173 Section 170. Section **26B-6-408**, which is renumbered from Section 62A-5-103.2 is
6174 renumbered and amended to read:

6175 ~~[62A-5-103.2]~~. **26B-6-408. Pilot Program for the Provision of Family**
6176 **Preservation Services.**

6177 (1) There is established a pilot program for the provision of family preservation
6178 services to a person with a disability and that person's family, beginning on July 1, 2007, and
6179 ending on July 1, 2009.

6180 (2) The family preservation services described in Subsection (1) may include:

6181 (a) family skill building classes;

6182 (b) respite hours for class attendance; or

6183 (c) professional intervention.

6184 (3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
6185 Administrative Rulemaking Act, as necessary for the implementation and administration of this
6186 section.

6187 (4) In accordance with Subsection (5), within funds appropriated by the Legislature for
6188 the pilot program described in this section, the division shall provide family preservation
6189 services to a person with a disability, and that person's family, if that person:

- 6190 (a) is eligible to receive services from the division;
6191 (b) has applied for, and is willing to receive, services from the division;
6192 (c) is not receiving other ongoing services from the division;
6193 (d) is not able to receive sufficient family preservation services from other sources;
6194 (e) is determined by the division to be a person who would substantially benefit from
6195 the provision of family preservation services; and
6196 (f) does not require the provision of other ongoing services from the division in order
6197 to substantially benefit from the provision of family preservation services.

6198 (5) (a) The division shall provide family preservation services under this section
6199 outside of the prioritization criteria established by the division for the receipt of other services
6200 from the division.

6201 (b) The division shall establish criteria to determine the priority, between persons
6202 eligible for services under this section, for receiving services under this section.

6203 (6) It is the intent of the Legislature that the services provided under the pilot program
6204 described in this section:

6205 (a) shall be provided separately from the Medicaid program described in Title XIX of
6206 the Social Security Act;

6207 (b) may not be supported with Medicaid funds;

6208 (c) may not be provided as part of a Medicaid waiver;

6209 (d) do not constitute an entitlement of any kind; and

6210 (e) may be withdrawn from a person at any time.

6211 Section 171. Section **26B-6-409**, which is renumbered from Section 62A-5-103.3 is
6212 renumbered and amended to read:

6213 ~~62A-5-103.3~~. **26B-6-409**. **Employment first emphasis on the provision of**
6214 **services.**

6215 (1) When providing services to a person with a disability under this chapter, the
6216 division shall, within funds appropriated by the Legislature and in accordance with the
6217 requirements of federal and state law, give priority to providing services that assist the person
6218 in obtaining and retaining meaningful and gainful employment that enables the person to:

6219 (a) purchase goods and services;

6220 (b) establish self-sufficiency; and

- 6221 (c) exercise economic control of the person's life.
- 6222 (2) The division shall develop a written plan to implement the policy described in
- 6223 Subsection (1) that includes:
- 6224 (a) assessing the strengths and needs of a person with a disability;
- 6225 (b) customizing strength-based approaches to obtaining employment;
- 6226 (c) expecting, encouraging, providing, and rewarding:
- 6227 (i) integrated employment in the workplace at competitive wages and benefits; and
- 6228 (ii) self-employment;
- 6229 (d) developing partnerships with potential employers;
- 6230 (e) maximizing appropriate employment training opportunities;
- 6231 (f) coordinating services with other government agencies and community resources;
- 6232 (g) to the extent possible, eliminating practices and policies that interfere with the
- 6233 policy described in Subsection (1); and
- 6234 (h) arranging sub-minimum wage work or volunteer work when employment at market
- 6235 rates cannot be obtained.
- 6236 (3) The division shall, on an annual basis:
- 6237 (a) set goals to implement the policy described in Subsection (1) and the plan described
- 6238 in Subsection (2);
- 6239 (b) determine whether the goals for the previous year have been met; and
- 6240 (c) modify the plan described in Subsection (2) as needed.
- 6241 Section 172. Section **26B-6-410**, which is renumbered from Section 62A-5-103.5 is
- 6242 renumbered and amended to read:
- 6243 ~~[62A-5-103.5]~~. **26B-6-410**. **Disbursal of public funds -- Background check of**
- 6244 **a direct service worker.**
- 6245 (1) For purposes of this section, "office" means the same as that term is defined in
- 6246 Section 62A-2-101.
- 6247 (2) Public funds may not be disbursed to pay a direct service worker for personal
- 6248 services rendered to a person unless the office approves the direct service worker to have direct
- 6249 access and provide services to a child or a vulnerable adult pursuant to Section 62A-2-120.
- 6250 (3) For purposes of Subsection (2), the office shall conduct a background check of a
- 6251 direct service worker:

6252 (a) before public funds are disbursed to pay the direct service worker for the personal
6253 services described in Subsection (2); and

6254 (b) using the same procedures established for a background check of an applicant for a
6255 license under Section 62A-2-120.

6256 (4) A child who is in the legal custody of the department or any of the department's
6257 divisions may not be placed with a direct service worker unless, before the child is placed with
6258 the direct service worker, the direct service worker passes a background check, pursuant to the
6259 requirements of Subsection 62A-2-120(14).

6260 (5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
6261 Transit District Act, contracts with the division to provide services:

6262 (a) the provisions of this section are not applicable to a direct service worker employed
6263 by the public transit district; and

6264 (b) the division may not reimburse the public transit district for services provided
6265 unless a direct service worker hired or transferred internally after July 1, 2013, by the public
6266 transit district to drive a paratransit route:

6267 (i) is approved by the office to have direct access to children and vulnerable adults in
6268 accordance with Section 62A-2-120; and

6269 (ii) is subject to a background check established in a statute or rule governing a public
6270 transit district or other public transit district policy.

6271 Section 173. Section **26B-6-411**, which is renumbered from Section 62A-5-109 is
6272 renumbered and amended to read:

6273 ~~62A-5-109~~. **26B-6-411**. **Parent liable for cost and support of minor --**
6274 **Guardian liable for costs.**

6275 (1) Parents of a person who receives services or support from the division, who are
6276 financially responsible, are liable for the cost of the actual care and maintenance of that person
6277 and for the support of the child in accordance with Title 78B, Chapter 12, Utah Child Support
6278 Act, and Title 62A, Chapter 11, Recovery Services, until the person reaches 18 years of age.

6279 (2) A guardian of a person who receives services or support from the division is liable
6280 for the cost of actual care and maintenance of that person, regardless of his age, where funds
6281 are available in the guardianship estate established on his behalf for that purpose. However, if
6282 the person who receives services is a beneficiary of a trust created in accordance with Section

6283 62A-5-110, or if the guardianship estate meets the requirements of a trust described in that
6284 section, the trust income prior to distribution to the beneficiary, and the trust principal are not
6285 subject to payment for services or support for that person.

6286 (3) If, at the time a person who receives services or support from the division is
6287 discharged from a facility or program owned or operated by or under contract with the division,
6288 or after the death and burial of a resident of the developmental center, there remains in the
6289 custody of the division or the superintendent any money paid by a parent or guardian for the
6290 support or maintenance of that person, it shall be repaid upon demand.

6291 Section 174. Section **26B-6-412**, which is renumbered from Section 62A-5-110 is
6292 renumbered and amended to read:

6293 ~~[62A-5-110]~~. **26B-6-412**. **Discretionary trust for an individual with a**
6294 **disability -- Impact on state services.**

6295 (1) For purposes of this section:

6296 (a) "Discretionary trust for an individual with a disability" means a trust:

6297 (i) that is established for the benefit of an individual who, at the time the trust is

6298 created, is under age 65 and has a disability, as defined in 42 U.S.C. Sec. 1382c;

6299 (ii) under which the trustee has discretionary power to determine distributions;

6300 (iii) under which the individual may not control or demand payments unless an abuse
6301 of the trustee's duties or discretion is shown;

6302 (iv) that contains the assets of the individual and is established for the benefit of the

6303 individual by the individual, a court, or a parent, grandparent, or legal guardian of the

6304 individual;

6305 (v) that is irrevocable, except that the trust document may provide that the trust be

6306 terminated if the individual no longer has a disability, as defined in 42 U.S.C. Sec. 1382c;

6307 (vi) that is invalid as to any portion funded by property that is or may be subject to a
6308 lien by the state; and

6309 (vii) that provides that, upon the death of the individual, the state will receive all
6310 amounts remaining in the trust, up to an amount equal to the total medical assistance paid on
6311 behalf of the individual.

6312 (b) "Medical assistance" means the same as that term is defined in Section 26-18-2.

6313 (2) A state agency providing services or support to an individual with a disability may:

6314 (a) waive application of Subsection (1)(a)(v) with respect to that individual if the state
6315 agency determines that application of the criteria would place an undue hardship upon that
6316 individual; and

6317 (b) define, by rule, what constitutes "undue hardship" for purposes of this section.

6318 (3) A discretionary trust for an individual with a disability is not liable for
6319 reimbursement or payment to the state or any state agency, for financial aid or services
6320 provided to that individual except:

6321 (a) to the extent that the trust property has been distributed directly to or is otherwise
6322 under the control of the beneficiary with a disability; or

6323 (b) as provided in Subsection (1)(a)(vi).

6324 (4) Property, goods, and services that are purchased or owned by a discretionary trust
6325 for an individual with a disability and that are used or consumed by a beneficiary with a
6326 disability shall not be considered trust property that is distributed to or under the control of the
6327 beneficiary.

6328 (5) The benefits that an individual with a disability is otherwise legally entitled to may
6329 not be reduced, impaired, or diminished in any way because of contribution to a discretionary
6330 trust for that individual.

6331 (6) All state agencies shall disregard a discretionary trust for an individual with a
6332 disability as a resource when determining eligibility for services or support except as, and only
6333 to the extent that it is otherwise prohibited by federal law.

6334 (7) This section applies to all discretionary trusts that meet the requirements contained
6335 in Subsection (1) created before, on, or after July 1, 1994.

6336 Section 175. Section **26B-6-413**, which is renumbered from Section 62A-5-402 is
6337 renumbered and amended to read:

6338 ~~[62A-5-402]~~. **26B-6-413. Scope of home based services -- Principles --**
6339 **Services for individuals younger than 11 years old.**

6340 (1) The purpose of this section is to provide support to families in their role as primary
6341 caregivers for family members with disabilities.

6342 ~~(1)~~ (2) (a) To enable a person with a disability and the person's family to select
6343 services and supports that best suit their needs and preferences, the division shall, within
6344 appropriations from the Legislature, provide services and supports under this part by giving

6345 direct financial assistance to the parent or guardian of a person with a disability who resides at
6346 home.

6347 (b) The dollar value of direct financial assistance is determined by the division based
6348 on:

6349 (i) appropriations from the Legislature; and

6350 (ii) the needs of the person with a disability.

6351 (c) In determining whether to provide direct financial assistance to the family, the
6352 division shall consider:

6353 (i) the family's preference; and

6354 (ii) the availability of approved providers in the area where the family resides.

6355 (d) If the division provides direct financial assistance, the division:

6356 (i) shall require the family to account for the use of that financial assistance; and

6357 (ii) shall tell the person with a disability or the person's parent or guardian how long the
6358 direct financial assistance is intended to provide services and supports before additional direct
6359 financial assistance is issued.

6360 (e) Except for eligibility determination services directly connected to the provision of
6361 direct financial assistance, service coordination is not provided under this part by the division
6362 unless the person with a disability or the person's parent or guardian uses the direct financial
6363 assistance to purchase such services.

6364 ~~(2)~~ (3) The following principles shall be used as the basis for supporting families who
6365 care for family members with disabilities:

6366 (a) all children, regardless of disability, should reside in a family-like environment;

6367 (b) families should receive the support they need to care for their children at home;

6368 (c) services should:

6369 (i) focus on the person with a disability;

6370 (ii) take into consideration the family of the person described in Subsection (2)(c)(i);

6371 (iii) be sensitive to the unique needs, preferences, and strengths of individual families;

6372 and

6373 (iv) complement and reinforce existing sources of help and support that are available to
6374 each family.

6375 (4) Except as provided in Subsection (5), after June 30, 1996, the division may not

6376 provide residential services to persons with disabilities who are under 11 years of age.

6377 (5) The prohibition of Subsection (4) does not include residential services that are
6378 provided:

6379 (a) for persons in the custody of the Division of Child and Family Services;

6380 (b) under a plan for home-based services, including respite and temporary residential
6381 care or services provided by a professional parent under contract with the division; or

6382 (c) after a written finding by the director that out-of-home residential placement is the
6383 most appropriate way to meet the needs of the person with disabilities and his family.

6384 Section 176. Section **26B-6-501** is enacted to read:

6385 **Part 5. Utah State Developmental Center**

6386 **26B-6-501. Definitions.**

6387 The definitions in Section 26-B-6-401 apply to this part.

6388 Section 177. Section **26B-6-502**, which is renumbered from Section 62A-5-201 is
6389 renumbered and amended to read:

6390 ~~[62A-5-201].~~ **26B-6-502. Utah State Developmental Center.**

6391 (1) The intermediate care facility for people with an intellectual disability located in
6392 American Fork City, Utah County, shall be known as the "Utah State Developmental Center."

6393 (2) Within appropriations authorized by the Legislature, the role and function of the
6394 developmental center is to:

6395 (a) provide care, services, and treatment to persons described in Subsection (3); and

6396 (b) provide the following services and support to persons with disabilities who do not
6397 reside at the developmental center:

6398 (i) psychiatric testing;

6399 (ii) specialized medical treatment and evaluation;

6400 (iii) specialized dental treatment and evaluation;

6401 (iv) family and client special intervention;

6402 (v) crisis management;

6403 (vi) occupational, physical, speech, and audiology services; and

6404 (vii) professional services, such as education, evaluation, and consultation, for families,
6405 public organizations, providers of community and family support services, and courts.

6406 (3) Except as provided in Subsection (6), within appropriations authorized by the

6407 Legislature, and notwithstanding the provisions of Part 3, Admission to an Intermediate Care
6408 Facility for People with an Intellectual Disability, only the following persons may be residents
6409 of, be admitted to, or receive care, services, or treatment at the developmental center:

6410 (a) persons with an intellectual disability;

6411 (b) persons who receive services and supports under Subsection (2)(b); and

6412 (c) persons who require at least one of the following services from the developmental
6413 center:

6414 (i) continuous medical care;

6415 (ii) intervention for conduct that is dangerous to self or others; or

6416 (iii) temporary residential assessment and evaluation.

6417 (4) (a) Except as provided in Subsection (6), the division shall, in the division's
6418 discretion:

6419 (i) place residents from the developmental center into appropriate less restrictive
6420 placements; and

6421 (ii) determine each year the number to be placed based upon the individual assessed
6422 needs of the residents.

6423 (b) The division shall confer with parents and guardians to ensure the most appropriate
6424 placement for each resident.

6425 (5) Except as provided in Subsection (7), within appropriations authorized by the
6426 Legislature, and notwithstanding the provisions of Subsection (3) and Part 3, Admission to an
6427 Intermediate Care Facility for People with an Intellectual Disability, a person who is under 18
6428 years of age may be a resident of, admitted to, or receive care, services, or treatment at the
6429 developmental center only if the director certifies in writing that the developmental center is
6430 the most appropriate placement for that person.

6431 (6) (a) If the division determines, pursuant to Utah's Community Supports Waiver for
6432 Individuals with Intellectual Disabilities and Other Related Conditions, that a person who
6433 otherwise qualifies for placement in an intermediate care facility for people with an intellectual
6434 disability should receive services in a home or community-based setting, the division shall:

6435 (i) if the person does not have a legal representative or legal guardian:

6436 (A) inform the person of any feasible alternatives under the waiver; and

6437 (B) give the person the choice of being placed in an intermediate care facility for

6438 people with an intellectual disability or receiving services in a home or community-based
6439 setting; or

6440 (ii) if the person has a legal representative or legal guardian:

6441 (A) inform the legal representative or legal guardian of any feasible alternatives under
6442 the waiver; and

6443 (B) give the legal representative or legal guardian the choice of having the person
6444 placed in an intermediate care facility for people with an intellectual disability or receiving
6445 services in a home or community-based setting.

6446 (b) If a person chooses, under Subsection (6)(a)(i), to be placed in an intermediate care
6447 facility for people with an intellectual disability instead of receiving services in a home or
6448 community-based setting, the division shall:

6449 (i) ask the person whether the person prefers to be placed in the developmental center
6450 rather than a private intermediate care facility for people with an intellectual disability; and

6451 (ii) if the person expresses a preference to be placed in the developmental center:

6452 (A) place the person in the developmental center if the cost of placing the person in the
6453 developmental center is equal to, or less than, the cost of placing the person in a private
6454 intermediate care facility for people with an intellectual disability; or

6455 (B) (I) strongly consider the person's preference to be placed in the developmental
6456 center if the cost of placing the person in the developmental center exceeds the cost of placing
6457 the person in a private intermediate care facility for people with an intellectual disability; and

6458 (II) place the person in the developmental center or a private intermediate care facility
6459 for people with an intellectual disability.

6460 (c) If a legal representative or legal guardian chooses, under Subsection (6)(a)(ii), to
6461 have the person placed in an intermediate care facility for people with an intellectual disability
6462 instead of receiving services in a home or community-based setting, the division shall:

6463 (i) ask the legal representative or legal guardian whether the legal representative or
6464 legal guardian prefers to have the person placed in the developmental center rather than a
6465 private intermediate care facility for people with an intellectual disability; and

6466 (ii) if the legal representative or legal guardian expresses a preference to have the
6467 person placed in the developmental center:

6468 (A) place the person in the developmental center if the cost of placing the person in the

6469 developmental center is equal to, or less than, the cost of placing the person in a private
6470 intermediate care facility for people with an intellectual disability; or

6471 (B) (I) strongly consider the legal representative's or legal guardian's preference for the
6472 person's placement if the cost of placing the person in the developmental center exceeds the
6473 cost of placing the person in a private intermediate care facility for people with an intellectual
6474 disability; and

6475 (II) place the person in the developmental center or a private intermediate care facility
6476 for people with an intellectual disability.

6477 (7) The certification described in Subsection (5) is not required for a person who
6478 receives services and support under Subsection (2)(b).

6479 Section 178. Section **26B-6-503**, which is renumbered from Section 62A-5-202 is
6480 renumbered and amended to read:

6481 ~~[62A-5-202]~~. **26B-6-503. Developmental center within division.**

6482 The programs and facilities of the developmental center are within the division, and
6483 under the policy direction of the division.

6484 Section 179. Section **26B-6-504**, which is renumbered from Section 62A-5-203 is
6485 renumbered and amended to read:

6486 ~~[62A-5-203]~~. **26B-6-504. Operation, maintenance, and repair of**
6487 **developmental center buildings and grounds.**

6488 (1) The division shall operate, maintain, and repair the buildings, grounds, and physical
6489 properties of the developmental center. However, the roads and driveways on the grounds of
6490 the developmental center shall be maintained by the Department of Transportation.

6491 (2) The division has authority to make improvements to the buildings, grounds, and
6492 physical properties of the developmental center, as it deems necessary for the care and safety of
6493 the residents.

6494 Section 180. Section **26B-6-505**, which is renumbered from Section 62A-5-205 is
6495 renumbered and amended to read:

6496 ~~[62A-5-205]~~. **26B-6-505. State Board of Education -- Education of**
6497 **children at developmental center.**

6498 (1) The State Board of Education is responsible for the education of school-aged
6499 children at the developmental center.

6500 (2) In order to fulfill its responsibility under Subsection (1), the State Board of
6501 Education shall, where feasible, contract with local school districts or other appropriate
6502 agencies to provide educational and related administrative services.

6503 (3) Medical, residential, and other services that are not the responsibility of the State
6504 Board of Education or other state agencies are the responsibility of the division.

6505 Section 181. Section **26B-6-506**, which is renumbered from Section 62A-5-206 is
6506 renumbered and amended to read:

6507 ~~[62A-5-206].~~ **26B-6-506. Powers and duties of division.**

6508 The powers and duties of the division, with respect to the developmental center are as
6509 follows:

6510 (1) to establish rules, not inconsistent with law, for the government of the
6511 developmental center;

6512 (2) to establish rules governing the admission and discharge of persons with an
6513 intellectual disability in accordance with state law;

6514 (3) to employ necessary medical and other professional personnel to assist in
6515 establishing rules relating to the developmental center and to the treatment and training of
6516 persons with an intellectual disability at the center;

6517 (4) to transfer a person who has been committed to the developmental center under
6518 Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability, to
6519 any other facility or program operated by or under contract with the division, after careful
6520 evaluation of the treatment needs of that person, if the facilities or programs available meet the
6521 needs indicated, and if transfer would be in the best interest of that person. A person
6522 transferred shall remain under the jurisdiction of the division;

6523 (5) the developmental center may receive a person who meets the requirements of
6524 Subsection 62A-5-201(3) from any other facility or program operated by or under contract with
6525 the division, after careful evaluation of the treatment needs of that person, if the facility or
6526 programs of the developmental center meet those needs, and if transfer would be in the best
6527 interest of that person. A person so received by the developmental center remains under the
6528 jurisdiction of the division;

6529 (6) to manage funds for a person residing in the developmental center, upon request by
6530 that person's parent or guardian, or upon administrative or court order;

6531 (7) to charge and collect a fair and equitable fee from developmental center residents,
6532 parents who have the ability to pay, or guardians where funds for that purpose are available;
6533 and

6534 (8) supervision and administration of security responsibilities for the developmental
6535 center is vested in the division. The executive director may designate, as special function
6536 officers, individuals to perform special security functions for the developmental center that
6537 require peace officer authority. Those special function officers may not become or be
6538 designated as members of the Public Safety Retirement System.

6539 Section 182. Section **26B-6-507**, which is renumbered from Section 62A-5-206.6 is
6540 renumbered and amended to read:

6541 ~~[62A-5-206.6]~~. **26B-6-507. Utah State Developmental Center land and water**
6542 **rights.**

6543 (1) As used in this section, "long-term lease" means:

6544 (a) a lease with a term of five years or more; or

6545 (b) a lease with a term of less than five years that may be unilaterally renewed by the
6546 lessee.

6547 (2) (a) Notwithstanding Section 65A-4-1, any sale, long-term lease, or other disposition
6548 of real property, water rights, or water shares associated with the developmental center shall be
6549 conducted as provided in this Subsection (2).

6550 (b) The board shall:

6551 (i) approve the sale, long-term lease, or other disposition of real property, water rights,
6552 or water shares associated with the developmental center;

6553 (ii) secure the approval of the Legislature before offering the real property, water
6554 rights, or water shares for sale, long-term lease, or other disposition; and

6555 (iii) if the Legislature's approval is secured, as described in Subsection (2)(b)(ii), direct
6556 the Division of Facilities Construction and Management to convey, lease, or dispose of the real
6557 property, water rights, or water shares associated with the developmental center according to
6558 the board's determination.

6559 Section 183. Section **26B-6-508**, which is renumbered from Section 62A-5-207 is
6560 renumbered and amended to read:

6561 ~~[62A-5-207]~~. **26B-6-508. Superintendent -- Qualifications.**

6562 The superintendent of the developmental center, appointed in accordance with
6563 Subsection 62A-5-104(4), shall have a bachelor's degree from an accredited university or
6564 college, be experienced in administration, and be knowledgeable in developmental disabilities
6565 and intellectual disability.

6566 Section 184. Section **26B-6-509**, which is renumbered from Section 62A-5-208 is
6567 renumbered and amended to read:

6568 ~~[62A-5-208]~~. **26B-6-509. Powers and duties of superintendent.**

6569 The chief administrative officer of the developmental center is the superintendent, and
6570 has the following powers and duties:

6571 (1) to manage the developmental center and administer the division's rules governing
6572 the developmental center;

6573 (2) to hire, control, and remove all employees, and to fix their compensation according
6574 to state law; and

6575 (3) with the approval of the division, to make any expenditures necessary in the
6576 performance of his duties.

6577 Section 185. Section **26B-6-510**, which is renumbered from Section 62A-5-211 is
6578 renumbered and amended to read:

6579 ~~[62A-5-211]~~. **26B-6-510. Dental services reporting.**

6580 The superintendent of the developmental center shall provide to the Health and Human
6581 Services Interim Committee an annual report that contains:

6582 (1) a statewide assessment of resources that provide dental services for individuals
6583 with intellectual disabilities;

6584 (2) an accounting of the funds appropriated to provide specialized dental treatment and
6585 evaluation under Subsection 62A-5-201(2)(b)(iii), including the number of individuals served
6586 and the services provided; and

6587 (3) the progress toward the establishment of a financially independent dental clinic
6588 that:

6589 (a) has a full-time dentist who has specialized training to treat an individual with an
6590 intellectual disability; and

6591 (b) has the facility, equipment, and staff necessary to legally and safely perform dental
6592 procedures and examinations and to administer general anesthesia.

6593 Section 186. Section **26B-6-601** is enacted to read:

6594 **Part 6. Admission to an Intermediate Care Facility for People with an Intellectual**
6595 **Disability**

6596 **26B-6-601. Definitions.**

6597 The definitions in Section 26B-6-401 apply to this part.

6598 Section 187. Section **26B-6-602**, which is renumbered from Section 62A-5-302 is
6599 renumbered and amended to read:

6600 ~~[62A-5-302].~~ **26B-6-602. Division responsibility.**

6601 The division is responsible:

6602 (1) for the supervision, care, and treatment of persons with an intellectual disability in
6603 this state who are committed to the division's jurisdiction under the provisions of this part; and

6604 (2) to evaluate and determine the most appropriate, least restrictive setting for an
6605 individual with an intellectual disability.

6606 Section 188. Section **26B-6-603**, which is renumbered from Section 62A-5-305 is
6607 renumbered and amended to read:

6608 ~~[62A-5-305].~~ **26B-6-603. Residency requirements -- Transportation of**
6609 **person to another state.**

6610 (1) A person with an intellectual disability who has a parent or guardian residing in this
6611 state may be admitted to an intermediate care facility for people with an intellectual disability
6612 in accordance with the provisions of this part.

6613 (2) If a person with an intellectual disability enters Utah from another state, the
6614 division may have that person transported to the home of a relative or friend located outside of
6615 this state, or to an appropriate facility in the state where the person with the intellectual
6616 disability is domiciled.

6617 (3) This section does not prevent a person with an intellectual disability who is
6618 temporarily located in this state from being temporarily admitted or committed to an
6619 intermediate care facility for people with an intellectual disability in this state.

6620 Section 189. Section **26B-6-604**, which is renumbered from Section 62A-5-308 is
6621 renumbered and amended to read:

6622 ~~[62A-5-308].~~ **26B-6-604. Commitment -- Individual who is under 18 years**
6623 **old.**

6624 (1) The director of the division, or the director's designee, may commit an individual
6625 under 18 years old who has an intellectual disability or symptoms of an intellectual disability,
6626 to the division for observation, diagnosis, care, and treatment if that commitment is based on:

- 6627 (a) an emergency commitment in accordance with Section 62A-5-311; or
6628 (b) involuntary commitment in accordance with Section 62A-5-312.

6629 (2) A proceeding for involuntary commitment under Subsection (1)(a) may be
6630 commenced by filing a written petition with the juvenile court under Section 62A-5-312.

6631 (3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as
6632 described in Subsection 78A-6-103(2)(f).

6633 (b) A juvenile court shall proceed with the written petition in the same manner and
6634 with the same authority as the district court.

6635 (4) If an individual who is under 18 years old is committed to the custody of the Utah
6636 State Developmental Center by the juvenile court, the director or the director's designee shall
6637 give the juvenile court written notice of the intention to release the individual not fewer than
6638 five days before the day on which the individual is released.

6639 Section 190. Section **26B-6-605**, which is renumbered from Section 62A-5-309 is
6640 renumbered and amended to read:

6641 ~~[62A-5-309]~~. **26B-6-605. Commitment -- Individual who is 18 years old or**
6642 **older.**

6643 (1) The director, or the director's designee may commit to the division an individual 18
6644 years old or older who has an intellectual disability, for observation, diagnosis, care, and
6645 treatment if that commitment is based on:

- 6646 (a) involuntary commitment in accordance with Section 62A-5-312; or
6647 (b) temporary emergency commitment in accordance with Section 62A-5-311.

6648 (2) If an individual who is 18 years old or older is committed to the custody of the Utah
6649 State Developmental Center by the juvenile court, the director or the director's designee shall
6650 give the juvenile court written notice of the intention to release the individual not fewer than
6651 five days before the day on which the individual is released.

6652 Section 191. Section **26B-6-606**, which is renumbered from Section 62A-5-310 is
6653 renumbered and amended to read:

6654 ~~[62A-5-310]~~. **26B-6-606. Involuntary commitment.**

6655 An individual may not be involuntarily committed to an intermediate care facility for
6656 people with an intellectual disability except in accordance with Sections 62A-5-311 and
6657 62A-5-312.

6658 Section 192. Section **26B-6-607**, which is renumbered from Section 62A-5-311 is
6659 renumbered and amended to read:

6660 ~~[62A-5-311]~~. **26B-6-607. Temporary emergency commitment --**
6661 **Observation and evaluation.**

6662 (1) The director of the division or his designee may temporarily commit an individual
6663 to the division and therefore, as a matter of course, to an intermediate care facility for people
6664 with an intellectual disability for observation and evaluation upon:

6665 (a) written application by a responsible person who has reason to know that the
6666 individual is in need of commitment, stating:

6667 (i) a belief that the individual has an intellectual disability and is likely to cause serious
6668 injury to self or others if not immediately committed;

6669 (ii) personal knowledge of the individual's condition; and

6670 (iii) the circumstances supporting that belief; or

6671 (b) certification by a licensed physician or designated intellectual disability
6672 professional stating that the physician or designated intellectual disability professional:

6673 (i) has examined the individual within a three-day period immediately preceding the
6674 certification; and

6675 (ii) is of the opinion that the individual has an intellectual disability, and that because
6676 of the individual's intellectual disability is likely to injure self or others if not immediately
6677 committed.

6678 (2) If the individual in need of commitment is not placed in the custody of the director
6679 or the director's designee by the person submitting the application, the director's or the
6680 director's designee may certify, either in writing or orally that the individual is in need of
6681 immediate commitment to prevent injury to self or others.

6682 (3) Upon receipt of the application required by Subsection (1)(a) and the certifications
6683 required by Subsections (1)(b) and (2), a peace officer may take the individual named in the
6684 application and certificates into custody, and may transport the individual to a designated
6685 intermediate care facility for people with an intellectual disability.

6686 (4) (a) An individual committed under this section may be held for a maximum of 24
6687 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time, the
6688 individual shall be released unless proceedings for involuntary commitment have been
6689 commenced under Section 62A-5-312.

6690 (b) After proceedings for involuntary commitment have been commenced the
6691 individual shall be released unless an order of detention is issued in accordance with Section
6692 62A-5-312.

6693 (5) If an individual is committed to the division under this section on the application of
6694 any person other than the individual's legal guardian, spouse, parent, or next of kin, the director
6695 or his designee shall immediately give notice of the commitment to the individual's legal
6696 guardian, spouse, parent, or next of kin, if known.

6697 Section 193. Section **26B-6-608**, which is renumbered from Section 62A-5-312 is
6698 renumbered and amended to read:

6699 ~~[62A-5-312]~~. **26B-6-608. Involuntary commitment -- Procedures --**
6700 **Necessary findings**
6701 **-- Periodic review.**

6702 (1) Any responsible person who has reason to know that an individual is in need of
6703 commitment, who has a belief that the individual has an intellectual disability, and who has
6704 personal knowledge of the conditions and circumstances supporting that belief, may commence
6705 proceedings for involuntary commitment by filing a written petition with the district court, or if
6706 the subject of the petition is less than 18 years of age with the juvenile court, of the county in
6707 which the individual to be committed is physically located at the time the petition is filed. The
6708 application shall be accompanied by:

6709 (a) a certificate of a licensed physician or a designated intellectual disability
6710 professional, stating that within a seven-day period immediately preceding the certification, the
6711 physician or designated intellectual disability professional examined the individual and
6712 believes that the individual has an intellectual disability and is in need of involuntary
6713 commitment; or

6714 (b) a written statement by the petitioner that:

6715 (i) states that the individual was requested to, but refused to, submit to an examination
6716 for an intellectual disability by a licensed physician or designated intellectual disability

6717 professional, and that the individual refuses to voluntarily go to the division or an intermediate
6718 care facility for people with an intellectual disability recommended by the division for
6719 treatment;

6720 (ii) is under oath; and

6721 (iii) sets forth the facts on which the statement is based.

6722 (2) Before issuing a detention order, the court may require the petitioner to consult
6723 with personnel at the division or at an intermediate care facility for people with an intellectual
6724 disability and may direct a designated intellectual disability professional to interview the
6725 petitioner and the individual to be committed, to determine the existing facts, and to report
6726 them to the court.

6727 (3) The court may issue a detention order and may direct a peace officer to immediately
6728 take the individual to an intermediate care facility for people with an intellectual disability to
6729 be detained for purposes of an examination if the court finds from the petition, from other
6730 statements under oath, or from reports of physicians or designated intellectual disability
6731 professionals that there is a reasonable basis to believe that the individual to be committed:

6732 (a) poses an immediate danger of physical injury to self or others;

6733 (b) requires involuntary commitment pending examination and hearing;

6734 (c) the individual was requested but refused to submit to an examination by a licensed
6735 physician or designated intellectual disability professional; or

6736 (d) the individual refused to voluntarily go to the division or to an intermediate care
6737 facility for people with an intellectual disability recommended by the division.

6738 (4) (a) If the court issues a detention order based on an application that did not include
6739 a certification by a designated intellectual disability professional or physician in accordance
6740 with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the
6741 detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual,
6742 report the results of the examination to the court and inform the court:

6743 (i) whether the director or his designee believes that the individual has an intellectual
6744 disability; and

6745 (ii) whether appropriate treatment programs are available and will be used by the
6746 individual without court proceedings.

6747 (b) If the report of the director or his designee is based on an oral report of the

6748 examiner, the examiner shall immediately send the results of the examination in writing to the
6749 clerk of the court.

6750 (5) Immediately after an individual is involuntarily committed under a detention order
6751 or under Section 62A-5-311, the director or his designee shall inform the individual, orally and
6752 in writing, of his right to communicate with an attorney. If an individual desires to
6753 communicate with an attorney, the director or his designee shall take immediate steps to assist
6754 the individual in contacting and communicating with an attorney.

6755 (6) (a) Immediately after commencement of proceedings for involuntary commitment,
6756 the court shall give notice of commencement of the proceedings to:

6757 (i) the individual to be committed;

6758 (ii) the applicant;

6759 (iii) any legal guardian of the individual;

6760 (iv) adult members of the individual's immediate family;

6761 (v) legal counsel of the individual to be committed, if any;

6762 (vi) the division; and

6763 (vii) any other person to whom the individual requests, or the court designates, notice
6764 to be given.

6765 (b) If an individual cannot or refuses to disclose the identity of persons to be notified,
6766 the extent of notice shall be determined by the court.

6767 (7) That notice shall:

6768 (a) set forth the allegations of the petition and all supporting facts;

6769 (b) be accompanied by a copy of any detention order issued under Subsection (3); and

6770 (c) state that a hearing will be held within the time provided by law, and give the time
6771 and place for that hearing.

6772 (8) The court may transfer the case and the custody of the individual to be committed
6773 to any other district court within the state, if:

6774 (a) there are no appropriate facilities for persons with an intellectual disability within
6775 the judicial district; and

6776 (b) the transfer will not be adverse to the interests of the individual.

6777 (9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any
6778 order or commitment under a detention order, the court shall appoint two designated

6779 intellectual disability professionals to examine the individual. If requested by the individual's
6780 counsel, the court shall appoint a reasonably available, qualified person designated by counsel
6781 to be one of the examining designated intellectual disability professionals. The examinations
6782 shall be conducted:

6783 (i) separately;

6784 (ii) at the home of the individual to be committed, a hospital, an intermediate care
6785 facility for people with an intellectual disability, or any other suitable place not likely to have a
6786 harmful effect on the individual; and

6787 (iii) within a reasonable period of time after appointment of the examiners by the court.

6788 (b) The court shall set a time for a hearing to be held within 10 court days of the
6789 appointment of the examiners. However, the court may immediately terminate the proceedings
6790 and dismiss the application if, prior to the hearing date, the examiners, the director, or his
6791 designee informs the court that:

6792 (i) the individual does not have an intellectual disability; or

6793 (ii) treatment programs are available and will be used by the individual without court
6794 proceedings.

6795 (10) (a) Each individual has the right to be represented by counsel at the commitment
6796 hearing and in all preliminary proceedings. If neither the individual nor others provide counsel,
6797 the court shall appoint counsel and allow sufficient time for counsel to consult with the
6798 individual prior to any hearing.

6799 (b) If the individual is indigent, the county in which the individual was physically
6800 located when taken into custody shall pay reasonable attorney fees as determined by the court.

6801 (11) The division or a designated intellectual disability professional in charge of the
6802 individual's care shall provide all documented information on the individual to be committed
6803 and to the court at the time of the hearing. The individual's attorney shall have access to all
6804 documented information on the individual at the time of and prior to the hearing.

6805 (12) (a) The court shall provide an opportunity to the individual, the petitioner, and all
6806 other persons to whom notice is required to be given to appear at the hearing, to testify, and to
6807 present and cross-examine witnesses.

6808 (b) The court may, in its discretion:

6809 (i) receive the testimony of any other person;

6810 (ii) allow a waiver of the right to appear only for good cause shown;
6811 (iii) exclude from the hearing all persons not necessary to conduct the proceedings; and
6812 (iv) upon motion of counsel, require the testimony of each examiner to be given out of
6813 the presence of any other examiner.

6814 (c) The hearing shall be conducted in as informal a manner as may be consistent with
6815 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
6816 individual. The Utah Rules of Evidence apply, and the hearing shall be a matter of court
6817 record. A verbatim record of the proceedings shall be maintained.

6818 (13) The court may order commitment if, upon completion of the hearing and
6819 consideration of the record, it finds by clear and convincing evidence that all of the following
6820 conditions are met:

6821 (a) the individual to be committed has an intellectual disability;

6822 (b) because of the individual's intellectual disability one or more of the following
6823 conditions exist:

6824 (i) the individual poses an immediate danger of physical injury to self or others;

6825 (ii) the individual lacks the capacity to provide the basic necessities of life, such as
6826 food, clothing, or shelter; or

6827 (iii) the individual is in immediate need of habilitation, rehabilitation, care, or
6828 treatment to minimize the effects of the condition which poses a threat of serious physical or
6829 psychological injury to the individual, and the individual lacks the capacity to engage in a
6830 rational decision-making process concerning the need for habilitation, rehabilitation, care, or
6831 treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or
6832 treatment and the alternatives to it;

6833 (c) there is no appropriate, less restrictive alternative reasonably available; and

6834 (d) the division or the intermediate care facility for people with an intellectual
6835 disability recommended by the division in which the individual is to be committed can provide
6836 the individual with treatment, care, habilitation, or rehabilitation that is adequate and
6837 appropriate to the individual's condition and needs.

6838 (14) In the absence of any of the required findings by the court, described in Subsection
6839 (13), the court shall dismiss the proceedings.

6840 (15) (a) The order of commitment shall designate the period for which the individual

6841 will be committed. An initial commitment may not exceed six months. Before the end of the
6842 initial commitment period, the administrator of the intermediate care facility for people with an
6843 intellectual disability shall commence a review hearing on behalf of the individual.

6844 (b) At the conclusion of the review hearing, the court may issue an order of
6845 commitment for up to a one-year period.

6846 (16) An individual committed under this part has the right to a rehearing, upon filing a
6847 petition with the court within 30 days after entry of the court's order. If the petition for
6848 rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial
6849 licensed physician and two impartial designated intellectual disability professionals who have
6850 not previously been involved in the case to examine the individual. The rehearing shall, in all
6851 other respects, be conducted in accordance with this part.

6852 (17) (a) The court shall maintain a current list of all individuals under its orders of
6853 commitment. That list shall be reviewed in order to determine those patients who have been
6854 under an order of commitment for the designated period.

6855 (b) At least two weeks prior to the expiration of the designated period of any
6856 commitment order still in effect, the court that entered the original order shall inform the
6857 director of the division of the impending expiration of the designated commitment period.

6858 (c) The staff of the division shall immediately:

6859 (i) reexamine the reasons upon which the order of commitment was based and report
6860 the results of the examination to the court;

6861 (ii) discharge the resident from involuntary commitment if the conditions justifying
6862 commitment no longer exist; and

6863 (iii) immediately inform the court of any discharge.

6864 (d) If the director of the division reports to the court that the conditions justifying
6865 commitment no longer exist, and the administrator of the intermediate care facility for people
6866 with an intellectual disability does not discharge the individual at the end of the designated
6867 period, the court shall order the immediate discharge of the individual, unless involuntary
6868 commitment proceedings are again commenced in accordance with this section.

6869 (e) If the director of the division, or the director's designee reports to the court that the
6870 conditions designated in Subsection (13) still exist, the court may extend the commitment order
6871 for up to one year. At the end of any extension, the individual must be reexamined in

6872 accordance with this section, or discharged.

6873 (18) When a resident is discharged under this subsection, the division shall provide any
6874 further support services available and required to meet the resident's needs.

6875 Section 194. Section **26B-6-609**, which is renumbered from Section 62A-5-313 is
6876 renumbered and amended to read:

6877 ~~[62A-5-313]~~. **26B-6-609. Transfer -- Procedures.**

6878 (1) The director of the division, or the director's designee, may place an involuntarily
6879 committed resident in appropriate care or treatment outside the intermediate care facility for
6880 people with an intellectual disability. During that placement, the order of commitment shall
6881 remain in effect, until the resident is discharged or the order is terminated.

6882 (2) If the resident, or the resident's parent or guardian, objects to a proposed placement
6883 under this section, the resident may appeal the decision to the executive director or the
6884 executive director's designee. Those appeals shall be conducted in accordance with the
6885 procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. If an
6886 objection is made, the proposed placement may not take effect until the committee holds that
6887 hearing and the executive director makes a final decision on the placement.

6888 Section 195. Section **26B-6-610**, which is renumbered from Section 62A-5-315 is
6889 renumbered and amended to read:

6890 ~~[62A-5-315]~~. **26B-6-610. Petition for reexamination.**

6891 (1) A resident committed under Section 62A-5-312, or his parent, spouse, legal
6892 guardian, relative, or attorney, may file a petition for reexamination with the district court of
6893 the county in which the resident is domiciled or detained.

6894 (2) Upon receipt of that petition, the court shall conduct proceedings under Section
6895 62A-5-312.

6896 Section 196. Section **26B-6-611**, which is renumbered from Section 62A-5-316 is
6897 renumbered and amended to read:

6898 ~~[62A-5-316]~~. **26B-6-611. Temporary detention.**

6899 (1) Pending removal to an intermediate care facility for people with an intellectual
6900 disability, an individual taken into custody or ordered to be committed under this part may be
6901 detained in the individual's home, or in some other suitable facility.

6902 (2) The individual shall not, however, be detained in a nonmedical facility used for

6903 detention of individuals charged with or convicted of penal offenses, except in a situation of
6904 extreme emergency.

6905 (3) The division shall take reasonable measures, as may be necessary, to assure proper
6906 care of an individual temporarily detained under this part.

6907 Section 197. Section **26B-6-612**, which is renumbered from Section 62A-5-317 is
6908 renumbered and amended to read:

6909 ~~[62A-5-317]~~. **26B-6-612. Authority to transfer resident.**

6910 (1) The administrator of an intermediate care facility for people with an intellectual
6911 disability, or the administrator's designee, may transfer or authorize the transfer of a resident to
6912 another intermediate care facility for people with an intellectual disability if, before the
6913 transfer, the administrator conducts a careful evaluation of the resident and the resident's
6914 treatment needs, and determines that a transfer would be in the best interest of that resident. If
6915 a resident is transferred, the administrator shall give immediate notice of the transfer to the
6916 resident's spouse, guardian, parent, or advocate or, if none of those persons are known, to the
6917 resident's nearest known relative.

6918 (2) If a resident, or the resident's parent or guardian, objects to a proposed transfer
6919 under this section, the administrator shall conduct a hearing on the objection before a
6920 committee composed of persons selected by the administrator. That committee shall hear all
6921 evidence and make a recommendation to the administrator concerning the proposed transfer.
6922 The transfer may not take effect until the committee holds that hearing and the administrator
6923 renders a final decision on the proposed transfer.

6924 Section 198. Section **26B-6-613**, which is renumbered from Section 62A-5-318 is
6925 renumbered and amended to read:

6926 ~~[62A-5-318]~~. **26B-6-613. Involuntary treatment with medication --**
6927 **Committee -- Findings.**

6928 (1) If, after commitment, a resident elects to refuse treatment with medication, the
6929 director, the administrator of the intermediate care facility for people with an intellectual
6930 disability, or a designee, shall submit documentation regarding the resident's proposed
6931 treatment to a committee composed of:

6932 (a) a licensed physician experienced in treating persons with an intellectual disability,
6933 who is not directly involved in the resident's treatment or diagnosis, and who is not biased

6934 toward any one facility;

6935 (b) a psychologist who is a designated intellectual disability professional who is not
6936 directly involved in the resident's treatment or diagnosis; and

6937 (c) another designated intellectual disability professional of the facility for persons with
6938 an intellectual disability, or a designee.

6939 (2) Based upon the court's finding, under Subsection 62A-5-312(13), that the resident
6940 lacks the ability to engage in a rational decision-making process regarding the need for
6941 habilitation, rehabilitation, care, or treatment, as demonstrated by evidence of inability to weigh
6942 the possible costs and benefits of treatment, the committee may authorize involuntary treatment
6943 with medication if it determines that:

6944 (a) the proposed treatment is in the medical best interest of the resident, taking into
6945 account the possible side effects as well as the potential benefits of the medication; and

6946 (b) the proposed treatment is in accordance with prevailing standards of accepted
6947 medical practice.

6948 (3) In making the determination described in Subsection (2), the committee shall
6949 consider the resident's general history and present condition, the specific need for medication
6950 and its possible side effects, and any previous reaction to the same or comparable medication.

6951 (4) Any authorization of involuntary treatment under this section shall be periodically
6952 reviewed in accordance with rules promulgated by the division.

6953 Section 199. Section **26B-6-701**, which is renumbered from Section 62A-5-501 is
6954 renumbered and amended to read:

6955 **Part 7. Disability Ombudsman**

6956 ~~[62A-5-501]~~. **26B-6-701. Definitions.**

6957 ~~[As]~~ In addition to the definitions in Section 26B-6-401, as used in this part:

6958 (1) "Complainant" means a person who initiates a complaint.

6959 (2) "Complaint" means a complaint initiated with the ombudsman identifying a person
6960 who has violated the rights and privileges of an individual with a disability.

6961 (3) "Ombudsman" means the ombudsman appointed in Section 62A-5-502.

6962 (4) "Rights and privileges of an individual with a disability" means the rights and
6963 privileges of an individual with a disability described in Subsections 62A-5b-103(1) through

6964 (3).

6965 Section 200. Section **26B-6-702**, which is renumbered from Section 62A-5-502 is
6966 renumbered and amended to read:

6967 ~~[62A-5-502]~~. **26B-6-702. Disability ombudsman -- Purpose -- Appointment**
6968 **-- Qualifications -- Staff.**

6969 (1) There is created within the division the position of disability ombudsman for the
6970 purpose of promoting, advocating, and ensuring the rights and privileges of an individual with
6971 a disability are upheld.

6972 (2) The director shall appoint an ombudsman who has:

6973 (a) recognized executive and administrative capacity; and

6974 (b) experience in laws and policies regarding individuals with a disability.

6975 (3) The ombudsman may hire staff as necessary to carry out the duties of the
6976 ombudsman under this part.

6977 Section 201. Section **26B-6-703**, which is renumbered from Section 62A-5-503 is
6978 renumbered and amended to read:

6979 ~~[62A-5-503]~~. **26B-6-703. Powers and duties of ombudsman.**

6980 The ombudsman shall:

6981 (1) develop and maintain expertise in laws and policies governing the rights and
6982 privileges of an individual with a disability;

6983 (2) provide training and information to private citizens, civic groups, governmental
6984 entities, and other interested parties across the state regarding:

6985 (a) the role and duties of the ombudsman;

6986 (b) the rights and privileges of an individual with a disability; and

6987 (c) services available in the state to an individual with a disability;

6988 (3) develop a website to provide the information described in Subsection (2) in a form
6989 that is easily accessible;

6990 (4) receive, process, and investigate complaints in accordance with this part;

6991 (5) review periodically the procedures of state entities that serve individuals with a
6992 disability;

6993 (6) cooperate and coordinate with governmental entities and other organizations in the
6994 community in exercising the duties under this section, including the long-term care
6995 ombudsman program, created in Section 62A-3-203, and the child protection ombudsman,

6996 appointed under Section 62A-4a-208, when there is overlap between the responsibilities of the
6997 ombudsman and the long-term care ombudsman program or the child protection ombudsman;

6998 (7) as appropriate, make recommendations to the division regarding rules to be made in
6999 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the
7000 ombudsman considers necessary to carry out the ombudsman's duties under this part;

7001 (8) submit annually, by July 1, to the Health and Human Services Interim Committee, a
7002 report describing:

7003 (a) the work of the ombudsman; and

7004 (b) any recommendations for statutory changes to improve the effectiveness of the
7005 ombudsman in performing the duties under this section; and

7006 (9) perform other duties required by law.

7007 Section 202. Section **26B-6-704**, which is renumbered from Section 62A-5-504 is
7008 renumbered and amended to read:

7009 ~~[62A-5-504]~~. **26B-6-704. Investigation of complaints -- Procedures --**
7010 **Rulemaking.**

7011 (1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a
7012 complaint, investigate the complaint.

7013 (2) An ombudsman's investigation of a complaint may include:

7014 (a) a referral to a governmental entity or other services;

7015 (b) the collection of facts, information, or documentation;

7016 (c) holding an investigatory hearing; or

7017 (d) an inspection of the premises of the person named in the complaint.

7018 (3) (a) The ombudsman may decline to investigate a complaint.

7019 (b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify
7020 the complainant and the division of the declination.

7021 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
7022 Administrative Rulemaking Act, that govern the ombudsman's process for:

7023 (a) receiving and processing complaints; and

7024 (b) conducting an investigation in accordance with this section.

7025 Section 203. Section **26B-6-705**, which is renumbered from Section 62A-5-505 is
7026 renumbered and amended to read:

7027 ~~[62A-5-505]~~. 26B-6-705. Confidentiality of materials relating to
 7028 complaints or investigations -- Rulemaking.

7029 (1) The division shall establish procedures by rule made in accordance with Title 63G,
 7030 Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the
 7031 ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.

7032 (2) The identity of a complainant or a party named in the complaint may not be
 7033 disclosed by the ombudsman unless:

7034 (a) the complainant or a legal representative of the complainant consents to the
 7035 disclosure;

7036 (b) disclosure is ordered by a court of competent jurisdiction; or

7037 (c) the disclosure is approved by the ombudsman and is made, as part of an
 7038 investigation involving the complainant, to an agency or entity in the community that:

7039 (i) has statutory responsibility for the complainant, over the action alleged in the
 7040 complaint, or another party named in the complaint;

7041 (ii) is able to assist the ombudsman to achieve resolution of the complaint; or

7042 (iii) is able to provide expertise that would benefit the complainant.

7043 (3) Neither the ombudsman nor the ombudsman's designee may be required to testify in
 7044 court with respect to confidential matters, except as the court finds necessary to enforce this
 7045 part.

7046 Section 204. Section **26B-6-801**, which is renumbered from Section 62A-5b-102 is
 7047 renumbered and amended to read:

7048 **Part 8. Rights and Privileges of Minors and Individuals with a Disability**

7049 ~~[62A-5b-102]~~. 26B-6-801. Definitions.

7050 As used in this [chapter] part:

7051 (1) "Disability" has the same meaning as defined in 42 U.S.C. 12102 of the Americans
 7052 With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. 36.104 of the
 7053 Code of Federal Regulations, as may be amended in the future.

7054 (2) "Informed consent" means consent that is voluntary and based on an understanding
 7055 by the person to be sterilized of the nature and consequences of sterilization, the reasonably
 7056 foreseeable risks and benefits of sterilization, and the available alternative methods of
 7057 contraception.

7058 (3) "Institutionalized" means residing in the Utah State Developmental Center, the
7059 Utah State Hospital, a residential facility for persons with a disability as defined in Sections
7060 10-9a-103 and 17-27a-103, a group home for persons with a disability, a nursing home, or a
7061 foster care home or facility.

7062 ~~(2)~~ (3) (a) "Service animal" includes any dog that:

7063 (i) is trained, or is in training, to do work or perform tasks for the benefit of an
7064 individual with a disability, including a physical, sensory, psychiatric, intellectual, or other
7065 mental disability; and

7066 (ii) performs work or tasks, or is in training to perform work or tasks, that are directly
7067 related to the individual's disability, including:

7068 (A) assisting an individual who is blind or has low vision with navigation or other
7069 tasks;

7070 (B) alerting an individual who is deaf or hard of hearing to the presence of people or
7071 sounds;

7072 (C) providing non-violent protection or rescue work;

7073 (D) pulling a wheelchair;

7074 (E) assisting an individual during a seizure;

7075 (F) alerting an individual to the presence of an allergen;

7076 (G) retrieving an item for the individual;

7077 (H) providing physical support and assistance with balance and stability; or

7078 (I) helping an individual with a psychiatric or neurological disability by preventing or
7079 interrupting impulsive or destructive behaviors.

7080 (b) "Service animal" does not include:

7081 (i) an animal other than a dog, whether wild or domestic, trained or untrained; or

7082 (ii) an animal used solely to provide:

7083 (A) a crime deterrent;

7084 (B) emotional support;

7085 (C) well-being;

7086 (D) comfort; or

7087 (E) companionship.

7088 (4) "Sterilization" means any medical procedure, treatment, or operation rendering an

7089 individual permanently incapable of procreation.

7090 [(3)] (5) "Support animal" means an animal, other than a service animal, that qualifies
7091 as a reasonable accommodation under federal law for an individual with a disability.

7092 Section 205. Section **26B-6-802**, which is renumbered from Section 62A-5b-103 is
7093 renumbered and amended to read:

7094 [~~62A-5b-103~~]. **26B-6-802. Rights and privileges of an individual with a**
7095 **disability.**

7096 (1) An individual with a disability has the same rights and privileges in the use of
7097 highways, streets, sidewalks, walkways, public buildings, public facilities, and other public
7098 areas as an individual who is not an individual with a disability.

7099 (2) An individual with a disability has equal rights to accommodations, advantages,
7100 and facilities offered by common carriers, including air carriers, railroad carriers, motor buses,
7101 motor vehicles, water carriers, and all other modes of public conveyance in this state.

7102 (3) An individual with a disability has equal rights to accommodations, advantages,
7103 and facilities offered by hotels, motels, lodges, and all other places of public accommodation in
7104 this state, and to places of amusement or resort to which the public is invited.

7105 (4) (a) An individual with a disability has equal rights and access to public and private
7106 housing accommodations offered for rent, lease, or other compensation in this state.

7107 (b) This chapter does not require a person renting, leasing, or selling private housing or
7108 real property to modify the housing or property in order to accommodate an individual with a
7109 disability or to provide a higher degree of care for that individual than for someone who is not
7110 an individual with a disability.

7111 (c) A person renting, leasing, or selling private housing or real property to an
7112 individual with a disability shall comply with the provisions of Section 62A-5b-104.

7113 Section 206. Section **26B-6-803**, which is renumbered from Section 62A-5b-104 is
7114 renumbered and amended to read:

7115 [~~62A-5b-104~~]. **26B-6-803. Right to be accompanied by service animal or**
7116 **support animal -- Security deposits -- Discrimination -- Liability.**

7117 (1) (a) An individual with a disability has the right to be accompanied by a service
7118 animal, unless the service animal is a danger or nuisance to others as interpreted under the
7119 Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

7120 (i) in any of the places specified in Section 62A-5b-103; and
7121 (ii) without additional charge for the service animal.
7122 (b) An owner or lessor of private housing accommodations:
7123 (i) may not, in any manner, discriminate against an individual with a disability on the
7124 basis of the individual's possession of a service animal or a support animal, including by
7125 charging an extra fee or deposit for a service animal or a support animal; and
7126 (ii) may recover a reasonable cost to repair damage caused by a service animal or a
7127 support animal.
7128 (2) An individual who is not an individual with a disability has the right to be
7129 accompanied by an animal that is in training to become a service animal or a police service
7130 canine, as defined in Section 53-16-102:
7131 (a) in any of the places specified in Section 62A-5b-103; and
7132 (b) without additional charge for the animal.
7133 (3) An individual described in Subsection (1) or (2) is liable for any loss or damage the
7134 individual's accompanying service animal, support animal, or animal described in Subsection
7135 (2) causes or inflicts to the premises of a place specified in Section 62A-5b-103.
7136 (4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a
7137 service animal or a support animal from a place described in Section 62A-5b-103.
7138 Section 207. Section **26B-6-804**, which is renumbered from Section 62A-5b-105 is
7139 renumbered and amended to read:
7140 ~~[62A-5b-105]~~. **26B-6-804. Policy of state to employ individuals with a**
7141 **disability.**
7142 It is the policy of this state that an individual with a disability is employed in the state
7143 service, the service of the political subdivisions of the state, in the public schools, and in all
7144 other employment supported in whole or in part by public funds on the same terms and
7145 conditions as an individual who is not an individual with a disability, unless it is shown that the
7146 particular disability prevents the performance of the work involved.
7147 Section 208. Section **26B-6-805**, which is renumbered from Section 62A-5b-106 is
7148 renumbered and amended to read:
7149 ~~[62A-5b-106]~~. **26B-6-805. Interference with rights provided in this chapter**
7150 **-- Misrepresentation of rights under this chapter.**

7151 (1) Any individual, or agent of any individual, who denies or interferes with the rights
7152 provided in this chapter is guilty of a class C misdemeanor.

7153 (2) An individual is guilty of a class C misdemeanor if:

7154 (a) the individual intentionally and knowingly falsely represents to another person that
7155 an animal is a service animal or a support animal;

7156 (b) the individual knowingly and intentionally misrepresents a material fact to a health
7157 care provider for the purpose of obtaining documentation from the health care provider
7158 necessary to designate an animal as a service animal or a support animal; or

7159 (c) the individual, except for an individual with a disability, uses an animal to gain
7160 treatment or benefits only provided for an individual with a disability.

7161 (3) This section does not affect the enforceability of any criminal law, including
7162 Subsection 76-6-501(2).

7163 (4) An agent of a protection and advocacy agency, acting in the agent's professional
7164 capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., and
7165 42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).

7166 Section 209. Section **26B-6-806**, which is renumbered from Section 62A-6-102 is
7167 renumbered and amended to read:

7168 ~~[62A-6-102]~~. **26B-6-806**. **Sterilization of persons 18 years of age or older.**

7169 (1) It is lawful for a physician to sterilize a person who is 18 years of age or older and
7170 who has the capacity to give informed consent.

7171 (2) It is unlawful for a physician to sterilize a person who is 18 years of age or older
7172 and who is institutionalized, unless:

7173 (a) the physician, through careful examination and counseling, ensures that the person
7174 is capable of giving informed consent and that no undue influence or coercion to consent has
7175 been placed on that person by nature of the fact that he is institutionalized; or

7176 (b) the person is not capable of giving informed consent, a petition has been filed in
7177 accordance with Section 62A-6-107, and an order authorizing the sterilization has been entered
7178 by a court of competent jurisdiction.

7179 (3) It is unlawful for a physician to sterilize a person who is 18 years of age or older
7180 and who is not capable of giving informed consent unless a petition has been filed in
7181 accordance with Section 62A-6-107 and an order authorizing sterilization has been entered by a

7182 court of competent jurisdiction.

7183 Section 210. Section **26B-6-807**, which is renumbered from Section 62A-6-103 is
7184 renumbered and amended to read:

7185 ~~[62A-6-103]~~. **26B-6-807. Sterilization of persons under 18 years of age.**

7186 It is unlawful for a physician to sterilize a person who is under 18 years of age unless:

7187 (1) the person is married or otherwise emancipated and the physician, through careful
7188 examination and counseling, ensures that the person is capable of giving informed consent. If
7189 that person is institutionalized, the physician shall also ensure that no undue influence or
7190 coercion to consent has been placed on the person by nature of the fact that he is
7191 institutionalized; or

7192 (2) a petition has been filed in accordance with Section 62A-6-107, and an order
7193 authorizing sterilization has been entered by a court of competent jurisdiction.

7194 Section 211. Section **26B-6-808**, which is renumbered from Section 62A-6-104 is
7195 renumbered and amended to read:

7196 ~~[62A-6-104]~~. **26B-6-808. Emergency -- Medical necessity.**

7197 If an emergency situation exists that prevents compliance with Section 62A-6-102 or
7198 62A-6-103 because of medical necessity, if delay in performing the sterilization could result in
7199 serious physical injury or death to the person, the attending physician shall certify, in writing,
7200 the specific medical reasons that necessitated suspension of those requirements. That certified
7201 statement shall become a permanent part of the sterilized person's medical record.

7202 Section 212. Section **26B-6-809**, which is renumbered from Section 62A-6-105 is
7203 renumbered and amended to read:

7204 ~~[62A-6-105]~~. **26B-6-809. Persons who may give informed consent.**

7205 For purposes of this ~~[chapter]~~ part, the following persons may give informed consent to
7206 sterilization:

7207 (1) a person who is the subject of sterilization, if ~~[he]~~ the person is capable of giving
7208 informed consent; and

7209 (2) a person appointed by the court to give informed consent on behalf of a subject of
7210 sterilization who is incapable of giving informed consent.

7211 Section 213. Section **26B-6-810**, which is renumbered from Section 62A-6-106 is

7212 renumbered and amended to read:

7213 ~~[62A-6-106].~~ **26B-6-810. Declaration of capacity to give informed consent**
7214 **-- Hearing.**

7215 (1) A person who desires sterilization but whose capacity to give informed consent is
7216 questioned by any interested party may file a petition for declaration of capacity to give
7217 informed consent.

7218 (2) If, after hearing all the relevant evidence, the court finds by a preponderance of the
7219 evidence that the person is capable of giving informed consent, the court shall enter an order
7220 declaring that the person has the capacity to give informed consent.

7221 Section 214. Section **26B-6-811**, which is renumbered from Section 62A-6-107 is
7222 renumbered and amended to read:

7223 ~~[62A-6-107].~~ **26B-6-811. Petition for order authorizing sterilization.**

7224 (1) A petition for an order authorizing sterilization may be filed by a person who
7225 desires sterilization, or by ~~[his]~~ the person's parent, spouse, guardian, custodian, or other
7226 interested party.

7227 (2) The court shall adjudicate the petition for sterilization in accordance with Section
7228 62A-6-108.

7229 Section 215. Section **26B-6-812**, which is renumbered from Section 62A-6-108 is
7230 renumbered and amended to read:

7231 ~~[62A-6-108].~~ **26B-6-812. Factors to be considered by court -- Evaluations**
7232 **-- Interview -- Findings of fact.**

7233 (1) If the court finds that the subject of sterilization is not capable of giving informed
7234 consent, the court shall consider, but not by way of limitation, the following factors concerning
7235 that person:

7236 (a) the nature and degree of his mental impairment, and the likelihood that the
7237 condition is permanent;

7238 (b) the level of his understanding regarding the concepts of reproduction and
7239 contraception, and whether his ability to understand those concepts is likely to improve;

7240 (c) his capability for procreation or reproduction~~[-It is]~~, with a rebuttable presumption
7241 that the ability to procreate and reproduce exists in a person of normal physical development;

7242 (d) the potentially injurious physical and psychological effects from sterilization,

7243 pregnancy, childbirth, and parenthood;

7244 (e) the alternative methods of birth control presently available including, but not
7245 limited to, drugs, intrauterine devices, education and training, and the feasibility of one or more
7246 of those methods as an alternative to sterilization;

7247 (f) the likelihood that he will engage in sexual activity or could be sexually abused or
7248 exploited;

7249 (g) the method of sterilization that is medically advisable, and least intrusive and
7250 destructive of his rights to bodily and psychological integrity;

7251 (h) the advisability of postponing sterilization until a later date; and

7252 (i) the likelihood that he could adequately care and provide for a child.

7253 (2) (a) The court may require that independent medical, psychological, and social
7254 evaluations of the subject of sterilization be made prior to ruling on a petition for sterilization.

7255 (b) The court may appoint experts to perform those examinations and evaluations and
7256 may require the petitioner, to the extent of the petitioner's ability, to bear the costs incurred.

7257 (3) (a) The court shall interview the subject of sterilization to determine his
7258 understanding of and desire for sterilization.

7259 (b) The expressed preference of the person shall be made a part of the record, and shall
7260 be considered by the court in rendering its decision.

7261 (c) The court is not bound by the expressed preference of the subject of sterilization;
7262 however, if the person expresses a preference not to be sterilized, the court shall deny the
7263 petition unless the petitioner proves beyond a reasonable doubt that the person will suffer
7264 serious physical or psychological injury if the petition is denied.

7265 (4) (a) When adjudicating a petition for sterilization the court shall determine, on the
7266 basis of all the evidence, what decision regarding sterilization would have been made by the
7267 subject of sterilization, if he were capable of giving informed consent to sterilization.

7268 (b) The decision regarding sterilization shall be in the best interest of the person to be
7269 sterilized.

7270 (5) If the court grants a petition for sterilization, it shall make appropriate findings of
7271 fact in support of its order.

7272 Section 216. Section **26B-6-813**, which is renumbered from Section 62A-6-109 is
7273 renumbered and amended to read:

7274 ~~[62A-6-109]~~. 26B-6-813. **Advanced hearing.**

7275 On motion by the person seeking sterilization or by any other party to the proceeding,
7276 the court may advance hearing on the petition.

7277 Section 217. Section **26B-6-814**, which is renumbered from Section 62A-6-110 is
7278 renumbered and amended to read:

7279 ~~[62A-6-110]~~. 26B-6-814. **Notice of hearing -- Service.**

7280 (1) A copy of the petition and notice of the hearing shall be served personally on the
7281 person to be sterilized not less than 20 days before the hearing date.

7282 (2) The notice shall state the date, time, and place of the hearing, and shall specifically
7283 state that the hearing is to adjudicate either a petition for declaration of capacity to give
7284 informed consent to sterilization or a petition for sterilization.

7285 (3) Notice shall be served on that person's parents, spouse, guardian, or custodian and
7286 on his attorney by the clerk of the court, by certified mail, not less than 10 days before the
7287 hearing date.

7288 Section 218. Section **26B-6-815**, which is renumbered from Section 62A-6-111 is
7289 renumbered and amended to read:

7290 ~~[62A-6-111]~~. 26B-6-815. **Guardian ad litem -- Procedural rights.**

7291 (1) The court shall appoint an attorney to act as guardian ad litem to defend the rights
7292 and interests of the person to be sterilized.

7293 (2) The person to be sterilized is entitled to appear and testify at the hearing, to
7294 examine and cross examine witnesses, and to compel the attendance of witnesses.

7295 (3) (a) The person who is the subject of a sterilization proceeding may, on motion to
7296 the court and for good cause shown, waive the right to be present at the hearing.

7297 (b) If the court grants that motion, the person shall be represented by a guardian ad
7298 litem at the hearing.

7299 Section 219. Section **26B-6-816**, which is renumbered from Section 62A-6-112 is
7300 renumbered and amended to read:

7301 ~~[62A-6-112]~~. 26B-6-816. **Jury -- Rules of evidence -- Transcript -- Burden**
7302 **of proof.**

7303 (1) The petitioner is entitled to request a jury to hear the petition.

7304 (2) The rules of evidence apply in any hearing on a petition for sterilization.

7305 (3) A transcript shall be made of the hearing and shall be made a permanent part of the
7306 record.

7307 ~~(2)~~ (4) The burden of producing evidence and the burden of proof shall be upon the
7308 petitioner to prove by clear and convincing evidence that the petition for or order authorizing
7309 sterilization should be granted.

7310 Section 220. Section **26B-6-817**, which is renumbered from Section 62A-6-113 is
7311 renumbered and amended to read:

7312 ~~[62A-6-113]~~. **26B-6-817. Appeal to Supreme Court -- Stay.**

7313 (1) Any party to a proceeding under this chapter may file a notice of appeal from any
7314 adverse decision with the Supreme Court in accordance with Rule 73, Utah Rules of Civil
7315 Procedure.

7316 (2) The pendency of an appeal in the Supreme Court shall stay the proceedings until
7317 the appeal is finally determined.

7318 Section 221. Section **26B-6-818**, which is renumbered from Section 62A-6-114 is
7319 renumbered and amended to read:

7320 ~~[62A-6-114]~~. **26B-6-818. Treatment for therapeutic reasons unaffected.**

7321 Nothing in this chapter shall be construed to prevent the medical or surgical treatment,
7322 for sound therapeutic reasons, of any person by a physician or surgeon licensed by this state,
7323 which treatment may incidentally involve destruction of reproductive functions.

7324 Section 222. Section **26B-6-819**, which is renumbered from Section 62A-6-115 is
7325 renumbered and amended to read:

7326 ~~[62A-6-115]~~. **26B-6-819. Immunity.**

7327 (1) A physician, assistant, or any other person acting pursuant to an order authorizing
7328 sterilization, as provided in this ~~[chapter]~~ part, is not civilly or criminally liable for
7329 participation in or assistance to sterilization.

7330 (2) This section does not apply to negligent acts committed in the performance of
7331 sterilization.

7332 Section 223. Section **26B-6-820**, which is renumbered from Section 62A-6-116 is
7333 renumbered and amended to read:

7334 ~~[62A-6-116]~~. **26B-6-820. Unauthorized sterilization -- Criminal penalty.**

7335 Except as authorized by this [~~chapter~~] part, any person who intentionally performs,
7336 encourages, assists in, or otherwise promotes the performance of a sterilization procedure for
7337 the purpose of destroying the power to procreate the human species, with knowledge that the
7338 provisions of this [~~chapter~~] part have not been met, is guilty of a third degree felony.

7339 Section 224. Section **26B-7-101** is amended to read:

7340 **26B-7-101. Definitions.**

7341 [~~Reserved~~] As used in this part:

7342 (1) "Down syndrome" means a genetic condition associated with an extra chromosome
7343 21, in whole or in part, or an effective trisomy for chromosome 21.

7344 (2) "Maternal and child health services" means:

7345 (a) the provision of educational, preventative, diagnostic, and treatment services,
7346 including medical care, hospitalization, and other institutional care and aftercare, appliances,
7347 and facilitating services directed toward reducing infant mortality and improving the health of
7348 mothers and children provided, however, that nothing in this Subsection (2) shall be construed
7349 to allow any agency of the state to interfere with the rights of the parent of an unmarried minor
7350 in decisions about the providing of health information or services;

7351 (b) the development, strengthening, and improvement of standards and techniques
7352 relating to the services and care;

7353 (c) the training of personnel engaged in the provision, development, strengthening, or
7354 improvement of the services and care; and

7355 (d) necessary administrative services connected with Subsections (2)(a), (b), and (c).

7356 (3) "Minor" means a person under the age of 18.

7357 (4) "Services to children with disabilities" means:

7358 (a) the early location of children with a disability, provided that any program of
7359 prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn
7360 child will not be used for screening, but rather will be utilized only when there are medical or
7361 genetic indications that warrant diagnosis;

7362 (b) the provision for children described in Subsection (4)(a), of preventive, diagnosis,
7363 and treatment services, including medical care, hospitalization, and other institutional care and
7364 aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of
7365 those children or toward the restoration of the children to maximum physical and mental

7366 health:

7367 (c) the development, strengthening, and improvement of standards and techniques
7368 relating to services and care described in this Subsection (4):

7369 (d) the training of personnel engaged in the provision, development, strengthening, or
7370 improvement of services and care described in this Subsection (4); and

7371 (e) necessary administrative services connected with Subsections (4)(a), (b), and (c).

7372 Section 225. Section **26B-7-102**, which is renumbered from Section 26-10-3 is
7373 renumbered and amended to read:

7374 ~~[26-10-3]~~. **26B-7-102. Director of family health services programs.**

7375 The executive director may appoint a director of family health services programs who
7376 shall be a board certified pediatrician or obstetrician with at least two years experience in
7377 public health programs.

7378 Section 226. Section **26B-7-103**, which is renumbered from Section 26-10-4 is
7379 renumbered and amended to read:

7380 ~~[26-10-4]~~. **26B-7-103. State plan for maternal and child health services.**

7381 The department shall prepare and submit a state plan for maternal and child health
7382 services as required by Title II of the Public Health Services Act. The plan shall be the official
7383 state plan for the state and shall be used as the basis for administration of Title V programs
7384 within the state.

7385 Section 227. Section **26B-7-104**, which is renumbered from Section 26-10-5.5 is
7386 renumbered and amended to read:

7387 ~~[26-10-5.5]~~. **26B-7-104. Child literacy -- Distribution of information kits.**

7388 (1) The Legislature recognizes that effective child literacy programs can have a
7389 dramatic long-term impact on each child's ability to:

7390 (a) succeed in school;

7391 (b) successfully compete in a global society; and

7392 (c) become a productive, responsible citizen.

7393 (2) (a) To help further this end, the department may make available to parents of
7394 new-born infants, as a resource, an information kit regarding child development, the
7395 development of emerging literacy skills, and activities which promote and enhance emerging
7396 literacy skills, including reading aloud to the child on a regular basis.

7397 (b) The department shall seek private funding to help support this program.

7398 (3) (a) The department may seek assistance from the State Board of Education and
7399 local hospitals in making the information kit available to parents on a voluntary basis.

7400 (b) The department may also seek assistance from private entities in making the kits
7401 available to parents.

7402 Section 228. Section **26B-7-105**, which is renumbered from Section 26-10-10 is
7403 renumbered and amended to read:

7404 **~~[26-10-10]~~. 26B-7-105. Cytomegalovirus (CMV) public education and testing.**

7405 (1) As used in this section "CMV" means cytomegalovirus.

7406 (2) The department shall establish and conduct a public education program to inform
7407 pregnant women and women who may become pregnant regarding:

7408 (a) the incidence of CMV;

7409 (b) the transmission of CMV to pregnant women and women who may become
7410 pregnant;

7411 (c) birth defects caused by congenital CMV;

7412 (d) methods of diagnosing congenital CMV; and

7413 (e) available preventative measures.

7414 (3) The department shall provide the information described in Subsection (2) to:

7415 (a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing
7416 Act, and their employees;

7417 (b) a person described in Subsection 26-39-403(1)(a)(iii) and Subsections
7418 26-39-403(2)(a), (b), (c), (e), and (f);

7419 (c) a person serving as a school nurse under Section 53G-9-204;

7420 (d) a person offering health education in a school district;

7421 (e) health care providers offering care to pregnant women and infants; and

7422 (f) religious, ecclesiastical, or denominational organizations offering children's
7423 programs as a part of worship services.

7424 (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection
7425 26-10-6(1), a medical practitioner shall:

7426 (a) test the newborn infant for CMV before the newborn is 21 days of age, unless a
7427 parent of the newborn infant objects; and

7428 (b) provide to the parents of the newborn infant information regarding:

7429 (i) birth defects caused by congenital CMV; and

7430 (ii) available methods of treatment.

7431 (5) The department shall provide to the family and the medical practitioner, if known,
7432 information regarding the testing requirements under Subsection (4) when providing results
7433 indicating that an infant has failed the newborn hearing screening test(s) under Subsection
7434 26-10-6(1).

7435 (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah
7436 Administrative Rulemaking Act, as necessary to administer the provisions of this section.

7437 Section 229. Section **26B-7-106**, which is renumbered from Section 26-10-14 is
7438 renumbered and amended to read:

7439 ~~[26-10-14]~~. **26B-7-106**. **Down syndrome diagnosis -- Information and support.**

7440 (1) The department shall provide contact information for state and national Down
7441 syndrome organizations that are nonprofit and that provide information and support services
7442 for parents, including first-call programs and information hotlines specific to Down syndrome,
7443 resource centers or clearinghouses, and other education and support programs for Down
7444 syndrome.

7445 (2) The department shall:

7446 (a) post the information described in Subsection (1) on the department's website; and

7447 (b) create an informational support sheet with the information described in Subsection
7448 (1) and the web address described in Subsection (2)(a).

7449 (3) A Down syndrome organization may request that the department include the
7450 organization's informational material and contact information on the website. The department
7451 may add the information to the website, if the information meets the description under
7452 Subsection (1).

7453 (4) Upon request, the department shall provide a health care facility or health care
7454 provider a copy of the informational support sheet described in Subsection (2)(b) to give to a
7455 pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn
7456 child has or may have Down syndrome.

7457 Section 230. Section **26B-7-107**, which is renumbered from Section 26-10-15 is
7458 renumbered and amended to read:

- 7459 ~~[26-10-15]~~. **26B-7-107. Lead exposure public education and testing.**
- 7460 (1) The department shall establish a child blood lead epidemiology and surveillance
7461 program to:
- 7462 (a) encourage pediatric health care providers to include a lead test in accordance with
7463 the department's recommendations under Subsection (2); and
- 7464 (b) conduct a public education program to inform parents of children who are two
7465 years old or younger regarding:
- 7466 (i) the effects of lead exposure in children;
- 7467 (ii) the availability of free screening and testing for lead exposure; and
- 7468 (iii) other available preventative measures.
- 7469 (2) The department may recommend consideration of screening and testing during the
7470 first year or second year well child clinical visit.
- 7471 (3) (a) The department shall provide the information described in Subsection (1) to
7472 organizations that regularly provide care or services for children who are 5 years old or
7473 younger.
- 7474 (b) The department may work with the following organizations to share the
7475 information described in Subsection (1):
- 7476 (i) a child care program licensed under Title 26, Chapter 39, Utah Child Care Licensing
7477 Act, and the employees of the child care program;
- 7478 (ii) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
7479 Licensing and Inspection Act;
- 7480 (iii) a person providing child care under a program that is described in Subsection
7481 26-39-403(2);
- 7482 (iv) an individual offering health education in a school district, including a school
7483 nurse under Section 53G-9-204;
- 7484 (v) a health care provider offering care to pregnant women and infants;
- 7485 (vi) a religious, ecclesiastical, or denominational organization offering children's
7486 programs as a part of worship services;
- 7487 (vii) an organization that advocates for public education, testing, and screening of
7488 children for lead exposure;
- 7489 (viii) a local health department as defined in Section 26A-1-102; and

7490 (ix) any other person that the department believes would advance public education
7491 regarding the effects of lead exposure on children.

7492 (4) The department shall seek grant funding to fund the program created in this section.

7493 Section 231. Section **26B-7-108**, which is renumbered from Section 26-1-23.5 is
7494 renumbered and amended to read:

7495 ~~[26-1-23.5]~~. **26B-7-108**. **Rules for sale of drugs, cosmetics, and medical devices.**

7496 The department shall establish and enforce rules for the sale or distribution of human
7497 drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more
7498 stringent than those established by federal law.

7499 Section 232. Section **26B-7-109**, which is renumbered from Section 26-1-26 is
7500 renumbered and amended to read:

7501 ~~[26-1-26]~~. **26B-7-109**. **Director of community health nursing appointed by**
7502 **executive director.**

7503 [~~There shall be within the department~~] The executive director shall appoint a director of
7504 community health nursing [~~appointed by the executive director~~] who shall develop, implement,
7505 monitor, and evaluate community health nursing standards and services and participate in the
7506 formulation of policies for administration of health services.

7507 Section 233. Section **26B-7-110**, which is renumbered from Section 26-1-36 is
7508 renumbered and amended to read:

7509 ~~[26-1-36]~~. **26B-7-110**. **Duty to establish program to reduce deaths and other**
7510 **harm from prescription opiates used for chronic noncancer pain.**

7511 (1) As used in this section, "opiate" means any drug or other substance having an
7512 addiction-forming or addiction-sustaining liability similar to morphine or being capable of
7513 conversion into a drug having addiction-forming or addiction-sustaining liability.

7514 (2) In addition to the duties listed in Section 26-1-30, the department shall develop and
7515 implement a two-year program in coordination with the Division of Professional Licensing, the
7516 Utah Labor Commission, and the Utah attorney general, to:

7517 (a) investigate the causes of and risk factors for death and nonfatal complications of
7518 prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled
7519 Substance Database created in Section 58-37f-201;

7520 (b) study the risks, warning signs, and solutions to the risks associated with

7521 prescription opiate medications for chronic pain, including risks and prevention of misuse and
7522 diversion of those medications;

7523 (c) provide education to health care providers, patients, insurers, and the general public
7524 on the appropriate management of chronic pain, including the effective use of medical
7525 treatment and quality care guidelines that are scientifically based and peer reviewed; and

7526 (d) educate the public regarding:

7527 (i) the purpose of the Controlled Substance Database established in Section
7528 58-37f-201; and

7529 (ii) the requirement that a person's name and prescription information be recorded on
7530 the database when the person fills a prescription for a schedule II, III, IV, or V controlled
7531 substance.

7532 Section 234. Section **26B-7-111**, which is renumbered from Section 26-1-38 is
7533 renumbered and amended to read:

7534 ~~[26-1-38]~~. **26B-7-111**. **Local health emergency assistance program.**

7535 (1) As used in this section:

7536 (a) "Local health department" means the same as that term is defined in Section
7537 26A-1-102.

7538 (b) "Local health emergency" means an unusual event or series of events causing or
7539 resulting in a substantial risk or substantial potential risk to the health of a significant portion
7540 of the population within the boundary of a local health department, as determined by the local
7541 health department.

7542 (c) "Program" means the local health emergency assistance program that the
7543 department is required to establish under this section.

7544 (d) "Program fund" means money that the Legislature appropriates to the department
7545 for use in the program and other money otherwise made available for use in the program.

7546 (2) The department shall establish, to the extent of funds appropriated by the
7547 Legislature or otherwise made available to the program fund, a local health emergency
7548 assistance program.

7549 (3) Under the program, the department shall:

7550 (a) provide a method for a local health department to seek reimbursement from the
7551 program fund for local health department expenses incurred in responding to a local health

7552 emergency;

7553 (b) require matching funds from any local health department seeking reimbursement
7554 from the program fund;

7555 (c) establish a method for apportioning money in the program fund to multiple local
7556 health departments when the total amount of concurrent requests for reimbursement by
7557 multiple local health departments exceeds the balance in the program fund; and

7558 (d) establish by rule other provisions that the department considers necessary or
7559 advisable to implement the program.

7560 (4) (a) (i) Subject to Subsection (4)(a)(ii), the department shall use money in the
7561 program fund exclusively for purposes of the program.

7562 (ii) The department may use money in the program fund to cover its costs of
7563 administering the program.

7564 (b) Money that the Legislature appropriates to the program fund is nonlapsing in
7565 accordance with Section 63J-1-602.1.

7566 (c) Any interest earned on money in the program fund shall be deposited to the General
7567 Fund.

7568 Section 235. Section **26B-7-112**, which is renumbered from Section 26-1-42 is
7569 renumbered and amended to read:

7570 ~~[26-1-42]~~. **26B-7-112. Health care grant requests and funding.**

7571 (1) Any time the United States Department of Health and Human Services accepts
7572 grant applications, the department shall apply for a grant under Title X of the Public Health
7573 Service Act, 42 U.S.C. Sec. 300 et seq.

7574 (2) (a) As part of the application described in Subsection (1), the department shall
7575 request that the United States Department of Health and Human Services waive the
7576 requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4)
7577 pertaining to providing certain services to a minor without parental consent.

7578 (b) If the department's application described in Subsection (1) is denied, and at such
7579 time the United States Department of Health and Human Services creates a waiver application
7580 process, the department shall apply for a waiver from compliance with the requirements found
7581 in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental
7582 consent in order to be eligible for a grant under Title X of the Public Health Service Act, 42

7583 U.S.C. Sec. 300 et seq.

7584 (3) If the department receives a grant under Subsection (1), the department shall
7585 prioritize disbursement of grant funds in the prioritization order described in Subsection (4).

7586 (4) (a) (i) When disbursing grant funds, the department shall give first priority to
7587 nonpublic entities that provide family planning services as well as other comprehensive
7588 services to enable women to give birth and parent or place for adoption.

7589 (ii) The department shall give preference to entities described in Subsection (4)(a)(i)
7590 that:

7591 (A) expand availability of prenatal and postnatal care in low-income and under-served
7592 areas of the state;

7593 (B) provide support for a woman to carry a baby to term;

7594 (C) emphasize the health and viability of the fetus; and

7595 (D) provide education and maternity support.

7596 (iii) If the department receives applications from qualifying nonpublic entities as
7597 described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying
7598 nonpublic entities described in Subsection (4)(a).

7599 (b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for
7600 grant funding under the criteria described in Subsection (4)(a), the department shall give
7601 second priority for grant funds to nonpublic entities that provide:

7602 (i) family planning services; and

7603 (ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

7604 (c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity
7605 qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the
7606 department shall give third priority for grant funds to public entities that provide family
7607 planning services, including state, county, or local community health clinics, and community
7608 action organizations.

7609 (d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no
7610 entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c),
7611 the department shall give fourth priority for grant funds to nonpublic entities that provide
7612 family planning services but do not provide required primary health services as described in 42
7613 U.S.C. Sec. 254b(b)(1)(A).

7614 Section 236. Section **26B-7-113**, which is renumbered from Section 26-7-1 is
7615 renumbered and amended to read:

7616 ~~[26-7-1]~~. **26B-7-113. Identification of major risk factors by department --**
7617 **Education of public -- Establishment of programs.**

7618 The department shall identify the major risk factors contributing to injury, sickness,
7619 death, and disability within the state and where it determines that a need exists, educate the
7620 public regarding these risk factors, and the department may establish programs to reduce or
7621 eliminate these factors except that such programs may not be established if adequate programs
7622 exist in the private sector.

7623 Section 237. Section **26B-7-114**, which is renumbered from Section 26-7-2 is
7624 renumbered and amended to read:

7625 ~~[26-7-2]~~. **26B-7-114. Office of Health Disparities Reduction -- Duties.**

7626 (1) As used in this section:

7627 (a) "Multicultural or minority health issue" means a health issue, including a mental
7628 and oral health issue, of particular interest to cultural, ethnic, racial, or other subpopulations,
7629 including:

7630 (i) disparities in:

7631 (A) disease incidence, prevalence, morbidity, mortality, treatment, and treatment
7632 response; and

7633 (B) access to care; and

7634 (ii) cultural competency in the delivery of health care.

7635 (b) "Office" means the Office of Health Disparities Reduction created in this section.

7636 (2) There is created within the department the Office of Health Disparities Reduction.

7637 (3) The office shall:

7638 (a) promote and coordinate the research, data production, dissemination, education,

7639 and health promotion activities of the following that relate to a multicultural or minority health
7640 issue:

7641 (i) the department;

7642 (ii) local health departments;

7643 (iii) local mental health authorities;

7644 (iv) public schools;

- 7645 (v) community-based organizations; and
 7646 (vi) other organizations within the state;
 7647 (b) assist in the development and implementation of one or more programs to address a
 7648 multicultural or minority health issue;
 7649 (c) promote the dissemination and use of information on a multicultural or minority
 7650 health issue by minority populations, health care providers, and others;
 7651 (d) seek federal funding and other resources to accomplish the office's mission;
 7652 (e) provide technical assistance to organizations within the state seeking funding to
 7653 study or address a multicultural or minority health issue;
 7654 (f) develop and increase the capacity of the office to:
 7655 (i) ensure the delivery of qualified timely culturally appropriate translation services
 7656 across department programs; and
 7657 (ii) provide, when appropriate, linguistically competent translation and communication
 7658 services for limited English proficiency individuals;
 7659 (g) provide staff assistance to any advisory committee created by the department to
 7660 study a multicultural or minority health issue; and
 7661 (h) annually report to the Legislature on its activities and accomplishments.

7662 Section 238. Section **26B-7-115**, which is renumbered from Section 26-7-4 is
 7663 renumbered and amended to read:

7664 ~~[26-7-4]~~. **26B-7-115. Utah Registry of Autism and Developmental Disabilities.**

7665 (1) As used in this section, "URADD" means the Utah Registry of Autism and
 7666 Developmental Disabilities.

7667 (2) The department may enter into an agreement with:

7668 (a) the University of Utah or another person for the operation of URADD; and

7669 (b) a person to conduct a public education campaign to:

7670 (i) improve public awareness of the early warning signs of autism spectrum disorders
 7671 and developmental disabilities; and

7672 (ii) promote the early identification of autism spectrum disorders and developmental
 7673 disabilities.

7674 (3) URADD shall consist of a database that collects information on people in the state
 7675 who have an autism spectrum disorder or a developmental disability.

- 7676 (4) The purpose of URADD is to assist health care providers to:
- 7677 (a) determine the risk factors and causes of autism spectrum disorders and
- 7678 developmental disabilities;
- 7679 (b) plan for and develop resources, therapies, methods of diagnoses, and other services
- 7680 for people with an autism spectrum disorder or a developmental disability;
- 7681 (c) facilitate measuring and tracking of treatment outcomes;
- 7682 (d) gather statistics relating to autism spectrum disorders and developmental
- 7683 disabilities; and
- 7684 (e) improve coordination and cooperation between agencies and other programs that
- 7685 provide services to people with an autism spectrum disorder or a developmental disability.

7686 Section 239. Section **26B-7-116**, which is renumbered from Section 26-7-7 is

7687 renumbered and amended to read:

7688 ~~[26-7-7]~~. **26B-7-116. Radon awareness campaign.**

7689 The department shall, in consultation with the Division of Waste Management and

7690 Radiation Control, develop a statewide electronic awareness campaign to educate the public

7691 regarding:

- 7692 (1) the existence and prevalence of radon gas in buildings and structures;
- 7693 (2) the health risks associated with radon gas;
- 7694 (3) options for radon gas testing; and
- 7695 (4) options for radon gas remediation.

7696 Section 240. Section **26B-7-117**, which is renumbered from Section 26-7-8 is

7697 renumbered and amended to read:

7698 ~~[26-7-8]~~. **26B-7-117. Syringe exchange and education.**

7699 (1) The following may operate a syringe exchange program in the state to prevent the

7700 transmission of disease and reduce morbidity and mortality among individuals who inject

7701 drugs, and those individuals' contacts:

- 7702 (a) a government entity, including:
- 7703 (i) the department;
- 7704 (ii) a local health department~~[, as defined in Section 26A-1-102;]~~;
- 7705 (iii) the Division of ~~[Substance Abuse and Mental Health within the Department of~~
- 7706 ~~Human Services]~~ Integrated Healthcare within the department; or

- 7707 (iv) a local substance abuse authority, as defined in Section 62A-15-102;
- 7708 (b) a nongovernment entity, including:
- 7709 (i) a nonprofit organization; or
- 7710 (ii) a for-profit organization; or
- 7711 (c) any other entity that complies with Subsections (2) and (4).
- 7712 (2) An entity operating a syringe exchange program in the state shall:
- 7713 (a) facilitate the exchange of an individual's used syringe for one or more new syringes
- 7714 in sealed sterile packages;
- 7715 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
- 7716 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis
- 7717 C and human immunodeficiency virus; and
- 7718 (ii) options for obtaining:
- 7719 (A) services for the treatment of a substance use disorder;
- 7720 (B) testing for a blood-borne disease; and
- 7721 (C) an opiate antagonist under Chapter 55, Opiate Overdose Response Act; and
- 7722 (c) report annually to the department the following information about the program's
- 7723 activities:
- 7724 (i) the number of individuals who have exchanged syringes;
- 7725 (ii) the number of used syringes exchanged for new syringes; and
- 7726 (iii) the number of new syringes provided in exchange for used syringes.
- 7727 (3) No later than October 1, 2017, and every two years thereafter, the department shall
- 7728 report to the Legislature's Health and Human Services Interim Committee on:
- 7729 (a) the activities and outcomes of syringe programs operating in the state, including:
- 7730 (i) the number of individuals who have exchanged syringes;
- 7731 (ii) the number of used syringes exchanged for new syringes;
- 7732 (iii) the number of new syringes provided in exchange for used syringes;
- 7733 (iv) the impact of the programs on blood-borne infection rates; and
- 7734 (v) the impact of the programs on the number of individuals receiving treatment for a
- 7735 substance use disorder;
- 7736 (b) the potential for additional reductions in the number of syringes contaminated with
- 7737 blood-borne disease if the programs receive additional funding;

7738 (c) the potential for additional reductions in state and local government spending if the
7739 programs receive additional funding;

7740 (d) whether the programs promote illicit use of drugs; and

7741 (e) whether the programs should be continued, continued with modifications, or
7742 terminated.

7743 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
7744 Administrative Rulemaking Act, specifying how and when an entity operating a syringe
7745 exchange program shall make the report required by Subsection (2)(c).

7746 Section 241. Section **26B-7-118**, which is renumbered from Section 26-7-9 is
7747 renumbered and amended to read:

7748 ~~[26-7-9]~~. **26B-7-118. Online public health education module.**

7749 (1) As used in this section:

7750 (a) "Health care provider" means the same as that term is defined in Section
7751 78B-3-403.

7752 (b) "Nonimmune" means that a child or an individual:

7753 (i) has not received each vaccine required in Section 53G-9-305 and has not developed
7754 a natural immunity through previous illness to a vaccine-preventable disease, as documented
7755 by a health care provider;

7756 (ii) cannot receive each vaccine required in Section 53G-9-305; or

7757 (iii) is otherwise known to not be immune to a vaccine-preventable disease.

7758 (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by
7759 a vaccination required in Section 53G-9-305.

7760 (2) The department shall develop an online education module regarding
7761 vaccine-preventable diseases:

7762 (a) to assist a parent of a nonimmune child to:

7763 (i) recognize the symptoms of vaccine-preventable diseases;

7764 (ii) respond in the case of an outbreak of a vaccine-preventable disease;

7765 (iii) protect children who contract a vaccine-preventable disease; and

7766 (iv) prevent the spread of vaccine-preventable diseases;

7767 (b) that contains only the following:

7768 (i) information about vaccine-preventable diseases necessary to achieve the goals

7769 stated in Subsection (2)(a), including the best practices to prevent the spread of
7770 vaccine-preventable diseases;
7771 (ii) recommendations to reduce the likelihood of a nonimmune individual contracting
7772 or transmitting a vaccine-preventable disease; and
7773 (iii) information about additional available resources related to vaccine-preventable
7774 diseases and the availability of low-cost vaccines;
7775 (c) that includes interactive questions or activities; and
7776 (d) that is expected to take an average user 20 minutes or less to complete, based on
7777 user testing.

7778 (3) In developing the online education module described in Subsection (2), the
7779 department shall consult with individuals interested in vaccination or vaccine-preventable
7780 diseases, including:

7781 (a) representatives from organizations of health care professionals; and
7782 (b) parents of nonimmune children.

7783 (4) The department shall make the online education module described in Subsection
7784 (2) publicly available to parents through:

7785 (a) a link on the department's website;
7786 (b) county health departments, as that term is defined in Section 26A-1-102;
7787 (c) local health departments, as that term is defined in Section 26A-1-102;
7788 (d) local education agencies, as that term is defined in Section 53E-1-102; and
7789 (e) other public health programs or organizations.

7790 Section 242. Section **26B-7-119**, which is renumbered from Section 26-7-11 is
7791 renumbered and amended to read:

7792 ~~[26-7-11]~~. **26B-7-119. Hepatitis C Outreach Pilot Program.**

7793 (1) As used in this section, "Hepatitis C outreach organization" means a private
7794 nonprofit organization that:

7795 (a) has an established relationship with individuals who are at risk of acquiring acute
7796 Hepatitis C;
7797 (b) helps individuals who need Hepatitis C treatment, but who do not qualify for
7798 payment of the treatment by the Medicaid program or another health insurer, to obtain
7799 treatment;

7800 (c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and
7801 diagnosis, including clinical staff with the training and ability to provide:

7802 (i) specimen collection for Hepatitis C testing;

7803 (ii) clinical assessments;

7804 (iii) consultation regarding blood-borne diseases; and

7805 (iv) case management services for patient support during Hepatitis C treatment; or

7806 (d) has a partnership with a health care facility that can provide clinical follow-up and
7807 medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.

7808 (2) There is created within the department the Hepatitis C Outreach Pilot Program.

7809 (3) Before September 1, 2020, the department shall, as funding permits, make grants to
7810 Hepatitis C outreach organizations in accordance with criteria established by the department
7811 under Subsection (4).

7812 (4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G,
7813 Chapter 3, Utah Administrative Rulemaking Act, to:

7814 (a) create application requirements for a grant from the program;

7815 (b) establish criteria for determining:

7816 (i) whether a grant is awarded, including criteria that ensure grants are awarded to areas
7817 of the state, including rural areas, that would benefit most from the grant; and

7818 (ii) the amount of a grant; and

7819 (c) specify reporting requirements for the recipient of a grant under this section.

7820 (5) Before October 1, 2021, and before October 1 every year thereafter, the department
7821 shall submit a report to the Health and Human Services Interim Committee and the Social
7822 Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot
7823 Program.

7824 Section 243. Section **26B-7-201**, which is renumbered from Section 26-6-2 is
7825 renumbered and amended to read:

7826 **Part 2. Detection of Communicable Diseases and Public Health Emergencies**

7827 ~~[26-6-2]~~. **26B-7-201**. **Definitions.**

7828 As used in this [chapter] part:

7829 (1) "Ambulatory surgical center" [is as] means the same as that term is defined in
7830 Section ~~[26-21-2]~~ 26B-2-201.

7831 (2) "Carrier" means an infected individual or animal who harbors a specific infectious
7832 agent in the absence of discernible clinical disease and serves as a potential source of infection
7833 for man. The carrier state may occur in an individual with an infection that is inapparent
7834 throughout its course, commonly known as healthy or asymptomatic carrier, or during the
7835 incubation period, convalescence, and postconvalescence of an individual with a clinically
7836 recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under
7837 either circumstance the carrier state may be of short duration, as a temporary or transient
7838 carrier, or long duration, as a chronic carrier.

7839 (3) "Communicable disease" means illness due to a specific infectious agent or its toxic
7840 products which arises through transmission of that agent or its products from a reservoir to a
7841 susceptible host, either directly, as from an infected individual or animal, or indirectly, through
7842 an intermediate plant or animal host, vector, or the inanimate environment.

7843 (4) "Communicable period" means the time or times during which an infectious agent
7844 may be transferred directly or indirectly from an infected individual to another individual, from
7845 an infected animal to man, or from an infected man to an animal, including arthropods.

7846 (5) "Contact" means an individual or animal having had association with an infected
7847 individual, animal, or contaminated environment so as to have had an opportunity to acquire
7848 the infection.

7849 (6) "End stage renal disease facility" is as defined in Section [~~26-21-2~~] 26B-2-201.

7850 (7) (a) "Epidemic" means the occurrence or outbreak in a community or region of cases
7851 of an illness clearly in excess of normal expectancy and derived from a common or propagated
7852 source.

7853 (b) The number of cases indicating an epidemic will vary according to the infectious
7854 agent, size, and type of population exposed, previous experience or lack of exposure to the
7855 disease, and time and place of occurrence.

7856 (c) Epidemicity is considered to be relative to usual frequency of the disease in the
7857 same area, among the specified population, at the same season of the year.

7858 (8) "General acute hospital" is as defined in Section [~~26-21-2~~] 26B-2-201.

7859 (9) "Incubation period" means the time interval between exposure to an infectious
7860 agent and appearance of the first sign or symptom of the disease in question.

7861 (10) "Infected individual" means an individual who harbors an infectious agent and

7862 who has manifest disease or inapparent infection. An infected individual is one from whom the
7863 infectious agent can be naturally acquired.

7864 (11) "Infection" means the entry and development or multiplication of an infectious
7865 agent in the body of man or animals. Infection is not synonymous with infectious disease; the
7866 result may be inapparent or manifest. The presence of living infectious agents on exterior
7867 surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but
7868 contamination of such surfaces and articles.

7869 (12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus,
7870 protozoan, or helminth that is capable of producing infection or infectious disease.

7871 (13) "Infectious disease" means a disease of man or animals resulting from an
7872 infection.

7873 (14) "Isolation" means the separation, for the period of communicability, of infected
7874 individuals or animals from others, in such places and under such conditions as to prevent the
7875 direct or indirect conveyance of the infectious agent from those infected to those who are
7876 susceptible or who may spread the agent to others.

7877 (15) "Order of constraint" means the same as that term is defined in Section
7878 ~~[26-23b-102]~~ 26B-7-301.

7879 (16) "Quarantine" means the restriction of the activities of well individuals or animals
7880 who have been exposed to a communicable disease during its period of communicability to
7881 prevent disease transmission.

7882 (17) "School" means a public, private, or parochial nursery school, licensed or
7883 unlicensed day care center, child care facility, family care home, headstart program,
7884 kindergarten, elementary, or secondary school through grade 12.

7885 (18) "Sexually transmitted disease" means those diseases transmitted through sexual
7886 intercourse or any other sexual contact.

7887 (19) "Specialty hospital" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

7888 Section 244. Section **26B-7-202**, which is renumbered from Section 26-6-3 is
7889 renumbered and amended to read:

7890 ~~[26-6-3]~~. **26B-7-202. Authority to investigate and control epidemic infections**
7891 **and communicable disease.**

7892 (1) Subject to Subsection (3) and the restrictions in this title, the department has

7893 authority to investigate and control the causes of epidemic infections and communicable
7894 disease, and shall provide for the detection, reporting, prevention, and control of communicable
7895 diseases and epidemic infections or any other health hazard which may affect the public health.

7896 (2) (a) As part of the requirements of Subsection (1), the department shall distribute to
7897 the public and to health care professionals:

7898 (i) medically accurate information about sexually transmitted diseases that may cause
7899 infertility and sterility if left untreated, including descriptions of:

7900 (A) the probable side effects resulting from an untreated sexually transmitted disease,
7901 including infertility and sterility;

7902 (B) medically accepted treatment for sexually transmitted diseases;

7903 (C) the medical risks commonly associated with the medical treatment of sexually
7904 transmitted diseases; and

7905 (D) suggested screening by a private physician or physician assistant; and

7906 (ii) information about:

7907 (A) public services and agencies available to assist individuals with obtaining
7908 treatment for the sexually transmitted disease;

7909 (B) medical assistance benefits that may be available to the individual with the
7910 sexually transmitted disease; and

7911 (C) abstinence before marriage and fidelity after marriage being the surest prevention
7912 of sexually transmitted disease.

7913 (b) The information required by Subsection (2)(a):

7914 (i) shall be distributed by the department and by local health departments free of
7915 charge;

7916 (ii) shall be relevant to the geographic location in which the information is distributed
7917 by:

7918 (A) listing addresses and telephone numbers for public clinics and agencies providing
7919 services in the geographic area in which the information is distributed; and

7920 (B) providing the information in English as well as other languages that may be
7921 appropriate for the geographic area.

7922 (c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written
7923 material that includes the information required by this Subsection (2).

7924 (ii) In addition to the written materials required by Subsection (2)(c)(i), the department
7925 may distribute the information required by this Subsection (2) by any other methods the
7926 department determines is appropriate to educate the public, excluding public schools, including
7927 websites, toll free telephone numbers, and the media.

7928 (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the
7929 written pamphlet developed by the department, the written material shall include either a
7930 website, or a 24-hour toll free telephone number that the public may use to obtain that
7931 information.

7932 (3) (a) The Legislature may at any time terminate by joint resolution an order of
7933 constraint issued by the department as described in this section in response to a declared public
7934 health emergency.

7935 (b) A county governing body may at any time terminate by majority vote an order of
7936 constraint issued by the relevant local health department as described in this section in response
7937 to a declared public health emergency.

7938 Section 245. Section **26B-7-203**, which is renumbered from Section 26-6-3.5 is
7939 renumbered and amended to read:

7940 ~~[26-6-3.5].~~ **26B-7-203. Reporting AIDS and HIV infection -- Anonymous**
7941 **testing.**

7942 (1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome
7943 and Human Immunodeficiency Virus infection, the department shall:

7944 (a) require reporting of those conditions; and

7945 (b) utilize contact tracing and other methods for "partner" identification and
7946 notification. The department shall, by rule, define individuals who are considered "partners" for
7947 purposes of this section.

7948 (2) (a) The requirements of Subsection (1) do not apply to seroprevalence and other
7949 epidemiological studies conducted by the department.

7950 (b) The requirements of Subsection (1) do not apply to, and anonymity shall be
7951 provided in, research studies conducted by universities or hospitals, under the authority of
7952 institutional review boards if those studies are funded in whole or in part by research grants and
7953 if anonymity is required in order to obtain the research grant or to carry out the research.

7954 (3) For all purposes of this ~~chapter~~ part, Acquired Immunodeficiency Syndrome and

7955 Human Immunodeficiency Virus infection are considered communicable and infectious
7956 diseases.

7957 (4) The department may establish or allow one site or agency within the state to
7958 provide anonymous testing.

7959 (a) The site or agency that provides anonymous testing shall maintain accurate records
7960 regarding:

7961 (i) the number of HIV positive individuals that it is able to contact or inform of their
7962 condition;

7963 (ii) the number of HIV positive individuals who receive extensive counseling;

7964 (iii) how many HIV positive individuals provide verifiable information for partner
7965 notification; and

7966 (iv) how many cases in which partner notification is carried through.

7967 (b) If the information maintained under Subsection (4)(a) indicates anonymous testing
7968 is not resulting in partner notification, the department shall phase out the anonymous testing
7969 program allowed by this Subsection (4).

7970 Section 246. Section **26B-7-204**, which is renumbered from Section 26-6-4 is
7971 renumbered and amended to read:

7972 ~~[26-6-4]~~. **26B-7-204**. **Involuntary examination, treatment, isolation, and**
7973 **quarantine.**

7974 (1) The following individuals or groups of individuals are subject to examination,
7975 treatment, quarantine, or isolation under a department order of restriction:

7976 (a) an individual who is infected or suspected to be infected with a communicable
7977 disease that poses a threat to the public health and who does not take action as required by the
7978 department or the local health department to prevent spread of the disease;

7979 (b) an individual who is contaminated or suspected to be contaminated with an
7980 infectious agent that poses a threat to the public health and that could be spread to others if
7981 remedial action is not taken;

7982 (c) an individual who is in a condition or suspected condition which, if exposed to
7983 others, poses a threat to public health, or is in a condition which if treatment is not completed
7984 will pose a threat to public health; and

7985 (d) an individual who is contaminated or suspected to be contaminated with a chemical

7986 or biological agent that poses a threat to the public health and that could be spread to others if
7987 remedial action is not taken.

7988 (2) If an individual refuses to take action as required by the department or the local
7989 health department to prevent the spread of a communicable disease, infectious agent, or
7990 contamination, the department or the local health department may order involuntary
7991 examination, treatment, quarantine, or isolation of the individual and may petition the [district]
7992 court to order involuntary examination, treatment, quarantine, or isolation in accordance with
7993 [~~Title 26, Chapter 6b, Communicable Diseases~~] Part 4 Treatment, Isolation, and Quarantine
7994 Procedures for Communicable Diseases.

7995 Section 247. Section **26B-7-205**, which is renumbered from Section 26-6-5 is
7996 renumbered and amended to read:

7997 ~~[26-6-5]~~. **26B-7-205**. **Willful introduction of communicable disease a**
7998 **misdemeanor.**

7999 Any person who willfully or knowingly introduces any communicable or infectious
8000 disease into any county, municipality, or community is guilty of a class A misdemeanor, except
8001 as provided in Section 76-10-1309.

8002 Section 248. Section **26B-7-206**, which is renumbered from Section 26-6-6 is
8003 renumbered and amended to read:

8004 ~~[26-6-6]~~. **26B-7-206**. **Duty to report individual suspected of having**
8005 **communicable disease.**

8006 The following shall report to the department or the local health department regarding
8007 any individual suffering from or suspected of having a disease that is communicable, as
8008 required by department rule:

- 8009 (1) health care providers as defined in Section 78B-3-403;
- 8010 (2) facilities licensed under [~~Title 26, Chapter 21,~~] Chapter 2, Part 2, Health Care
8011 Facility Licensing and Inspection [~~Act~~];
- 8012 (3) health care facilities operated by the federal government;
- 8013 (4) mental health facilities;
- 8014 (5) care facilities licensed by the [~~Department of Human Services~~] department;
- 8015 (6) nursing homes and other care facilities;
- 8016 (7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for

8017 individuals who are suffering from a disease suspected of being communicable;
8018 (8) individuals who have knowledge of others who have a communicable disease;
8019 (9) individuals in charge of schools having responsibility for any individuals who have
8020 a disease suspected of being communicable; and
8021 (10) child care programs, as defined in Section 26-39-102.

8022 Section 249. Section **26B-7-207**, which is renumbered from Section 26-6-7 is
8023 renumbered and amended to read:

8024 ~~[26-6-7]~~. **26B-7-207. Designation of communicable diseases by department --**
8025 **Establishment of rules for detection, reporting, investigation, prevention, and control.**

8026 The department may designate those diseases which are communicable, of concern to
8027 the public health, and reportable; and establish rules for the detection, reporting, investigation,
8028 prevention, and control of communicable diseases, epidemic infections, and other health
8029 hazards that affect the public health.

8030 Section 250. Section **26B-7-208**, which is renumbered from Section 26-6-8 is
8031 renumbered and amended to read:

8032 ~~[26-6-8]~~. **26B-7-208. Tuberculosis -- Duty of department to investigate,**
8033 **control, and monitor.**

8034 (1) The department shall conduct or oversee the investigation, control, and monitoring
8035 of suspected or confirmed tuberculosis infection and disease within the state. Local health
8036 departments shall investigate, control, and monitor suspected or confirmed tuberculosis
8037 infection and disease within their respective jurisdictions.

8038 (2) A health care provider who treats an individual with suspected or confirmed
8039 tuberculosis shall treat the individual according to guidelines established by the department.

8040 Section 251. Section **26B-7-209**, which is renumbered from Section 26-6-9 is
8041 renumbered and amended to read:

8042 ~~[26-6-9]~~. **26B-7-209. Tuberculosis -- Testing of high risk individuals.**

8043 Individuals at high risk for tuberculosis shall be tested as required by department rule[
8044 ~~The department rule~~], which:

8045 (1) shall establish criteria to identify individuals who are at high risk for tuberculosis;
8046 and
8047 (2) may establish who is responsible for the costs of the testing.

8048 Section 252. Section **26B-7-210**, which is renumbered from Section 26-6-11 is
8049 renumbered and amended to read:

8050 ~~[26-6-11]~~. **26B-7-210. Rabies or other animal disease -- Investigation and**
8051 **order of quarantine.**

8052 (1) As used in this section, "quarantine" means strict confinement upon the private
8053 premises of the owners, under restraint by leash, closed cage or paddock of all animals
8054 specified by the order.

8055 (2) (a) Whenever rabies or any other animal disease dangerous to the health of human
8056 beings is reported, the department shall investigate to determine whether such disease exists,
8057 and the probable area of the state in which man or beast is thereby endangered.

8058 (b) If the department finds that such disease exists, a quarantine may be declared
8059 against all animals designated in the quarantine order and within the area specified in the order.

8060 (c) If the quarantine is for the purpose of preventing the spread of rabies or
8061 hydrophobia, the order shall contain a warning to the owners of dogs within the quarantined
8062 area to confine or muzzle all dogs to prevent biting.

8063 (d) Any dog not muzzled found running at large in a quarantined area or any dog
8064 known to have been removed from or escaped from such area, may be killed by any person
8065 without liability therefor.

8066 (3) Following the order of quarantine the department shall make a thorough
8067 investigation as to the extent of the disease, the probable number of persons and beasts
8068 exposed, and the area involved.

8069 (4) During the period any quarantine order is in force all peace officers may kill or
8070 capture and hold for further action by the department all animals in a quarantined area not held
8071 in restraint on private premises.

8072 Section 253. Section **26B-7-211**, which is renumbered from Section 26-6-15 is
8073 renumbered and amended to read:

8074 ~~[26-6-15]~~. **26B-7-211. Rabies or other animal disease -- Possession of animal in**
8075 **violation of part a misdemeanor.**

8076 Any person in possession of any animal being held in violation of this [chapter] part is
8077 guilty of a class C misdemeanor.

8078 Section 254. Section **26B-7-212**, which is renumbered from Section 26-6-16 is

8079 renumbered and amended to read:

8080 ~~[26-6-16]~~. **26B-7-212. Venereal diseases declared dangerous to public health.**

8081 Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby
8082 declared to be contagious, infectious, communicable and dangerous to the public health.

8083 Section 255. Section **26B-7-213**, which is renumbered from Section 26-6-17 is
8084 renumbered and amended to read:

8085 ~~[26-6-17]~~. **26B-7-213. Venereal disease -- Examinations by authorities --**
8086 **Treatment of infected persons.**

8087 State, county, and municipal health officers within their respective jurisdictions may
8088 make examinations of persons reasonably suspected of being infected with venereal disease.
8089 Persons infected with venereal disease shall be required to report for treatment to either a
8090 reputable physician or physician assistant and continue treatment until cured or to submit to
8091 treatment provided at public expense until cured.

8092 Section 256. Section **26B-7-214**, which is renumbered from Section 26-6-18 is
8093 renumbered and amended to read:

8094 ~~[26-6-18]~~. **26B-7-214. Venereal disease -- Consent of minor to treatment.**

8095 (1) A consent to medical care or services by a hospital or public clinic or the
8096 performance of medical care or services by a licensed physician or physician assistant executed
8097 by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the
8098 same legal effect upon the minor and the same legal obligations with regard to the giving of
8099 consent as a consent given by a person of full legal age and capacity, the infancy of the minor
8100 and any contrary provision of law notwithstanding.

8101 (2) The consent of the minor is not subject to later disaffirmance by reason of minority
8102 at the time it was given and the consent of no other person or persons shall be necessary to
8103 authorize hospital or clinical care or services to be provided to the minor by a licensed
8104 physician or physician assistant.

8105 (3) The provisions of this section shall apply also to minors who profess to be in need
8106 of hospital or clinical care and services or medical care or services provided by a physician or
8107 physician assistant for suspected sexually transmitted disease, regardless of whether such
8108 professed suspicions are subsequently substantiated on a medical basis.

8109 Section 257. Section **26B-7-215**, which is renumbered from Section 26-6-19 is

8110 renumbered and amended to read:

8111 ~~[26-6-19]~~. 26B-7-215. **Venereal disease -- Examination and treatment of**
8112 **persons in prison or jail.**

8113 (1) (a) All persons confined in any state, county, or city prison or jail shall be
8114 examined, and if infected, treated for venereal diseases by the health authorities.

8115 (b) The prison authorities of every state, county, or city prison or jail shall make
8116 available to the health authorities such portion of the prison or jail as may be necessary for a
8117 clinic or hospital wherein all persons suffering with venereal disease at the time of the
8118 expiration of their terms of imprisonment, shall be isolated and treated at public expense until
8119 cured.

8120 (2) (a) The department may require persons suffering with venereal disease at the time
8121 of the expiration of their terms of imprisonment to report for treatment to a licensed physician
8122 or physician assistant or submit to treatment provided at public expense in lieu of isolation.

8123 (b) Nothing in this section shall interfere with the service of any sentence imposed by a
8124 court as a punishment for the commission of crime.

8125 Section 258. Section **26B-7-216**, which is renumbered from Section 26-6-20 is
8126 renumbered and amended to read:

8127 ~~[26-6-20]~~. 26B-7-216. **Serological testing of pregnant or recently delivered**
8128 **women.**

8129 (1) As used in this part, a "standard serological test" means a test for syphilis approved
8130 by the department and made at an approved laboratory.

8131 ~~[(+)]~~ (2) (a) Every licensed physician and surgeon attending a pregnant or recently
8132 delivered woman for conditions relating to her pregnancy shall take or cause to be taken a
8133 sample of blood of the woman at the time of first examination or within 10 days thereafter.

8134 (b) The blood sample shall be submitted to an approved laboratory for a standard
8135 serological test for syphilis.

8136 (c) The provisions of this section do not apply to any female who objects thereto on the
8137 grounds that she is a bona fide member of a specified, well recognized religious organization
8138 whose teachings are contrary to the tests.

8139 ~~[(2)]~~ (3) (a) Every other person attending a pregnant or recently delivered woman, who
8140 is not permitted by law to take blood samples, shall within 10 days from the time of first

8141 attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

8142 (b) The blood sample shall be submitted to an approved laboratory for a standard
8143 serological test for syphilis.

8144 ~~[(3)]~~ (4) (a) An approved laboratory is a laboratory approved by the department
8145 according to its rules governing the approval of laboratories for the purpose of this title.

8146 (b) In submitting the sample to the laboratory the physician or physician assistant shall
8147 designate whether it is a prenatal test or a test following recent delivery.

8148 ~~[(4) For the purpose of this chapter, a "standard serological test" means a test for
8149 syphilis approved by the department and made at an approved laboratory.]~~

8150 (5) The laboratory shall transmit a detailed report of the standard serological test,
8151 showing the result thereof to the physician or physician assistant.

8152 Section 259. Section **26B-7-217**, which is renumbered from Section 26-6-27 is
8153 renumbered and amended to read:

8154 ~~[26-6-27].~~ **26B-7-217. Information regarding communicable or reportable**
8155 **diseases confidentiality -- Exceptions.**

8156 (1) (a) Information collected ~~[pursuant to this chapter]~~ under this part in the possession
8157 of the department or local health departments relating to an individual who has or is suspected
8158 of having a disease designated by the department as a communicable or reportable disease
8159 under this ~~[chapter]~~ shall be held by the department and local health departments as strictly
8160 confidential.

8161 (b) The department and local health departments may not release or make public that
8162 information upon subpoena, search warrant, discovery proceedings, or otherwise, except as
8163 provided by this section.

8164 (2) The information described in Subsection (1) may be released by the department or
8165 local health departments only in accordance with the requirements of this ~~[chapter]~~ part and as
8166 follows:

8167 (a) specific medical or epidemiological information may be released with the written
8168 consent of the individual identified in that information or, if that individual is deceased, his
8169 next-of-kin;

8170 (b) specific medical or epidemiological information may be released to medical
8171 personnel or peace officers in a medical emergency, as determined by the department in

8172 accordance with guidelines it has established, only to the extent necessary to protect the health
8173 or life of the individual identified in the information, or of the attending medical personnel or
8174 law enforcement or public safety officers;

8175 (c) specific medical or epidemiological information may be released to authorized
8176 personnel within the department, local health departments, public health authorities, official
8177 health agencies in other states, the United States Public Health Service, the Centers for Disease
8178 Control and Prevention, or when necessary to continue patient services or to undertake public
8179 health efforts to interrupt the transmission of disease;

8180 (d) if the individual identified in the information is under the age of 18, the information
8181 may be released to the Division of Child and Family Services within the [~~Department of~~
8182 ~~Human Services~~] department in accordance with Section 80-2-602[~~-H~~], and if that information
8183 is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter
8184 5, Offenses Against the Individual, the information shall be disclosed in camera and sealed by
8185 the court upon conclusion of the proceedings;

8186 (e) specific medical or epidemiological information may be released to authorized
8187 personnel in the department or in local health departments, and to the courts, to carry out the
8188 provisions of this title, and rules adopted by the department in accordance with this title;

8189 (f) specific medical or epidemiological information may be released to blood banks,
8190 organ and tissue banks, and similar institutions for the purpose of identifying individuals with
8191 communicable diseases. The department may, by rule, designate the diseases about which
8192 information may be disclosed under this subsection, and may choose to release the name of an
8193 infected individual to those organizations without disclosing the specific disease;

8194 (g) specific medical or epidemiological information may be released in such a way that
8195 no individual is identifiable;

8196 (h) specific medical or epidemiological information may be released to a "health care
8197 provider" as defined in Section 78B-3-403, health care personnel, and public health personnel
8198 who have a legitimate need to have access to the information in order to assist the patient, or to
8199 protect the health of others closely associated with the patient;

8200 (i) specific medical or epidemiological information regarding a health care provider, as
8201 defined in Section 78B-3-403, may be released to the department, the appropriate local health
8202 department, and the Division of Professional Licensing within the Department of Commerce, if

8203 the identified health care provider is endangering the safety or life of any individual by his
8204 continued practice of health care;

8205 (j) specific medical or epidemiological information may be released in accordance with
8206 Section 26-6-31 if an individual is not identifiable; and

8207 (k) specific medical or epidemiological information may be released to a state agency
8208 as defined in Section 67-27-102, to perform the analysis described in Subsection [~~26-6-32~~]
8209 26B-7-222(4) if the state agency agrees to act in accordance with the requirements in this
8210 [~~chapter~~] part.

8211 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is
8212 intended only to aid health care providers in their treatment and containment of infectious
8213 disease.

8214 Section 260. Section **26B-7-218**, which is renumbered from Section 26-6-28 is
8215 renumbered and amended to read:

8216 [~~26-6-28~~]. **26B-7-218**. **Protection from examination in legal proceedings --**
8217 **Exceptions.**

8218 (1) Except as provided in Subsection (2), an officer or employee of the department or
8219 of a local health department may not be examined in a legal proceeding of any kind or
8220 character as to the existence or content of information retained pursuant to this [~~chapter~~] part or
8221 obtained as a result of an investigation conducted [~~pursuant~~] part to this chapter, without the
8222 written consent of the individual who is identified in the information or, if that individual is
8223 deceased, the consent of his next-of-kin.

8224 (2) This section does not restrict testimony and evidence provided by an employee or
8225 officer of the department or a local health department about:

8226 (a) persons who are under restrictive actions taken by the department in accordance
8227 with Subsection [~~26-6-27~~] 26B-7-317(2)(e); or

8228 (b) individuals or groups of individuals subject to examination, treatment, isolation,
8229 and quarantine actions under [~~Chapter 6b, Communicable Diseases=~~] Part 4, Treatment,
8230 Isolation, and Quarantine Procedures for Communicable Diseases.

8231 Section 261. Section **26B-7-219**, which is renumbered from Section 26-6-29 is
8232 renumbered and amended to read:

8233 [~~26-6-29~~]. **26B-7-219**. **Violation -- Penalty.**

8234 (1) Any individual or entity entitled to receive confidential information from the
8235 [~~Department of Health~~] department or a local health department under this [~~chapter~~] part, other
8236 than the individual identified in that information, who violates this [~~chapter~~] part by releasing
8237 or making public confidential information, or by otherwise breaching the confidentiality
8238 requirements of this [~~chapter~~] part, is guilty of a class B misdemeanor.

8239 (2) This [~~chapter~~] part does not apply to any individual or entity that holds or receives
8240 information relating to an individual who has or is suspected of having a disease designated by
8241 the department as a communicable or reportable disease under this [~~chapter~~] part, if that
8242 individual or entity has obtained the information from a source other than the department or a
8243 local health department.

8244 Section 262. Section **26B-7-220**, which is renumbered from Section 26-6-30 is
8245 renumbered and amended to read:

8246 ~~[26-6-30]~~. **26B-7-220. Exclusions from confidentiality requirements.**

8247 (1) The provisions of this [~~chapter~~] part do not apply to:

8248 (a) information that relates to an individual who is in the custody of the Department of
8249 Corrections, a county jail, or the Division of Juvenile Justice Services within the [~~Department~~
8250 ~~of Human Services~~] department;

8251 (b) information that relates to an individual who has been in the custody of the
8252 Department of Corrections, a county jail, or the Division of Juvenile Justice Services within the
8253 [~~Department of Human Services~~] department, if liability of either of those departments, a
8254 county, or a division, or of an employee of a department, division, or county, is alleged by that
8255 individual in a lawsuit concerning transmission of an infectious or communicable disease; or

8256 (c) any information relating to an individual who willfully or maliciously or with
8257 reckless disregard for the welfare of others transmits a communicable or infectious disease.

8258 (2) Nothing in this [~~chapter~~] part limits the right of the individual identified in the
8259 information described in Subsection [~~26-6-27~~] 26B-7-217(1) to disclose that information.

8260 Section 263. Section **26B-7-221**, which is renumbered from Section 26-6-31 is
8261 renumbered and amended to read:

8262 ~~[26-6-31]~~. **26B-7-221. Public reporting of health care associated infections.**

8263 (1) (a) An ambulatory surgical facility, a general acute hospital, a specialty hospital, an
8264 end stage renal disease facility, and other facilities as required by rules of the Center for

8265 Medicare and Medicaid Services shall give the department access to the facility's data on the
8266 incidence and rate of health care associated infections that the facility submits to the National
8267 Healthcare Safety Network in the [~~Center~~] United State Centers for Disease Control and
8268 Prevention pursuant to the Center for Medicare and Medicaid Services rules for infection
8269 reporting.

8270 (b) Access to data under this Subsection (1) may include data sharing through the
8271 National Healthcare Safety Network.

8272 (2) (a) The department shall, beginning May 1, 2013, use the data submitted by the
8273 facilities in accordance with Subsection (1) to compile an annual report on health care
8274 associated infections in ambulatory surgical facilities, general acute hospitals, and specialty
8275 hospitals for public distribution in accordance with the requirements of this subsection. The
8276 department shall publish the report on the department's website and the Utah Health Exchange.

8277 (b) The department's report under this section shall:

8278 (i) include the following health care associated infections as required by the Center for
8279 Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety
8280 Network in the [~~Center~~] Centers for Disease Control and Prevention:

8281 (A) central line associated bloodstream infections;

8282 (B) catheter associated urinary tract infections;

8283 (C) surgical site infections from procedures on the colon or an abdominal
8284 hysterectomy;

8285 (D) methicillin-resistant staphylococcus aureus bacteremia;

8286 (E) clostridium difficile of the colon; and

8287 (F) other health care associated infections when reporting is required by the Center for
8288 Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety
8289 Network in the [~~Center~~] Centers for Disease Control and Prevention;

8290 (ii) include data on the rate of health care associated infections:

8291 (A) for the infection types described in Subsection (2)(b)(i); and

8292 (B) by health care facility or hospital;

8293 (iii) include data on how the rate of health care associated infections in ambulatory
8294 surgical facilities, general acute hospitals, and specialty hospitals compares with the rates in
8295 other states;

- 8296 (iv) in compiling the report described in Subsection (2)(a), use analytical
8297 methodologies that meet accepted standards of validity and reliability;
- 8298 (v) clearly identify and acknowledge, in the report, the limitations of the data sources
8299 and analytic methodologies used to develop comparative facility or hospital information;
- 8300 (vi) decide whether information supplied by a facility or hospital under Subsection (1)
8301 is appropriate to include in the report;
- 8302 (vii) adjust comparisons among facilities and hospitals for patient case mix and other
8303 relevant factors, when appropriate; and
- 8304 (viii) control for provider peer groups, when appropriate.
- 8305 (3) Before posting or releasing the report described in Subsection (2)(a), the
8306 department shall:
- 8307 (a) disclose to each ambulatory surgical facility, general acute hospital, and specialty
8308 hospital whose data is included in the report:
- 8309 (i) the entire methodology for analyzing the data; and
8310 (ii) the comparative facility or hospital information and other information the
8311 department has compiled for the facility or hospital; and
- 8312 (b) give the facility or hospital 30 days to suggest corrections or add explanatory
8313 comments about the data.
- 8314 (4) The department shall develop and implement effective safeguards to protect against
8315 the unauthorized use or disclosure of ambulatory surgical facility, general acute hospital, and
8316 specialty hospital data, including the dissemination of inconsistent, incomplete, invalid,
8317 inaccurate, or subjective data.
- 8318 (5) The report described in Subsection (2)(a):
- 8319 (a) may include data that compare and identify general acute hospitals, ambulatory
8320 surgical centers, and specialty hospitals;
- 8321 (b) shall contain only statistical, non-identifying information and may not disclose the
8322 identity of:
- 8323 (i) an employee of an ambulatory surgical facility, a general acute hospital, or a
8324 specialty hospital;
- 8325 (ii) a patient; or
8326 (iii) a health care provider licensed under Title 58, Occupations and Professions; and

8327 (c) may not be used as evidence in a criminal, civil, or administrative proceeding.

8328 (6) This section does not limit the department's authority to investigate and collect data
8329 regarding infections and communicable diseases under other provisions of state or federal law.

8330 Section 264. Section **26B-7-222**, which is renumbered from Section 26-6-32 is
8331 renumbered and amended to read:

8332 **~~[26-6-32].~~ 26B-7-222. Testing for COVID-19 for high-risk individuals at care**
8333 **facilities -- Collection and release of information regarding risk factors and comorbidities**
8334 **for COVID-19.**

8335 (1) As used in this section:

8336 (a) "Care facility" means a facility described in Subsections ~~[26-6-6]~~ 26B-7-206(2)
8337 through (6).

8338 (b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

8339 (2) (a) At the request of the department or a local health department, an individual who
8340 meets the criteria established by the department under Subsection (2)(b) shall submit to testing
8341 for COVID-19.

8342 (b) The department:

8343 (i) shall establish protocols to identify and test individuals who are present at a care
8344 facility and are at high risk for contracting COVID-19;

8345 (ii) may establish criteria to identify care facilities where individuals are at high risk for
8346 COVID-19; and

8347 (iii) may establish who is responsible for the costs of the testing.

8348 (c) (i) The protocols described in Subsection (2)(b)(i) shall:

8349 (A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care
8350 facility to refuse testing; and

8351 (B) specify criteria for when an individual's refusal to submit to testing under
8352 Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

8353 (ii) Notwithstanding any other provision of state law, a care facility may discharge a
8354 resident who declines testing requested by the department under Subsection (2)(a) if:

8355 (A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the
8356 resident's refusal to submit to testing endangers the health or safety of other individuals at the
8357 care facility; and

8358 (B) discharging the resident does not violate federal law.

8359 (3) The department may establish protocols to collect information regarding the
8360 individual's age and relevant comorbidities from an individual who receives a positive test
8361 result for COVID-19.

8362 (4) (a) The department shall publish deidentified information regarding comorbidities
8363 and other risk factors for COVID-19 in a manner that is accessible to the public.

8364 (b) The department may work with a state agency as defined in Section 67-27-102, to
8365 perform the analysis or publish the information described in Subsection (4)(a).

8366 Section 265. Section **26B-7-223**, which is renumbered from Section 26-6-42 is
8367 renumbered and amended to read:

8368 ~~[26-6-42]~~. **26B-7-223. Department support for local education agency test to**
8369 **stay programs -- Department guidance for local education agencies.**

8370 (1) As used in this section:

8371 (a) "Case threshold" means the same as that term is defined in Section 53G-9-210.

8372 (b) "COVID-19" means the same as that term is defined in Section 53G-9-210.

8373 (c) "Local education agency" or "LEA" means the same as that term is defined in
8374 Section 53G-9-210.

8375 (d) "Test to stay program" means the same as that term is defined in Section
8376 53G-9-210.

8377 (2) At the request of an LEA, the department shall provide support for the LEA's test to
8378 stay program if a school in the LEA reaches the case threshold, including by providing:

8379 (a) COVID-19 testing supplies;

8380 (b) a mobile testing unit; and

8381 (c) other support requested by the LEA related to the LEA's test to stay program.

8382 (3) The department shall ensure that guidance the department provides to LEAs related
8383 to test to stay programs complies with Section 53G-9-210, including the determination of
8384 whether a school meets a case threshold described in Subsection 53G-9-210(3).

8385 (4) Subsection (2) regarding the requirement to support an LEA's test to stay program
8386 does not apply after February 2, 2022, unless the test to stay requirement is triggered under
8387 Subsection 53G-9-210(2)(c).

8388 Section 266. Section **26B-7-224**, which is renumbered from Section 26-7-14 is

8389 renumbered and amended to read:

8390 ~~[26-7-14]~~. **26B-7-224. Study on violent incidents and fatalities involving**
8391 **substance abuse -- Report.**

8392 (1) As used in this section:

8393 (a) "Drug overdose event" means an acute condition, including a decreased level of
8394 consciousness or respiratory depression resulting from the consumption or use of a controlled
8395 substance, or another substance with which a controlled substance or alcohol was combined,
8396 that results in an individual requiring medical assistance.

8397 (b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
8398 substances.

8399 (c) "Violent incident" means:

8400 (i) aggravated assault as described in Section 76-5-103;

8401 (ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and
8402 76-5-114;

8403 (iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

8404 (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

8405 (v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

8406 (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

8407 (vii) a domestic violence offense, as defined in Section 77-36-1; and

8408 (viii) any other violent offense, as determined by the department.

8409 (2) In 2021 and continuing every other year, the department shall provide a report
8410 before October 1 to the Health and Human Services Interim Committee regarding the number
8411 of:

8412 (a) violent incidents and fatalities that occurred in the state during the preceding
8413 calendar year that, at the time of occurrence, involved substance abuse;

8414 (b) drug overdose events in the state during the preceding calendar year; and

8415 (c) recommendations for legislation, if any, to prevent the occurrence of the events
8416 described in Subsections (2)(a) and (b).

8417 ~~[(3) Before October 1, 2020, the department shall:]~~

8418 ~~[(a) determine what information is necessary to complete the report described in~~

8419 ~~Subsection (2) and from which local, state, and federal agencies the information may be~~

8420 obtained;]

8421 [(b) determine the cost of any research or data collection that is necessary to complete
8422 the report described in Subsection (2);]

8423 [(c) make recommendations for legislation, if any, that is necessary to facilitate the
8424 research or data collection described in Subsection (3)(b), including recommendations for
8425 legislation to assist with information sharing between local, state, federal, and private entities
8426 and the department; and]

8427 [(d) report the findings described in Subsections (3)(a) through (c) to the Health and
8428 Human Services Interim Committee.]

8429 [(4)] (3) The department may contract with another state agency, private entity, or
8430 research institution to assist the department with the report described in Subsection (2).

8431 Section 267. Section **26B-7-225**, which is renumbered from Section 26-8d-102 is
8432 renumbered and amended to read:

8433 ~~[26-8d-102]~~. **26B-7-225**. **Statewide stroke registry.**

8434 (1) The department shall establish and supervise a statewide stroke registry to:

8435 (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation
8436 of stroke;

8437 (b) promote optimal care for stroke patients;

8438 (c) alleviate unnecessary death and disability from stroke;

8439 (d) encourage the efficient and effective continuum of patient care, including
8440 prevention, prehospital care, hospital care, and rehabilitative care; and

8441 (e) minimize the overall cost of stroke.

8442 (2) The department shall utilize the registry established under Subsection (1) to assess:

8443 (a) the effectiveness of the data collected by the registry; and

8444 (b) the impact of the statewide stroke registry on the provision of stroke care.

8445 (3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
8446 Administrative Rulemaking Act, to establish:

8447 (i) the data elements that general acute hospitals shall report to the registry; and

8448 (ii) the time frame and format for reporting.

8449 (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics
8450 consistent with data elements used in nationally recognized data set platforms for stroke care.

8451 (c) The department shall permit a general acute hospital to submit data required under
8452 this section through an electronic exchange of clinical health information that meets the
8453 standards established by the department under Section ~~[26-1-37]~~ 26B-7-211.

8454 (4) A general acute hospital shall submit stroke data in accordance with rules
8455 established under Subsection (3).

8456 (5) Data collected under this section shall be subject to [~~Chapter 3,~~] Part 2, Health
8457 Statistics.

8458 (6) No person may be held civilly liable for providing data to the department in
8459 accordance with this section.

8460 Section 268. Section **26B-7-226**, which is renumbered from Section 26-8d-103 is
8461 renumbered and amended to read:

8462 ~~[26-8d-103]~~. **26B-7-226. Statewide cardiac registry.**

8463 (1) The department shall establish and supervise a statewide cardiac registry to:

8464 (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation
8465 of cardiac diseases;

8466 (b) promote optimal care for cardiac patients;

8467 (c) alleviate unnecessary death and disability from cardiac diseases;

8468 (d) encourage the efficient and effective continuum of patient care, including
8469 prevention, prehospital care, hospital care, and rehabilitative care; and

8470 (e) minimize the overall cost of cardiac care.

8471 (2) The department shall utilize the registry established under Subsection (1) to assess:

8472 (a) the effectiveness of the data collected by the registry; and

8473 (b) the impact of the statewide cardiac registry on the provision of cardiac care.

8474 (3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
8475 Administrative Rulemaking Act, to establish:

8476 (i) the data elements that general acute hospitals shall report to the registry; and

8477 (ii) the time frame and format for reporting.

8478 (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics
8479 consistent with data elements used in nationally recognized data set platforms for cardiac care.

8480 (c) The department shall permit a general acute hospital to submit data required under
8481 this section through an electronic exchange of clinical health information that meets the

8482 standards established by the department under Section ~~[26-1-37]~~ 26B-6-211.

8483 (4) A general acute hospital shall submit cardiac data in accordance with rules
8484 established under Subsection (3).

8485 (5) Data collected under this section shall be subject to ~~[Chapter 3]~~ Part 2, Health
8486 Statistics.

8487 (6) No person may be held civilly liable for providing data to the department in
8488 accordance with this section.

8489 Section 269. Section **26B-7-227**, which is renumbered from Section 26-5-1 is
8490 renumbered and amended to read:

8491 ~~[26-5-1]~~. **26B-7-227. Chronic disease control -- Establishing a prevention**
8492 **program -- Detection, monitoring, and community education.**

8493 (1) As used in this ~~[chapter]~~ section, "chronic disease" means an impairment or
8494 deviation from the normal functioning of the human body having one or more of the following
8495 characteristics:

8496 ~~[(1)-It]~~ (a) is permanent;

8497 ~~[(2)-It]~~ (b) leaves residual disability;

8498 ~~[(3)-It]~~ (c) is caused by nonreversible pathological alterations;

8499 ~~[(4)-It]~~ (d) requires special patient education and instruction for rehabilitation; or

8500 ~~[(5)-It]~~ (e) may require a long period of supervision, observation and care.

8501 (2) The department shall establish and operate reasonable programs to prevent, delay,
8502 and detect the onset of chronic diseases including cancer, diabetes, cardiovascular and
8503 pulmonary diseases, genetic diseases, and such other chronic diseases as the department
8504 determines are important in promoting, protecting, and maintaining the public's health.

8505 (3) (a) The department shall develop and maintain a system for detecting and
8506 monitoring chronic diseases within the state and shall investigate and determine the
8507 epidemiology of those conditions which contributed to preventable and premature sickness, or
8508 both, and to death and disability.

8509 (b) Beginning July 1, 2004, the department shall consider the disease known as "lupus"
8510 a chronic disease subject to the detection and monitoring provisions of Subsection (3)(a).

8511 (4) The department shall establish programs of community and professional education
8512 relevant to the detection, prevention and control of chronic diseases.

8513 Section 270. Section **26B-7-301**, which is renumbered from Section 26-23b-102 is
8514 renumbered and amended to read:

8515 **Part 3. Treatment, Isolation, and Quarantine Procedures for Communicable Diseases**

8516 ~~[26-23b-102]~~. **26B-7-301. Definitions.**

8517 As used in this [chapter] part:

8518 (1) "Bioterrorism" means:

8519 (a) the intentional use of any microorganism, virus, infectious substance, or biological
8520 product to cause death, disease, or other biological malfunction in a human, an animal, a plant,
8521 or another living organism in order to influence, intimidate, or coerce the conduct of
8522 government or a civilian population; and

8523 (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic
8524 fevers.

8525 (2) "Diagnostic information" means a clinical facility's record of individuals who
8526 present for treatment, including the reason for the visit, chief complaint, presenting diagnosis,
8527 final diagnosis, and any pertinent lab results.

8528 (3) "Epidemic or pandemic disease":

8529 (a) means the occurrence in a community or region of cases of an illness clearly in
8530 excess of normal expectancy; and

8531 (b) includes diseases designated by the department which have the potential to cause
8532 serious illness or death.

8533 (4) "Exigent circumstances" means a significant change in circumstances following the
8534 expiration of a public health emergency declared in accordance with this title that:

8535 (a) substantially increases the threat to public safety or health relative to the
8536 circumstances in existence when the public health emergency expired;

8537 (b) poses an imminent threat to public safety or health; and

8538 (c) was not known or foreseen and could not have been known or foreseen at the time
8539 the public health emergency expired.

8540 (5) "First responder" means:

8541 (a) a law enforcement officer as defined in Section 53-13-103;

8542 (b) emergency medical service personnel as defined in Section 26B-2-XXX;

8543 (c) firefighters; and

8544 (d) public health personnel having jurisdiction over the location where an individual
8545 subject to restriction is found.

8546 ~~[(5)]~~ (6) "Health care provider" means the same as that term is defined in Section
8547 78B-3-403.

8548 ~~[(6)]~~ (7) "Legislative emergency response committee" means the same as that term is
8549 defined in Section 53-2a-203.

8550 ~~[(7)]~~ (8) (a) "Order of constraint" means an order, rule, or regulation issued in response
8551 to a declared public health emergency under this ~~[chapter]~~ part, that:

8552 (i) applies to all or substantially all:

8553 (A) individuals or a certain group of individuals; or

8554 (B) public places or certain types of public places; and

8555 (ii) for the protection of the public health and in response to the declared public health
8556 emergency:

8557 (A) establishes, maintains, or enforces isolation or quarantine;

8558 (B) establishes, maintains, or enforces a stay-at-home order;

8559 (C) exercises physical control over property or individuals;

8560 (D) requires an individual to perform a certain action or engage in certain behavior; or

8561 (E) closes theaters, schools, or other public places or prohibits gatherings of people to
8562 protect the public health.

8563 (b) "Order of constraint" includes a stay-at-home order.

8564 (9) "Order of restriction" means an order issued by a department or a district court
8565 which requires an individual or group of individuals who are subject to restriction to submit to
8566 an examination, treatment, isolation, or quarantine.

8567 ~~[(8)]~~ (10) "Public health emergency" means an occurrence or imminent credible threat
8568 of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or
8569 novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a
8570 significant number of human fatalities or incidents of permanent or long-term disability. Such
8571 illness or health condition includes an illness or health condition resulting from a natural
8572 disaster.

8573 (11) "Public health official" means:

8574 (a) the executive director or the executive director's authorized representative; or

8575 (b) the executive director of a local health department or the executive director's
8576 authorized representative.

8577 ~~[(9)]~~ (12) "Reportable emergency illness and health condition" includes the diseases,
8578 conditions, or syndromes designated by the department.

8579 ~~[(10)]~~ (13) "Stay-at-home order" means an order of constraint that:

8580 (a) restricts movement of the general population to suppress or mitigate an epidemic or
8581 pandemic disease by directing individuals within a defined geographic area to remain in their
8582 respective residences; and

8583 (b) may include exceptions for certain essential tasks.

8584 (14) "Subject to restriction" as applied to an individual, or a group of individuals,
8585 means the individual or group of individuals is:

8586 (a) infected or suspected to be infected with a communicable disease that poses a threat
8587 to the public health and who does not take action as required by the department to prevent
8588 spread of the disease;

8589 (b) contaminated or suspected to be contaminated with an infectious agent that poses a
8590 threat to the public health, and that could be spread to others if remedial action is not taken;

8591 (c) in a condition or suspected condition which, if the individual is exposed to others,
8592 poses a threat to public health, or is in a condition which if treatment is not completed the
8593 individual will pose a threat to public health; or

8594 (d) contaminated or suspected to be contaminated with a chemical or biological agent
8595 that poses a threat to the public health and that could be spread to others if remedial action is
8596 not taken.

8597 Section 271. Section **26B-7-302**, which is renumbered from Section 26-1-12 is
8598 renumbered and amended to read:

8599 ~~[26-1-12]~~. **26B-7-302. Executive director -- Power to order abatement of**
8600 **public health hazard.**

8601 If the executive director finds that a condition of filth, sanitation, or other health hazard
8602 exists which creates a clear present hazard to the public health and which requires immediate
8603 action to protect human health or safety, the executive director with the concurrence of the
8604 governor may order persons causing or contributing to the condition to reduce, discontinue, or
8605 ameliorate it to the extent that the public health hazard is eliminated.

8606 Section 272. Section **26B-7-303**, which is renumbered from Section 26-6b-1 is
8607 renumbered and amended to read:

8608 **[26-6b-1]. 26B-7-303. Applicability -- Administrative procedures.**

8609 (1) [~~This chapter applies~~] Sections 26B-7-304 through 26B-7-315 apply to involuntary
8610 examination, treatment, isolation, and quarantine actions applied to individuals or groups of
8611 individuals by the department or a local health department.

8612 (2) The provisions of [~~this chapter~~] Sections 26B-7-304 through 26B-7-315 supersede
8613 the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

8614 (3) The [~~Department of Health~~] department may adopt rules in accordance with Title
8615 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the
8616 provisions of [~~this chapter~~] Sections 26B-7-304 through 26B-7-315.

8617 Section 273. Section **26B-7-304**, which is renumbered from Section 26-6b-3 is
8618 renumbered and amended to read:

8619 **[26-6b-3]. 26B-7-304. Order of restriction.**

8620 (1) Subject to Subsection (5), the department or a local health department having
8621 jurisdiction over the location where an individual or a group of individuals who are subject to
8622 restriction are found may:

8623 (a) issue a written order of restriction for the individual or group of individuals
8624 pursuant to Section [~~26-1-30~~] 26B-1-202 or Subsection 26A-1-114(1)(b) upon compliance with
8625 the requirements of this [~~chapter~~] part; and

8626 (b) issue a verbal order of restriction for an individual or group of individuals pursuant
8627 to Subsection (2)(c).

8628 (2) (a) A department or local health department's determination to issue an order of
8629 restriction shall be based upon the totality of circumstances reported to and known by the
8630 department or local health department, including:

8631 (i) observation;

8632 (ii) information that the department or local health department determines is credible
8633 and reliable information; and

8634 (iii) knowledge of current public health risks based on medically accepted guidelines as
8635 may be established by the [~~Department of Health~~] department by administrative rule.

8636 (b) An order of restriction issued by the department or a local health department shall:

8637 (i) in the opinion of the public health official, be for the shortest reasonable period of
8638 time necessary to protect the public health;

8639 (ii) use the least intrusive method of restriction that, in the opinion of the department or
8640 local health department, is reasonable based on the totality of circumstances known to the
8641 department or local health department issuing the order of restriction;

8642 (iii) be in writing unless the provisions of Subsection (2)(c) apply; and

8643 (iv) contain notice of an individual's rights as required in Section [~~26-6b-3.3~~]
8644 26B-6-407.

8645 (c) (i) [~~A~~] The department or a local health department may issue a verbal order of
8646 restriction, without prior notice to the individual or group of individuals if the delay in
8647 imposing a written order of restriction would significantly jeopardize the department or local
8648 health department's ability to prevent or limit:

8649 (A) the transmission of a communicable or possibly communicable disease that poses a
8650 threat to public health;

8651 (B) the transmission of an infectious agent or possibly infectious agent that poses a
8652 threat to public health;

8653 (C) the exposure or possible exposure of a chemical or biological agent that poses a
8654 threat to public health; or

8655 (D) the exposure or transmission of a condition that poses a threat to public health.

8656 (ii) A verbal order of restriction issued under [~~the provisions of~~] Subsection (2)(c)(i):

8657 (A) is valid for 24 hours from the time the order of restriction is issued;

8658 (B) may be verbally communicated to the individuals or group of individuals subject to
8659 restriction by a first responder;

8660 (C) may be enforced by the first responder until the department or local health
8661 department is able to establish and maintain the place of restriction; and

8662 (D) may only be continued beyond the initial 24 hours if a written order of restriction is
8663 issued pursuant to the provisions of Section [~~26-6b-3.3~~] 26B-7-307.

8664 (3) Pending issuance of a written order of restriction under Section [~~26-6b-3.3~~]
8665 26B-7-307, or judicial review of an order of restriction [~~by the district court pursuant to~~] under
8666 Section [~~26-6b-6~~] 26B-7-311, an individual who is subject to the order of restriction may be
8667 required to submit to involuntary examination, quarantine, isolation, or treatment in the

8668 individual's home, a hospital, or any other suitable facility under reasonable conditions
8669 prescribed by the department or local health department.

8670 (4) The department or local health department that issued the order of restriction shall
8671 take reasonable measures, including the provision of medical care, as may be necessary to
8672 assure proper care related to the reason for the involuntary examination, treatment, isolation, or
8673 quarantine of an individual ordered to submit to an order of restriction.

8674 (5) (a) The Legislature may at any time terminate by joint resolution an order of
8675 restriction issued by the department or local health department as described in this section in
8676 response to a declared public health emergency.

8677 (b) A county governing body may at any time terminate by majority vote an order of
8678 restriction issued by the relevant local health department [~~as described in~~] under this section
8679 issued in response to a declared public health emergency.

8680 Section 274. Section **26B-7-305**, which is renumbered from Section 26-6b-3.1 is
8681 renumbered and amended to read:

8682 [~~26-6b-3.1~~]. **26B-7-305. Consent to order of restriction -- Periodic review.**

8683 (1) (a) The department or a local health department shall either seek judicial review of
8684 an order of restriction under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311, or
8685 obtain the consent of an individual subject to an order of restriction.

8686 (b) If the department or a local department obtains consent, the consent shall be in
8687 writing and shall inform the individual or group of individuals:

8688 (i) of the terms and duration of the order of restriction;

8689 (ii) of the importance of complying with the order of restriction to protect the public's
8690 health;

8691 (iii) that each individual has the right to agree to the order of restriction, or refuse to
8692 agree to the order of restriction and seek a judicial review of the order of restriction;

8693 (iv) that for any individual who consents to the order of restriction:

8694 (A) the order of restriction will not be reviewed by the [~~district~~] court unless the
8695 individual withdraws consent to the order of restriction in accordance with Subsection
8696 (1)(b)(iv)(B); and

8697 (B) the individual shall notify the department or local health department in writing,
8698 with at least five business day's notice, if the individual intends to withdraw consent to the

8699 order of restriction; and

8700 (v) that a breach of a consent agreement prior to the end of the order of restriction may
8701 subject the individual to an involuntary order of restriction under Section [~~26-6b-3.2~~]
8702 26B-7-306.

8703 (2) (a) The department or local health department responsible for the care of an
8704 individual who has consented to the order of restriction shall periodically reexamine the
8705 reasons upon which the order of restriction was based. This reexamination shall occur at least
8706 once every six months.

8707 (b) (i) If at any time, the department or local health department determines that the
8708 conditions justifying the order of restriction for either a group or an individual no longer exist,
8709 the department or local health department shall immediately discharge the individual or group
8710 from the order of restriction.

8711 (ii) If the department or local health department determines that the conditions
8712 justifying the order of restriction continue to exist, the department or local health department
8713 shall send to the individual a written notice of:

8714 (A) the department or local health department's findings, the expected duration of the
8715 order of restriction, and the reason for the decision; and

8716 (B) the individual's right to a judicial review of the order of restriction by the [~~district~~]
8717 court if requested by the individual.

8718 (iii) Upon request for judicial review by an individual, the department or local health
8719 department shall:

8720 (A) file a petition [~~in district~~] with the court within five business days after the
8721 individual's request for a judicial review; and

8722 (B) proceed under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311.

8723 Section 275. Section **26B-7-306**, which is renumbered from Section 26-6b-3.2 is
8724 renumbered and amended to read:

8725 [~~26-6b-3.2~~]. **26B-7-306. Involuntary order of restriction -- Notice -- Effect of**
8726 **order during judicial review.**

8727 (1) If the department or local health department cannot obtain consent to the order of
8728 restriction from an individual, or if an individual withdraws consent to an order under
8729 Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B), the department or local health department

8730 shall:

8731 (a) give the individual or group of individuals subject to the order of restriction a
8732 written notice of:

8733 (i) the order of restriction and any supporting documentation; and

8734 (ii) the individual's right to a judicial review of the order of restriction; and

8735 (b) file a petition for a judicial review of the order of restriction under Section
8736 ~~[26-6b-4]~~ 26B-7-309 in ~~[district]~~ court within:

8737 (i) five business days after issuing the written notice of the order of restriction; or

8738 (ii) if consent has been withdrawn under Subsection ~~[26-6b-3.1]~~

8739 26B-7-305(1)(b)(iv)(B), within five business days after receiving notice of the individual's
8740 withdrawal of consent.

8741 (2) (a) An order of restriction remains in effect during any judicial proceedings to
8742 review the order of restriction if the department or local health department files a petition for
8743 judicial review of the order of restriction ~~[with the district]~~ within the period of time required
8744 by this section.

8745 (b) Law enforcement officers with jurisdiction in the area where the individual who is
8746 subject to the order of restriction can be located shall assist the department or local health
8747 department with enforcing the order of restriction.

8748 Section 276. Section **26B-7-307**, which is renumbered from Section 26-6b-3.3 is
8749 renumbered and amended to read:

8750 ~~[26-6b-3.3]~~. **26B-7-307. Contents of notice of order of restriction -- Rights of**
8751 **individuals.**

8752 (1) A written order of restriction issued by a department or local health department
8753 shall include the following information:

8754 (a) the identity of the individual or a description of the group of individuals subject to
8755 the order of restriction;

8756 (b) the identity or location of any premises that may be subject to restriction;

8757 (c) the date and time for which the restriction begins and the expected duration of the
8758 restriction;

8759 (d) the suspected communicable disease, infectious, chemical or biological agent, or
8760 other condition that poses a threat to public health;

8761 (e) the requirements for termination of the order of restriction, such as necessary
8762 laboratory reports, the expiration of an incubation period, or the completion of treatment for the
8763 communicable disease;

8764 (f) any conditions on the restriction, such as limitation of visitors or requirements for
8765 medical monitoring;

8766 (g) the medical or scientific information upon which the restriction is based;

8767 (h) a statement advising of the right to a judicial review of the order of restriction by
8768 the [district] court; and

8769 (i) pursuant to Subsection (2), the rights of each individual subject to restriction.

8770 (2) An individual subject to restriction has the following rights:

8771 (a) the right to be represented by legal counsel in any judicial review of the order of
8772 restriction in accordance with Subsection [~~26-6b-4~~] 26B-7-309(3);

8773 (b) the right to be provided with prior notice of the date, time, and location of any
8774 hearing concerning the order of restriction;

8775 (c) the right to participate in any hearing, in a manner established by the court based on
8776 precautions necessary to prevent additional exposure to communicable or possibly
8777 communicable diseases or to protect the public health;

8778 (d) the right to respond and present evidence and arguments on the individual's own
8779 behalf in any hearing;

8780 (e) the right to cross examine witnesses; and

8781 (f) the right to review and copy all records in the possession of the department that
8782 issued the order of restriction which relate to the subject of the written order of restriction.

8783 (3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local
8784 health department issues an order of restriction for a group of individuals, the department or
8785 local health department may modify the method of providing notice to the group or modify the
8786 information contained in the notice, if the public health official determines the modification of
8787 the notice is necessary to:

8788 (i) protect the privacy of medical information of individuals in the group; or

8789 (ii) provide notice to the group in a manner that will efficiently and effectively notify
8790 the individuals in the group within the period of time necessary to protect the public health.

8791 (b) When the department or a local health department modifies notice to a group of

8792 individuals under Subsection (3)(a), the department or local health department shall provide
8793 each individual in the group with notice that complies with the provisions of Subsection (1) as
8794 soon as reasonably practical.

8795 (4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an
8796 individual subject to an order of restriction may not be terminated from employment if the
8797 reason for termination is based solely on the fact that the individual is or was subject to an
8798 order of restriction.

8799 (b) The department or local health department issuing the order of restriction shall give
8800 the individual subject to the order of restriction notice of the individual's employment rights
8801 under Subsection (4)(a).

8802 (c) An employer in the state, including an employer who is the state or a political
8803 subdivision of the state, may not violate the provisions of Subsection (4)(a).

8804 Section 277. Section **26B-7-308**, which is renumbered from Section 26-6b-3.4 is
8805 renumbered and amended to read:

8806 ~~[26-6b-3.4]~~. **26B-7-308. Medical records -- Privacy protections.**

8807 (1) (a) Health care providers as defined in Section 78B-3-403, health care facilities
8808 licensed under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and
8809 Inspection [~~Act~~] and governmental entities, shall, when requested, provide the public health
8810 official and the individual subject to an order of restriction, a copy of medical records that are
8811 relevant to the order of restriction.

8812 (b) The records requested under Subsection (1)(a) shall be provided as soon as
8813 reasonably possible after the request is submitted to the health care provider or health care
8814 facility, or as soon as reasonably possible after the health care provider or facility receives the
8815 results of any relevant diagnostic testing of the individual.

8816 (2) (a) The production of records under the provisions of this section is for the benefit
8817 of the public health and safety of the citizens of the state. A health care provider or facility is
8818 encouraged to provide copies of medical records or other records necessary to carry out the
8819 purpose of this [~~chapter~~] part free of charge.

8820 (b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a
8821 state governmental entity shall provide medical records or other records necessary to carry out
8822 the purposes of this [~~chapter~~] part, free of charge.

8823 (c) If a health care provider or health care facility does not provide medical records free
 8824 of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility
 8825 may charge a fee for the records that does not exceed the presumed reasonable charges
 8826 established for workers' compensation by administrative rule adopted by the Labor
 8827 Commission.

8828 (3) Medical records held by a court related to orders of restriction under this [~~chapter~~]
 8829 part shall be sealed by the [~~district~~] court at the conclusion of the case.

8830 Section 278. Section **26B-7-309**, which is renumbered from Section 26-6b-4 is
 8831 renumbered and amended to read:

8832 ~~[26-6b-4]~~. **26B-7-309. Judicial review -- Required notice -- Representation by**
 8833 **counsel -- Conduct of proceedings.**

8834 (1) The provisions of this section and Sections [~~26-6b-5~~] 26B-7-310 through [~~26-6b-7~~]
 8835 26B-7-312 apply if the department or a local health department issues an order for restriction,
 8836 and:

8837 (a) an individual subject to the order of restriction refuses to consent to the order of
 8838 restriction;

8839 (b) an individual subject to an order of restriction has withdrawn consent to an order of
 8840 restriction under the provisions of Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B); or

8841 (c) the department or local health department chooses to not attempt to obtain consent
 8842 to an order of restriction and files an action for judicial review of the order of restriction.

8843 (2) (a) If the individual who is subject to an order of restriction is in custody, the
 8844 department or local health department, which is the petitioner, shall provide to the individual
 8845 written notice of the petition for judicial review of the order of restriction and hearings held
 8846 pursuant to Sections [~~26-6b-5~~] 26B-7-310 through [~~26-6b-7~~] 26B-7-312 as soon as practicable,
 8847 and shall send the notice to the legal guardian, legal counsel for the parties involved, and any
 8848 other persons and immediate adult family members whom the individual or the [~~district~~] court
 8849 designates.

8850 (b) The notice described in Subsection (2)(b) shall advise these persons that a hearing
 8851 may be held within the time provided by this [~~chapter~~] part.

8852 ~~(b)~~ (c) If the individual has refused to permit release of information necessary for the
 8853 provision of notice under this Subsection (2), the extent of notice shall be determined by the

8854 [district] court.

8855 (c) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines
8856 that written notice to each individual in a group of individuals subject to an order of restriction
8857 is not practical considering the circumstances of the threat to public health, the court may order
8858 the department to provide notice to the individual or group of individuals in a manner
8859 determined by the court.

8860 (3) (a) If the individual who is subject to an order of restriction is in custody, he shall
8861 be afforded an opportunity to be represented by counsel. If neither the individual nor others
8862 provide for counsel, the [district] court shall appoint counsel and allow counsel sufficient time
8863 to consult with the individual prior to the hearing. If the individual is indigent, the payment of
8864 reasonable attorney fees for counsel, as determined by the [district] court, shall be made by the
8865 county in which the individual resides or was found.

8866 (b) The parties may appear at the hearings, to testify, and to present and cross-examine
8867 witnesses. The [district] court may, in its discretion, receive the testimony of any other
8868 individual.

8869 (c) The [district] court may allow a waiver of the individual's right to appear only for
8870 good cause shown, and that cause shall be made a part of the court record.

8871 (d) The [district] court may order that the individual participate in the hearing by
8872 telephonic or other electronic means if the individual's condition poses a health threat to those
8873 who physically attend the hearing or to others if the individual is transported to the court.

8874 (4) The [district] court may, in its discretion, order that the individual be moved to a
8875 more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may
8876 transfer the proceedings to any other [district] court within this state where venue is proper,
8877 provided that the transfer will not be adverse to the legal interests of the individual.

8878 (5) All persons to whom notice is required to be given may attend the hearings. The
8879 [district] court may exclude from the hearing all persons not necessary for the conduct of the
8880 proceedings.

8881 (6) All hearings shall be conducted in as informal a manner as may be consistent with
8882 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
8883 health of the individual or others required to participate in the hearing.

8884 (7) The [district] court shall receive all relevant and material evidence which is offered,

8885 subject to Utah Rules of Evidence.

8886 (8) The [district] court may order law enforcement to assist the petitioner in locating
8887 the individuals subject to restriction and enforcing the order of restriction.

8888 Section 279. Section **26B-7-310**, which is renumbered from Section 26-6b-5 is
8889 renumbered and amended to read:

8890 **~~[26-6b-5]~~. 26B-7-310. Petition for judicial review of order of restriction --**
8891 **Court-ordered examination period.**

8892 (1) (a) A department may petition for a judicial review of the department's order of
8893 restriction for an individual or group of individuals who are subject to restriction by filing a
8894 written petition with the [district] court of the county in which the individual or group of
8895 individuals reside or are located.

8896 (b) (i) The county attorney for the county where the individual or group of individuals
8897 reside or are located shall represent the local health department in any proceedings under this
8898 [chapter] part.

8899 (ii) The Office of the Attorney General shall represent the department when the
8900 petitioner is the [~~Department of Health~~] department in any proceedings under this [chapter]
8901 part.

8902 (2) The petition under Subsection (1) shall be accompanied by:

8903 (a) written affidavit of the department stating:

8904 (i) a belief the individual or group of individuals are subject to restriction;

8905 (ii) a belief that the individual or group of individuals who are subject to restriction are
8906 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately
8907 restrained;

8908 (iii) this failure would pose a threat to the public health; and

8909 (iv) the personal knowledge of the individual's or group of individuals' condition or the
8910 circumstances that lead to that belief; and

8911 (b) a written statement by a licensed physician or physician assistant indicating the
8912 physician or physician assistant finds the individual or group of individuals are subject to
8913 restriction.

8914 (3) The court shall issue an order of restriction requiring the individual or group of
8915 individuals to submit to involuntary restriction to protect the public health if the [district] court

8916 finds:

8917 (a) there is a reasonable basis to believe that the individual's or group of individuals'
8918 condition requires involuntary examination, quarantine, treatment, or isolation pending
8919 examination and hearing; or

8920 (b) the individual or group of individuals have refused to submit to examination by a
8921 health professional as directed by the department or to voluntarily submit to examination,
8922 treatment, quarantine, or isolation.

8923 (4) If the individual or group of individuals who are subject to restriction are not in
8924 custody, the court may make its determination and issue its order of restriction in an ex parte
8925 hearing.

8926 (5) At least 24 hours prior to the hearing required by Section [~~26-6b-6~~] 26B-7-311, the
8927 department which is the petitioner, shall report to the court, in writing, the opinion of qualified
8928 health care providers:

8929 (a) regarding whether the individual or group of individuals are infected by or
8930 contaminated with:

8931 (i) a communicable or possible communicable disease that poses a threat to public
8932 health;

8933 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

8934 (iii) a chemical or biological agent that poses a threat to public health; or

8935 (iv) a condition that poses a threat to public health;

8936 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not
8937 been completed;

8938 (c) whether the individual or group of individuals have agreed to voluntarily comply
8939 with necessary examination, treatment, quarantine, or isolation; and

8940 (d) whether the petitioner believes the individual or group of individuals will comply
8941 without court proceedings.

8942 Section 280. Section **26B-7-311**, which is renumbered from Section 26-6b-6 is
8943 renumbered and amended to read:

8944 **[~~26-6b-6~~]. 26B-7-311. Court determination for an order of restriction after**
8945 **examination period.**

8946 (1) The [~~district~~] court shall set a hearing regarding the involuntary order of restriction

8947 of an individual or group of individuals, to be held within 10 business days of the issuance of
8948 its order of restriction issued pursuant to Section [~~26-6b-5~~] 26B-7-310, unless the petitioner
8949 informs the [~~district~~] court prior to this hearing that the individual or group of individuals:

8950 (a) are not subject to restriction; or

8951 (b) have stipulated to the issuance of an order of restriction.

8952 (2) If the individual or an individual in a group of individuals has stipulated to the
8953 issuance of an order of restriction, the court may issue an order as provided in Subsection (6)
8954 for those individuals without further hearing.

8955 (3) (a) If the examination report required in Section [~~26-6b-5~~] 26B-7-310 proves the
8956 individual or group of individuals are not subject to restriction, the court may without further
8957 hearing terminate the proceedings and dismiss the petition.

8958 (b) The court may, after a hearing at which the individual or group of individuals are
8959 present in person or by telephonic or other electronic means and have had the opportunity to be
8960 represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90
8961 days, if the court has reason to believe the individual or group of individuals are infected by or
8962 contaminated with:

8963 (i) a communicable or possibly communicable disease that poses a threat to public
8964 health;

8965 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

8966 (iii) a chemical or biological agent that poses a threat to public health; or

8967 (iv) a condition that poses a threat to public health, but, despite the exercise of
8968 reasonable diligence the diagnostic studies have not been completed.

8969 (4) The petitioner shall, at the time of the hearing, provide the [~~district~~] court with the
8970 following items, to the extent that they have been issued or are otherwise available:

8971 (a) the order of restriction issued by the petitioner;

8972 (b) admission notes if any individual was hospitalized; and

8973 (c) medical records pertaining to the current order of restriction.

8974 (5) The information provided to the court under Subsection (4) shall also be provided
8975 to the individual's or group of individual's counsel at the time of the hearing, and at any time
8976 prior to the hearing upon request of counsel.

8977 (6) (a) The [~~district~~] court shall order the individual and each individual in a group of

8978 individuals to submit to the order of restriction if, upon completion of the hearing and
8979 consideration of the record, it finds by clear and convincing evidence that:

8980 (i) the individual or group of individuals are infected with a communicable disease or
8981 infectious agent, are contaminated with a chemical or biological agent, or are in a condition
8982 that poses a threat to public health;

8983 (ii) there is no appropriate and less restrictive alternative to a court order of
8984 examination, quarantine, isolation, and treatment, or any of them;

8985 (iii) the petitioner can provide the individual or group of individuals with treatment
8986 that is adequate and appropriate to the individual's or group of individuals' conditions and
8987 needs; and

8988 (iv) it is in the public interest to order the individual or group of individuals to submit
8989 to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing
8990 the following factors:

8991 (A) the personal or religious beliefs, if any, of the individual that are opposed to
8992 medical examination or treatment;

8993 (B) the ability of the department to control the public health threat with treatment
8994 alternatives that are requested by the individual;

8995 (C) the economic impact for the department if the individual is permitted to use an
8996 alternative to the treatment recommended by the department; and

8997 (D) other relevant factors as determined by the court.

8998 (b) If upon completion of the hearing the court does not find all of the conditions listed
8999 in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

9000 (7) The order of restriction shall designate the period, subject to Subsection (8), for
9001 which the individual or group of individuals shall be examined, treated, isolated, or
9002 quarantined.

9003 (8) (a) The order of restriction may not exceed six months without benefit of a [district]
9004 court review hearing.

9005 (b) (i) The [district] court review hearing shall be held prior to the expiration of the
9006 order of restriction issued under Subsection (7).

9007 (ii) At the review hearing the court may issue an order of restriction for up to an
9008 indeterminate period, if the [district] court enters a written finding in the record determining by

9009 clear and convincing evidence that the required conditions in Subsection (6) will continue for
9010 an indeterminate period.

9011 Section 281. Section **26B-7-312**, which is renumbered from Section 26-6b-7 is
9012 renumbered and amended to read:

9013 ~~[26-6b-7]~~. **26B-7-312. Periodic review of individuals under court order.**

9014 (1) (a) At least two weeks prior to the expiration of the designated period of any court
9015 order still in effect, the petitioner shall inform the court that issued the order that the order is
9016 about to expire.

9017 (b) The petitioner shall immediately reexamine the reasons upon which the court's
9018 order was based.

9019 (c) If the petitioner determines that the conditions justifying that order no longer exist,
9020 ~~[it]~~ the petitioner shall discharge the individual from involuntary quarantine, isolation, or
9021 treatment and report its action to the court for a termination of the order.

9022 (d) ~~[Otherwise]~~ If the conditions justifying the order still exist, the court shall schedule
9023 a hearing prior to the expiration of ~~[its]~~ the court's order and proceed under Sections ~~[26-6b-4]~~
9024 26B-7-309 through ~~[26-6b-6]~~ 26B-7-311.

9025 (2) (a) The petitioner responsible for the care of an individual under a court order of
9026 involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month
9027 intervals reexamine the reasons upon which the order of indeterminate duration was based.

9028 (b) If the petitioner determines that the conditions justifying that the court's order no
9029 longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation,
9030 or treatment and immediately report its action to the court for a termination of the order.

9031 (c) If the petitioner determines that the conditions justifying the involuntary quarantine,
9032 isolation, or treatment continue to exist, the petitioner shall send a written report of those
9033 findings to the court.

9034 (d) The petitioner shall notify the individual and his counsel of record in writing that
9035 the involuntary quarantine, isolation, or treatment will be continued, the reasons for that
9036 decision, and that the individual has the right to a review hearing by making a request to the
9037 court.

9038 (e) Upon receiving the request for a review, the court shall immediately set a hearing
9039 date and proceed under Sections ~~[26-6b-4]~~ 26B-6-309 through ~~[26-6b-6]~~ 26B-6-311.

9040 Section 282. Section **26B-7-313**, which is renumbered from Section 26-6b-8 is
9041 renumbered and amended to read:

9042 ~~[26-6b-8]~~. **26B-7-313. Transportation of individuals subject to temporary or**
9043 **court-ordered restriction.**

9044 Transportation of an individual subject to an order of restriction to court, or to a place
9045 for examination, quarantine, isolation, or treatment pursuant a temporary order issued by a
9046 department or local health department, or pursuant to a court order, shall be conducted by the
9047 county sheriff where the individual is located.

9048 Section 283. Section **26B-7-314**, which is renumbered from Section 26-6b-9 is
9049 renumbered and amended to read:

9050 ~~[26-6b-9]~~. **26B-7-314. Examination, quarantine, isolation, and treatment costs.**

9051 If a local health department obtains approval from the [~~Department of Health~~]
9052 department, the costs that the local health department would otherwise have to bear for
9053 examination, quarantine, isolation, and treatment ordered under the provisions of this chapter
9054 shall be paid by the [~~Department of Health~~] department to the extent that the individual is
9055 unable to pay and that other sources and insurance do not pay.

9056 Section 284. Section **26B-7-315**, which is renumbered from Section 26-6b-10 is
9057 renumbered and amended to read:

9058 ~~[26-6b-10]~~. **26B-7-315. Severability.**

9059 [~~If any provision of this chapter,~~] With respect to Sections 26B-7-404 through
9060 26B-7-414, if the provisions or the application of [~~this chapter~~] the provisions to any person or
9061 circumstance[;] is found to be unconstitutional, the provision is found to be unconstitutional is
9062 severable and the balance of [~~this chapter remains~~] any sections not found to be constitutional
9063 remain effective, notwithstanding [~~that unconstitutionality~~] those sections found to be
9064 unconstitutional.

9065 Section 285. Section **26B-7-316**, which is renumbered from Section 26-23b-103 is
9066 renumbered and amended to read:

9067 ~~[26-23b-103]~~. **26B-7-316. Mandatory reporting requirements -- Contents**
9068 **of reports -- Penalties.**

9069 (1) (a) A health care provider shall report to the department any case of any person who

9070 the provider knows has a confirmed case of, or who the provider believes in his professional
9071 judgment is sufficiently likely to harbor any illness or health condition that may be caused by:

9072 (i) bioterrorism;

9073 (ii) epidemic or pandemic disease; or

9074 (iii) novel and highly fatal infectious agents or biological toxins which might pose a
9075 substantial risk of a significant number of human fatalities or incidences of permanent or
9076 long-term disability.

9077 (b) A health care provider shall immediately submit the report required by Subsection
9078 (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).

9079 (2) (a) A report required by this section shall be submitted electronically, verbally, or in
9080 writing to the department or appropriate local health department.

9081 (b) A report submitted pursuant to Subsection (1) shall include, if known:

9082 (i) diagnostic information on the specific illness or health condition that is the subject
9083 of the report, and, if transmitted electronically, diagnostic codes assigned to the visit;

9084 (ii) the patient's name, date of birth, sex, race, occupation, and current home and work
9085 address and phone number;

9086 (iii) the name, address, and phone number of the health care provider; and

9087 (iv) the name, address, and phone number of the reporting individual.

9088 (3) The department may impose a sanction against a health care provider for failure to
9089 make a report required by this section only if the department can show by clear and convincing
9090 evidence that a health care provider willfully failed to file a report.

9091 Section 286. Section **26B-7-317**, which is renumbered from Section 26-23b-104 is
9092 renumbered and amended to read:

9093 ~~[26-23b-104]~~. **26B-7-317. Authorization to report -- Declaration of a public**
9094 **health emergency -- Termination of a public health emergency -- Order of constraint.**

9095 (1) A health care provider is authorized to report to the department any case of a
9096 reportable emergency illness or health condition in any person when:

9097 (a) the health care provider knows of a confirmed case; or

9098 (b) the health care provider believes, based on the health care provider's professional
9099 judgment that a person likely harbors a reportable emergency illness or health condition.

9100 (2) A report ~~[pursuant to]~~ under this section shall include, if known:

- 9101 (a) the name of the facility submitting the report;
- 9102 (b) a patient identifier that allows linkage with the patient's record for follow-up
9103 investigation if needed;
- 9104 (c) the date and time of visit;
- 9105 (d) the patient's age and sex;
- 9106 (e) the zip code of the patient's residence;
- 9107 (f) the reportable illness or condition detected or suspected;
- 9108 (g) diagnostic information and, if available, diagnostic codes assigned to the visit; and
- 9109 (h) whether the patient was admitted to the hospital.
- 9110 (3) (a) Subject to Subsections (3)(b) and (4), if the department determines that a public
9111 health emergency exists, the department may, with the concurrence of the governor and the
9112 executive director or in the absence of the executive director, the executive director's designee,
9113 declare a public health emergency, issue an order of constraint, and mandate reporting under
9114 this section for a limited reasonable period of time, as necessary to respond to the public health
9115 emergency.
- 9116 (b) (i) During a public health emergency that has been in effect for more than 30 days,
9117 the department may not issue an order of constraint until the department has provided notice of
9118 the proposed action to the legislative emergency response committee no later than 24 hours
9119 before the department issues the order of constraint.
- 9120 (ii) The department:
- 9121 (A) shall provide the notice required by Subsection (3)(b)(i) using the best available
9122 method under the circumstances as determined by the executive director;
- 9123 (B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and
- 9124 (C) shall provide the notice in written form, if practicable.
- 9125 (c) The department may not mandate reporting under this subsection for more than 90
9126 days.
- 9127 (4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by
9128 the department as described in Subsection (3) expires at the earliest of:
- 9129 (i) the day on which the department or the governor finds that the threat or danger has
9130 passed or the public health emergency reduced to the extent that emergency conditions no
9131 longer exist;

- 9132 (ii) 30 days after the date on which the department declared the public health
9133 emergency; or
- 9134 (iii) the day on which the public health emergency is terminated by a joint resolution of
9135 the Legislature.
- 9136 (b) (i) The Legislature, by joint resolution, may extend a public health emergency for a
9137 time period designated in the joint resolution.
- 9138 (ii) If the Legislature extends a public health emergency as described in Subsection
9139 (4)(b)(i), the public health emergency expires on the date designated by the Legislature.
- 9140 (c) Except as provided in Subsection (4)(d), if a public health emergency declared by
9141 the department expires as described in Subsection (4)(a) or (b), the department may not declare
9142 a public health emergency for the same illness or occurrence that precipitated the previous
9143 public health emergency declaration.
- 9144 (d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the
9145 department finds that exigent circumstances exist, after providing notice to the Legislature, the
9146 department may declare a new public health emergency for the same illness or occurrence that
9147 precipitated a previous public health emergency declaration.
- 9148 (ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in
9149 accordance with Subsection (4)(a) or (b).
- 9150 (e) If the Legislature terminates a public health emergency declared due to exigent
9151 circumstances as described in Subsection (4)(d)(i), the department may not declare a new
9152 public health emergency for the same illness, occurrence, or exigent circumstances.
- 9153 (5) During a declared public health emergency declared under this title:
- 9154 (a) the Legislature may:
- 9155 (i) at any time by joint resolution terminate an order of constraint issued by the
9156 department; or
- 9157 (ii) by joint resolution terminate an order of constraint issued by a local health
9158 department in response to a public health emergency that has been in effect for more than 30
9159 days; and
- 9160 (b) a county legislative body may at any time terminate an order of constraint issued by
9161 a local health department in response to a declared public health emergency.
- 9162 (6) (a) (i) If the department declares a public health emergency as described in this

9163 [chapter] part, and the department finds that the public health emergency conditions warrant an
9164 extension of the public health emergency beyond the 30-day term or another date designated by
9165 the Legislature as described in this section, the department shall provide written notice to the
9166 speaker of the House of Representatives and the president of the Senate at least 10 days before
9167 the expiration of the public health emergency.

9168 (i) If a local health department declares a public health emergency as described in this
9169 [chapter] part, and the local health department finds that the public health emergency
9170 conditions warrant an extension of the public health emergency beyond the 30-day term or
9171 another date designated by the county governing body as described in this section, the local
9172 health department shall provide written notice to the county governing body at least 10 days
9173 before the expiration of the public health emergency.

9174 (b) If the department provides notice as described in Subsection (6)(a)(i) for a public
9175 health emergency within the first 30 days from the initial declaration of the public health
9176 emergency, the speaker of the House of Representatives and the president of the Senate:

9177 (i) shall poll the members of their respective bodies to determine whether the
9178 Legislature will extend the public health emergency; and

9179 (ii) may jointly convene the committee created in Section 53-2a-218.

9180 (c) If the department provides notice as described in Subsection (6)(a)(i) for a public
9181 health emergency that has been extended beyond the 30 days from the initial declaration of the
9182 public health emergency, the speaker of the House of Representatives and the president of the
9183 Senate shall jointly convene the committee created in Section 53-2a-218.

9184 (7) If the committee created in Section 53-2a-218 is convened as described in
9185 Subsection (6), the committee shall conduct a public meeting to:

9186 (a) discuss the nature of the public health emergency and conditions of the public
9187 health emergency;

9188 (b) evaluate options for public health emergency response;

9189 (c) receive testimony from individuals with expertise relevant to the current public
9190 health emergency;

9191 (d) receive testimony from members of the public; and

9192 (e) provide a recommendation to the Legislature whether to extend the public health
9193 emergency by joint resolution.

- 9194 (8) (a) During a public health emergency declared as described in this title:
- 9195 (i) the department or a local health department may not impose an order of constraint
- 9196 on a religious gathering that is more restrictive than an order of constraint that applies to any
- 9197 other relevantly similar gathering; and
- 9198 (ii) an individual, while acting or purporting to act within the course and scope of the
- 9199 individual's official department or local health department capacity, may not:
- 9200 (A) prevent a religious gathering that is held in a manner consistent with any order of
- 9201 constraint issued pursuant to this title; or
- 9202 (B) impose a penalty for a previous religious gathering that was held in a manner
- 9203 consistent with any order of constraint issued pursuant to this title.
- 9204 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
- 9205 prevent the violation of this Subsection (8).
- 9206 (c) During a public health emergency declared [~~as described~~] in accordance with his
- 9207 title, the department or a local health department [~~shall~~] may a public health order or impose or
- 9208 implement a regulation that substantially burdens an individual's exercise of religion unless the
- 9209 department or local health department demonstrates that the application of the burden to the
- 9210 individual:
- 9211 (i) is in furtherance of a compelling government interest; and
- 9212 (ii) is the least restrictive means of furthering that compelling government interest.
- 9213 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
- 9214 department shall allow reasonable accommodations for an individual to perform or participate
- 9215 in a religious practice or rite.
- 9216 (9) (a) Unless the provisions of Subsection (3) apply, a health care provider is not
- 9217 subject to penalties for failing to submit a report under this section.
- 9218 (b) If the provisions of Subsection (3) apply, a health care provider is subject to the
- 9219 penalties of Subsection [~~26-23b-103~~] 26B-7-415(3) for failure to make a report under this
- 9220 section.
- 9221 Section 287. Section **26B-7-318**, which is renumbered from Section 26-23b-105 is
- 9222 renumbered and amended to read:
- 9223 **[~~26-23b-105~~]. 26B-7-318. Pharmacy reporting requirements.**
- 9224 (1) Notwithstanding the provisions of Subsection [~~26-23b-103~~] 26B-7-315(1)(a), a

9225 pharmacist shall report unusual drug-related events as described in Subsection (2).

9226 (2) Unusual drug-related events that require a report include:

9227 (a) an unusual increase in the number of prescriptions filled for antimicrobials;

9228 (b) any prescription that treats a disease that has bioterrorism potential if that

9229 prescription is unusual or in excess of the expected frequency; and

9230 (c) an unusual increase in the number of requests for information about or sales of

9231 over-the-counter pharmaceuticals to treat conditions which may suggest the presence of one of

9232 the illnesses or conditions described in Section [~~26-23b-103~~] 26B-7-315 or [~~26-23b-104~~]

9233 26B-7-316 and which are designated by department rule.

9234 (3) (a) A pharmacist shall submit the report required by this section within 24 hours

9235 after the pharmacist suspects, in his professional judgement, that an unusual drug-related event

9236 has occurred.

9237 (b) If a pharmacy is part of a health care facility subject to the reporting requirements

9238 of this [~~chapter~~] part, the pharmacist in charge shall make the report under this section on

9239 behalf of the health care facility.

9240 (4) (a) The report required by this section shall be submitted in accordance with

9241 Subsection [~~26-23b-103~~] 26B-7-7315(2)(a).

9242 (b) A report shall include the name and location of the reporting pharmacist, the name

9243 and type of pharmaceuticals that are the subject of the unusual increase in use, and if known,

9244 the suspected illness or health condition that is the subject of the report.

9245 (5) A pharmacist is subject to the penalties under Subsection [~~26-23b-103~~]

9246 26B-7-315(3) for failing to make a report required by this section.

9247 Section 288. Section **26B-7-319**, which is renumbered from Section 26-23b-106 is

9248 renumbered and amended to read:

9249 [~~26-23b-106~~]. **26B-7-319. Medical laboratory reporting requirements.**

9250 (1) Notwithstanding the provisions of Subsection [~~26-23b-103~~] 26B-7-315(1), the

9251 director of a medical laboratory located in this state is responsible for reporting results of a

9252 laboratory test that confirm a condition or illness described in Subsection [~~26-23b-103~~]

9253 26B-7-315(1) within 24 hours after obtaining the results of the test. This reporting requirement

9254 also applies to results obtained on specimens sent to an out-of-state laboratory for analysis.

9255 (2) The director of a medical laboratory located outside this state that receives a

9256 specimen obtained inside this state is responsible for reporting the results of any test that
9257 confirm a condition or illness described in Subsection [~~26-23b-103~~] 26B-7-315(1), within 24
9258 hours of obtaining the results, provided that the laboratory that performs the test has agreed to
9259 the reporting requirements of this state.

9260 (3) If a medical laboratory is part of a health care facility subject to the reporting
9261 requirements of this [~~chapter~~] part, the director of the medical laboratory shall make the report
9262 required by this section on behalf of the health care facility.

9263 (4) The report required by this section shall be submitted in accordance with
9264 Subsection [~~26-23b-103~~] 26B-7-315(2).

9265 (5) The director of a medical laboratory is subject to the penalties of Subsection
9266 [~~26-23b-103~~] 26B-7-315(3) for failing to make a report required by this section.

9267 Section 289. Section **26B-7-320**, which is renumbered from Section 26-23b-107 is
9268 renumbered and amended to read:

9269 [~~26-23b-107~~]. **26B-7-320. Exemptions from liability.**

9270 (1) A health care provider may not be discharged, suspended, disciplined, or harassed
9271 for making a report [~~pursuant to this chapter~~] under Sections 26B-7-316 through 26B-7-323.

9272 (2) A health care provider may not incur any civil or criminal liability as a result of
9273 making any report under [~~this chapter~~] Sections 26B-7-316 through 26B-7-323 so long as the
9274 report is made in good faith.

9275 Section 290. Section **26B-7-321**, which is renumbered from Section 26-23b-108 is
9276 renumbered and amended to read:

9277 [~~26-23b-108~~]. **26B-7-321. Investigation of suspected bioterrorism and**
9278 **diseases -- Termination of orders of constraint.**

9279 (1) Subject to Subsection (6), the department shall:

9280 (a) ascertain the existence of cases of an illness or condition caused by the factors
9281 described in Subsections [~~26-23b-103~~] 26B-7-315(1) and [~~26-23b-104~~] 26B-7-316(1);

9282 (b) investigate all such cases for sources of infection or exposure;

9283 (c) ensure that any cases, suspected cases, and exposed persons are subject to proper
9284 control measures; and

9285 (d) define the distribution of the suspected illness or health condition.

9286 (2) (a) Acting on information received from the reports required by this [~~chapter~~]

9287 Sections 26B-7-316 through 26B-7-320, or other reliable information, the department shall
9288 identify all individuals thought to have been exposed to an illness or condition described in
9289 Subsection ~~[26-23b-103]~~ 26B-7-315(1).

9290 (b) The department may request information from a health care provider concerning an
9291 individual's identifying information as described in Subsection ~~[26-23b-103]~~ 26B-7-315(2)(b)
9292 when:

9293 (i) the department is investigating a potential illness or condition described in
9294 Subsection ~~[26-23b-103]~~ 26B-7-315(1) and the health care provider has not submitted a report
9295 to the department with the information requested; or

9296 (ii) the department has received a report from a pharmacist under Section ~~[26-23b-105]~~
9297 26B-7-317, a medical laboratory under Section ~~[26-23b-106]~~ 26B-7-318, or another health care
9298 provider under Subsection ~~[26-23b-104]~~ 26B-7-316(1) and the department believes that further
9299 investigation is necessary to protect the public health.

9300 (c) A health care provider shall submit the information requested under this section to
9301 the department within 24 hours after receiving a request from the department.

9302 (3) The department shall counsel and interview identified individuals as appropriate to:

9303 (a) assist in the positive identification of other cases and exposed individuals;

9304 (b) develop information relating to the source and spread of the illness or condition;

9305 and

9306 (c) obtain the names, addresses, phone numbers, or other identifying information of
9307 any other person from whom the illness or health condition may have been contracted and to
9308 whom the illness or condition may have spread.

9309 (4) The department shall, for examination purposes, close, evacuate, or decontaminate
9310 any facility when the department reasonably believes that such facility or material may
9311 endanger the public health due to a condition or illness described in Subsection ~~[26-23b-103]~~
9312 26B-7-315(1).

9313 (5) The department ~~[will]~~ shall destroy personally identifying health information about
9314 an individual collected by the department as a result of a report under ~~[this chapter]~~ Sections
9315 26B-7-316 through 26B-7-320 upon the earlier of:

9316 (a) the department's determination that the information is no longer necessary to carry
9317 out an investigation under this ~~[chapter]~~ part; or

9318 (b) 180 days after the information is collected.

9319 (6) (a) The Legislature may at any time terminate by joint resolution an order of
9320 constraint issued by the department in response to a declared public health emergency.

9321 (b) A county governing body may at any time terminate by majority vote an order of
9322 constraint issued by the relevant local health department in response to a declared public health
9323 emergency.

9324 Section 291. Section **26B-7-322**, which is renumbered from Section 26-23b-109 is
9325 renumbered and amended to read:

9326 ~~[26-23b-109]~~. **26B-7-322. Enforcement.**

9327 The department may enforce the provisions of ~~[this chapter]~~ Sections 26B-7-316
9328 through 26B-7-321 in accordance with existing enforcement laws and regulations.

9329 Section 292. Section **26B-7-323**, which is renumbered from Section 26-23b-110 is
9330 renumbered and amended to read:

9331 ~~[26-23b-110]~~. **26B-7-323. Information sharing with public safety**
9332 **authorities.**

9333 (1) ~~[For purposes of]~~ As used in this section, "public safety authority" means a local,
9334 state, or federal law enforcement authority including the Division of Emergency Management,
9335 emergency medical services personnel, and firefighters.

9336 (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records
9337 Access and Management Act:

9338 (a) whenever a public safety authority suspects a case of a reportable illness or
9339 condition under the provisions of this chapter, it shall immediately notify the department;

9340 (b) whenever the department learns of a case of a reportable illness or condition under
9341 this ~~[chapter]~~ part that ~~[it]~~ the department reasonably believes has the potential to be caused by
9342 one of the factors listed in Subsection ~~[26-23b-103]~~ 26B-7-315(1), ~~[it]~~ the department shall
9343 immediately notify the appropriate public safety authority; and

9344 (c) sharing of information reportable under ~~[the provisions of this chapter]~~ this part
9345 between persons authorized by this ~~[chapter]~~ part shall be limited to information necessary for
9346 the treatment, control, investigation, and prevention of a public health emergency.

9347 ~~[(3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28~~
9348 ~~apply to this chapter.]~~

9349 Section 293. Section **26B-7-324** is enacted to read:

9350 **26B-7-324. Applicability of confidentiality provisions**

9351 The provisions of Sections 26B-7-317 and 26B-7-318 apply to information collected
9352 under Sections 26B-7-416 through 26B-7-423 except to the extent that application of a
9353 provision in Sections 26B-7-317 or 26B-7-318 is inconsistent with this part.

9354 Section 294. Section **26B-7-401**, which is renumbered from Section 26-15a-102 is
9355 renumbered and amended to read:

9356 **Part 4. General Sanitation and Food Safety**

9357 ~~[26-15a-102].~~ **26B-7-401. Definitions.**

9358 As used in this part:

9359 (1) "Agricultural tourism activity" means the same as that term is defined in Section
9360 78B-4-512.

9361 (2) "Agritourism" means the same as that term is defined in Section 78B-4-512.

9362 (3) "Agritourism food establishment" means a non-commercial kitchen facility where
9363 food is handled, stored, or prepared to be offered for sale on a farm in connection with an
9364 agricultural tourism activity.

9365 (4) "Agritourism food establishment permit" means a permit issued by a local health
9366 department to the operator for the purpose of operating an agritourism food establishment.

9367 ~~[(1)]~~ (5) "Back country food service establishment" means a federal or state licensed
9368 back country guiding or outfitting business that:

9369 (a) provides food services; and

9370 (b) meets department recognized federal or state food service safety regulations for
9371 food handlers.

9372 ~~[(2)]~~ (6) "Certified food safety manager" means a manager of a food service
9373 establishment who:

9374 (a) passes successfully a department-approved examination;

9375 (b) successfully completes, every three years, renewal requirements established by
9376 department rule consistent with original certification requirements; and

9377 (c) submits to the appropriate local health department the documentation required by
9378 Section 26-15a-106.

9379 (7) "Farm" means a working farm, ranch, or other commercial agricultural,

9380 aquacultural, horticultural, or forestry operation.

9381 (8) "Food" means:

9382 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or
9383 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

9384 (b) chewing gum.

9385 ~~[(3)]~~ (9) "Food service establishment" means any place or area within a business or
9386 organization where potentially hazardous foods, as defined by the department under Section
9387 26B-7-402 are prepared and intended for individual portion service and consumption by the
9388 general public, whether the consumption is on or off the premises, and whether or not a fee is
9389 charged for the food.

9390 ~~[(4) "Local health department" means a local health department as defined in~~
9391 ~~Subsection 26A-1-102(5).]~~

9392 ~~[(5) "Potentially hazardous foods" shall be defined by the department by administrative~~
9393 ~~rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

9394 (10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility
9395 located in a private home and operated by a resident of the home where ready-to-eat food is
9396 handled, stored, prepared, or offered for sale.

9397 (b) "Microenterprise home kitchen" does not include:

9398 (i) a catering operation;

9399 (ii) a cottage food operation;

9400 (iii) a food truck;

9401 (iv) an agritourism food establishment;

9402 (v) a bed and breakfast; or

9403 (vi) a residence-based group care facility.

9404 (11) "Microenterprise home kitchen permit" means a permit issued by a local health
9405 department to the operator for the purpose of operating a microenterprise home kitchen.

9406 (12) "Ready-to-eat" means:

9407 (a) raw animal food that is cooked;

9408 (b) raw fruits and vegetables that are washed;

9409 (c) fruits and vegetables that are cooked for hot holding;

9410 (d) a time or temperature control food that is cooked to the temperature and time

9411 required for the specific food in accordance with rules made by the department in accordance
9412 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

9413 (e) a bakery item for which further cooking is not required for food safety.

9414 (13) "Time or temperature control food" means food that requires time or temperature
9415 controls for safety to limit pathogenic microorganism growth or toxin formation.

9416 Section 295. Section **26B-7-402**, which is renumbered from Section 26-15-2 is
9417 renumbered and amended to read:

9418 **~~26-15-2~~. 26B-7-402. Minimum rules of sanitation established by department.**

9419 The department shall establish and enforce, or provide for the enforcement of minimum
9420 rules of sanitation necessary to protect the public health. Such rules shall include, but not be
9421 limited to, rules necessary for the design, construction, operation, maintenance, or expansion
9422 of:

9423 (1) restaurants and all places where food or drink is handled, sold or served to the
9424 public;

9425 (2) public swimming pools;

9426 (3) public baths including saunas, spas, massage parlors, and suntan parlors;

9427 (4) public bathing beaches;

9428 (5) schools which are publicly or privately owned or operated;

9429 (6) recreational resorts, camps, and vehicle parks;

9430 (7) amusement parks and all other centers and places used for public gatherings;

9431 (8) mobile home parks and highway rest stops;

9432 (9) construction or labor camps;

9433 (10) jails, prisons and other places of incarceration or confinement;

9434 (11) hotels and motels;

9435 (12) lodging houses and boarding houses;

9436 (13) service stations;

9437 (14) barbershops and beauty shops, including a facility in which one or more
9438 individuals are engaged in:

9439 (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and
9440 Associated Professions Licensing Act; or

9441 (b) styling hair in accordance with the exemption from licensure described in Section

9442 58-11a-304(13);

9443 (15) physician and dentist offices;

9444 (16) public buildings and grounds;

9445 (17) public conveyances and terminals; and

9446 (18) commercial tanning facilities.

9447 Section 296. Section **26B-7-403**, which is renumbered from Section 26-15-3 is
9448 renumbered and amended to read:

9449 **~~[26-15-3]~~. 26B-7-403. Department to advise regarding the plumbing code.**

9450 (1) The department shall advise the Division of Professional Licensing and the
9451 Uniform Building Code Commission with respect to the adoption of a state construction code
9452 under Section 15A-1-204, including providing recommendations as to:

9453 (a) a specific edition of a plumbing code issued by a nationally recognized code
9454 authority; and

9455 (b) any amendments to a nationally recognized code.

9456 (2) The department may enforce the plumbing code adopted under Section 15A-1-204.

9457 (3) Section 58-56-9 does not apply to health inspectors acting under this section.

9458 Section 297. Section **26B-7-404**, which is renumbered from Section 26-15-4 is
9459 renumbered and amended to read:

9460 **~~[26-15-4]~~. 26B-7-404. Rules for wastewater disposal systems.**

9461 The department shall establish rules necessary to protect the public health for the
9462 design, and construction, operation and maintenance of individual wastewater disposal
9463 systems.

9464 Section 298. Section **26B-7-405**, which is renumbered from Section 26-15-7 is
9465 renumbered and amended to read:

9466 **~~[26-15-7]~~. 26B-7-405. Rules for controlling vector-borne diseases and pests.**

9467 (1) As used in this section:

9468 (a) "Pest" means a noxious, destructive, or troublesome organism whether plant or
9469 animal, when found in and around places of human occupancy, habitation, or use which
9470 threatens the public health or well being of the people within the state.

9471 (b) "Vector" means any organism, such as insects or rodents, that transmits a pathogen
9472 that can affect public health.

9473 (2) The department shall adopt rules to provide for the protection of the public health by
9474 controlling or preventing the spread of vector-borne diseases and infections and to control or
9475 reduce pests by the elimination of insanitary conditions which may include but not be limited
9476 to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

9477 Section 299. Section **26B-7-406**, which is renumbered from Section 26-15-8 is
9478 renumbered and amended to read:

9479 ~~[26-15-8]~~. **26B-7-406. Periodic evaluation of local health sanitation programs**
9480 **-- Minimum statewide enforcement standards -- Technical assistance.**

9481 (1) The department shall periodically evaluate the sanitation programs of local health
9482 departments to determine the levels of sanitation being maintained throughout the state.

9483 (2) (a) The department shall ensure that each local health department's enforcement of
9484 the minimum rules of sanitation adopted under Section 26-15-2 for restaurants and other places
9485 where food or drink is handled meets or exceeds minimum statewide enforcement standards
9486 established by the department by administrative rule.

9487 (b) Administrative rules adopted under Subsection (2)(a) shall include at least:

9488 (i) the minimum number of periodic on-site inspections that shall be conducted by each
9489 local health department;

9490 (ii) criteria for conducting additional inspections; and

9491 (iii) standardized methods to be used by local health departments to assess compliance
9492 with the minimum rules of sanitation adopted under Section 26-15-2.

9493 (c) The department shall help local health departments comply with the minimum
9494 statewide enforcement standards adopted under this Subsection (2) by providing technical
9495 assistance.

9496 Section 300. Section **26B-7-407**, which is renumbered from Section 26-15-13 is
9497 renumbered and amended to read:

9498 ~~[26-15-13]~~. **26B-7-407. Regulation of tanning facilities.**

9499 (1) For purposes of this section:

9500 (a) "Minor" means ~~[a person under 18 years of age]~~ an individual who is younger than
9501 18 years old.

9502 (b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a
9503 health care professional in the treatment of disease.

9504 (c) (i) "Tanning device" means equipment to which a tanning facility provides access
9505 that emits electromagnetic radiation with wavelengths in the air between 200 and 400
9506 nanometers used for tanning of the skin, including:

9507 (A) a sunlamp; and

9508 (B) a tanning booth or bed.

9509 (ii) "Tanning device" does not include a phototherapy device.

9510 (d) "Tanning facility" means a commercial location, place, area, structure, or business
9511 that provides access to a tanning device.

9512 (2) A tanning facility shall:

9513 (a) annually obtain a permit to do business as a tanning facility from the local health
9514 department with jurisdiction over the location in which the facility is located; and

9515 (b) in accordance with Subsection (3) post a warning sign in a conspicuous location
9516 that is readily visible to a person about to use a tanning device.

9517 (3) The posted warning and written consent required by Subsections (2) and (5) shall
9518 be developed by the department through administrative rules and shall include:

9519 (a) that there are health risks associated with the use of a tanning device;

9520 (b) that the facility may not allow a minor to use a tanning device unless the minor:

9521 (i) has a written order from a physician; or

9522 (ii) at each time of use is accompanied at the tanning facility by a parent or legal
9523 guardian who provides written consent authorizing the minor to use the tanning device.

9524 (4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning
9525 device unless:

9526 (a) the minor has a written order from a physician as defined in Section 58-67-102, to
9527 use a tanning device as a medical treatment; or

9528 (b) (i) the minor's parent or legal guardian appears in person at the tanning facility each
9529 time that the minor uses a tanning device, except that the minor's parent or legal guardian is not
9530 required to remain at the facility for the duration of the use; and

9531 (ii) the minor's parent or legal guardian signs the consent form required in Subsection
9532 (5).

9533 (5) The written consent required by Subsection (4) shall be signed and dated each time
9534 the minor uses a tanning device at the facility, and shall include at least:

- 9535 (a) information concerning the health risks associated with the use of a tanning device;
9536 and
- 9537 (b) a statement that:
- 9538 (i) the parent or legal guardian of the minor has read and understood the warnings
9539 given by the tanning facility, and consents to the minor's use of a tanning device; and
- 9540 (ii) the parent or legal guardian agrees that the minor will use protective eye wear.
- 9541 (6) The department shall adopt administrative rules in accordance with Title 63G,
9542 Chapter 3, Utah Administrative Rulemaking Act, specifying:
- 9543 (a) minimum requirements a tanning facility shall satisfy to obtain a permit under
9544 Subsection (2);
- 9545 (b) the written information concerning health risks a facility should include in the
9546 posted signs required by Subsection (3) and in the consent form required by Subsection (5);
- 9547 (c) procedures a tanning facility shall implement to ensure a minor and the minor's
9548 parent or legal guardian comply with Subsections (4) and (5), including use of a statewide
9549 uniform form:
- 9550 (i) for a parent or legal guardian to certify and give consent under Subsection (5); and
9551 (ii) that clearly identifies the department's seal or other means to indicate that the form
9552 is an official form of the department; and
- 9553 (d) the size, placement, and content of the sign a tanning facility must post under
9554 Subsection (2).
- 9555 (7) (a) A violation of this section:
- 9556 (i) is an infraction; and
9557 (ii) may result in the revocation of a permit to do business as a tanning facility.
- 9558 (b) If a person misrepresents to a tanning facility that the person is 18 years of age or
9559 older, the person is guilty of an infraction.
- 9560 (8) This section supercedes any ordinance enacted by the governing body of a political
9561 subdivision that:
- 9562 (a) imposes restrictions on access to a tanning device by a person younger than age 18
9563 that is not essentially identical to the provisions of this section; or
9564 (b) that require the posting of warning signs at the tanning facility that are not
9565 essentially identical to the provisions of this section.

9566 Section 301. Section **26B-7-408**, which is renumbered from Section 26-31-201 is
 9567 renumbered and amended to read:

9568 ~~[26-31-201]~~. **26B-7-408. Procurement and use of a blood product is a**
 9569 **service and not a sale -- Blood donation by a minor.**

9570 (1) As used in this section:

9571 (a) "Blood" means human blood.

9572 (b) "Blood product" includes:

9573 (i) whole blood;

9574 (ii) blood plasma;

9575 (iii) a blood derivative;

9576 (iv) blood platelets; and

9577 (v) blood clotting agents.

9578 (2) The following are considered to be the rendition of a service by each participant
 9579 and are not considered to be a sale:

9580 ~~[(1)]~~ (a) the procurement, processing, distribution, or use of a blood product for the
 9581 purpose of injecting or transfusing the blood product into the human body; and

9582 ~~[(2)]~~ (b) the process of injecting or transfusing a blood product.

9583 (3) A minor who is at least 16 years old may donate blood to a voluntary,
 9584 noncompensatory blood donation program if a parent or legal guardian of the minor consents to
 9585 the donation.

9586 Section 302. Section **26B-7-409**, which is renumbered from Section 26-51-201 is
 9587 renumbered and amended to read:

9588 ~~[26-51-201]~~. **26B-7-409. Scientific standards for methamphetamine**
 9589 **decontamination -- Public education concerning methamphetamine contamination.**

9590 (1) The department shall make rules adopting scientifically-based standards for
 9591 methamphetamine decontamination.

9592 (2) A local health department, as defined in Title 26A, Local Health Authorities, shall
 9593 follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6,
 9594 Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

9595 (3) The department shall conduct a public education campaign to inform the public
 9596 about potential health risks of methamphetamine contamination.

9597 Section 303. Section **26B-7-410**, which is renumbered from Section 26-15a-104 is
9598 renumbered and amended to read:

9599 ~~[26-15a-104]~~. **26B-7-410. Food service establishment requirements --**
9600 **Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health**
9601 **departments.**

9602 (1) Each food service establishment in the state shall be managed by at least one
9603 full-time certified food safety manager at each establishment site, who need not be present at
9604 the establishment site during all its hours of operation.

9605 (2) Within 60 days of the termination of a certified food safety manager's employment
9606 that results in the food service establishment no longer being in compliance with Subsection
9607 (1), the food service establishment shall:

9608 (a) employ a new certified food safety manager; or

9609 (b) designate another employee to become the establishment's certified food safety
9610 manager who shall commence a department-approved food safety manager training course.

9611 (3) Compliance with the 60-day time period provided in Subsection (2) may be
9612 extended by the local health department for reasonable cause, as determined by the department
9613 by rule.

9614 (4) (a) The local health department may determine whether a food service
9615 establishment is in compliance with this section by visiting the establishment during regular
9616 business hours and requesting information and documentation about the employment of a
9617 certified food safety manager.

9618 (b) If a violation of this section is identified, the local health department shall propose
9619 remedial action to bring the food service establishment into compliance.

9620 (c) (i) A food service establishment receiving notice of a violation and proposed
9621 remedial action from a local health department may appeal the notice of violation and proposed
9622 remedial action pursuant to procedures established by the local health department, which shall
9623 be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative
9624 Procedures Act.

9625 (ii) Notwithstanding the provisions of Section 63G-4-402, an appeal of a local health
9626 department decision ~~[to a district court]~~ shall be conducted as an original, independent
9627 proceeding, and not as a review of the proceedings conducted by the local health department.

9628 (iii) The [~~district~~] court shall give no deference to the findings or conclusions of the
9629 local health department.

9630 (5) (a) The department shall establish by rule made in accordance with Title
9631 63G, Chapter 3, Utah Administrative Rulemaking Act:

9632 (i) a definition of "potentially hazardous foods" for purposes of this section and Section
9633 26B-7-404; and

9634 (ii) any provisions necessary to implement this section.

9635 (b) The local health department with jurisdiction over the geographic area in which a
9636 food service establishment is located shall enforce the provisions of this section.

9637 Section 304. Section **26B-7-411**, which is renumbered from Section 26-15a-105 is
9638 renumbered and amended to read:

9639 ~~[26-15a-105]~~. **26B-7-411. Exemptions to food service establishment**
9640 **requirements.**

9641 (1) The following are not subject to the provisions of Section ~~[26-15a-104]~~ 26B-7-402:

9642 (a) special events sponsored by municipal or nonprofit civic organizations, including
9643 food booths at school sporting events and little league athletic events and church functions;

9644 (b) temporary event food services approved by a local health department;

9645 (c) vendors and other food service establishments that serve only commercially
9646 prepackaged foods and beverages as defined by the department by rule;

9647 (d) private homes not used as a commercial food service establishment;

9648 (e) health care facilities licensed under Chapter 21, Health Care Facility Licensing and
9649 Inspection Act;

9650 (f) bed and breakfast establishments at which the only meal served is a continental
9651 breakfast as defined by the department by rule;

9652 (g) residential child care providers;

9653 (h) child care providers and programs licensed under Chapter 39, Utah Child Care
9654 Licensing Act;

9655 (i) back country food service establishments;

9656 (j) an event that is sponsored by a charitable organization, if, at the event, the
9657 organization:

9658 (i) provides food to a disadvantaged group free of charge; and

9659 (ii) complies with rules established by the department under Subsection (3); and
9660 (k) a lowest risk or permitted food establishment category determined by a risk
9661 assessment evaluation established by the department by administrative rule adopted in
9662 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9663 (2) Nothing in this section may be construed as exempting a food service establishment
9664 described in Subsection (1) from any other applicable food safety laws of this state.

9665 (3) The department may establish additional requirements, in accordance with Title
9666 63G, Chapter 3, Utah Administrative Rulemaking Act, for charitable organizations providing
9667 food for free under Subsection (1)(j).

9668 Section 305. Section **26B-7-412**, which is renumbered from Section 26-15a-106 is
9669 renumbered and amended to read:

9670 ~~[26-15a-106]~~. **26B-7-412**. **Certified food safety manager.**

9671 (1) Before a person may manage a food service establishment as a certified food safety
9672 manager, that person shall submit documentation in the format prescribed by the department to
9673 the appropriate local health department indicating a passing score on a department-approved
9674 examination.

9675 (2) To continue to manage a food service establishment, a certified food safety
9676 manager shall:

9677 (a) successfully complete, every three years, renewal requirements established by
9678 department rule which are consistent with original certification requirements; and

9679 (b) submit documentation in the format prescribed by the department within 30 days of
9680 the completion of renewal requirements to the appropriate local health department.

9681 (3) A local health department may deny, revoke, or suspend the authority of a certified
9682 food safety manager to manage a food service establishment or require the completion of
9683 additional food safety training courses for any one of the following reasons:

9684 (a) submitting information required under Subsection (1) or (2) that is false,
9685 incomplete, or misleading;

9686 (b) repeated violations of department or local health department food safety rules; or

9687 (c) operating a food service establishment in a way that causes or creates a health
9688 hazard or otherwise threatens the public health, safety, or welfare.

9689 (4) A determination of a local health department made pursuant to Subsection (3) may

9690 be appealed by a certified food safety manager in the same manner provided for in Subsection
9691 26-15a-104(4).

9692 (5) No person may use the title "certified food safety manager," or any other similar
9693 title, unless the person has satisfied the requirements of this chapter.

9694 (6) A local health department:

9695 (a) may not charge a fee to accept or process the documentation described in
9696 Subsections (1) and (2);

9697 (b) shall accept photocopies or electronic copies of the documentation described in
9698 Subsections (1) and (2); and

9699 (c) shall allow an individual to submit the documentation described in Subsections (1)
9700 and (2) by mail, email, or in person.

9701 (7) Certified food safety managers shall:

9702 (a) establish and monitor compliance with practices and procedures in the food service
9703 establishments where they are employed to maintain compliance with department and local
9704 health department food safety rules; and

9705 (b) perform such other duties that may be necessary to ensure food safety in the food
9706 service establishments where they are employed.

9707 (8) (a) The department shall establish by rule made in accordance with Title 63G,
9708 Chapter 3, Utah Administrative Rulemaking Act:

9709 (i) statewide, uniform standards for certified food safety managers;

9710 (ii) criteria for food safety certification examinations; and

9711 (iii) any provisions necessary to implement this section.

9712 (b) The local health department with jurisdiction over the geographic area in which a
9713 food service establishment is located shall enforce the provisions of this section.

9714 Section 306. Section **26B-7-413**, which is renumbered from Section 26-15-5 is
9715 renumbered and amended to read:

9716 **~~26-15-5~~. 26B-7-413. Requirements for food handlers -- Training program**
9717 **and testing requirements for permit -- Rulemaking -- Exceptions.**

9718 (1) As used in this section:

9719 (a) "Approved food handler training program" means a training program described by
9720 this section and approved by the department.

9721 (b) "Food handler" means a person who works with unpackaged food, food equipment
9722 or utensils, or food-contact surfaces for a food service establishment.

9723 (c) "Food handler permit" means a permit issued by a local health department to allow
9724 a person to work as a food handler.

9725 ~~[(d) "Food service establishment" has the same meaning as provided in Section~~
9726 ~~26-15a-102.]~~

9727 (e) "Instructor" means an individual who is qualified to instruct an approved food
9728 handler program on behalf of a provider.

9729 (f) "Provider" means a person or entity that provides an approved food handler training
9730 program.

9731 (2) A person may not work as a food handler for a food service establishment unless
9732 the person:

9733 (a) successfully completes an approved food handler training program within 14 days
9734 after the day on which the person begins employment that includes food handler services; and

9735 (b) obtains a food handler permit within 30 days after the day on which the person
9736 begins employment that includes food handler services.

9737 (3) An approved food handler training program shall include:

9738 (a) at least 75 minutes of training time;

9739 (b) an exam, which requires a passing score of 75% and, except as provided in
9740 Subsection (11), consists of:

9741 (i) 40 multiple-choice questions developed by the department, in consultation with
9742 local health departments; and

9743 (ii) four content sections designated by rule of the department with 10 randomly
9744 selected questions for each content section; and

9745 (c) upon completion, the awarding of a certificate of completion that is valid with any
9746 local health department in the state for 30 days after the day on which the certificate is issued:

9747 (i) to a student who:

9748 (A) completes the training; and

9749 (B) passes the exam described in this Subsection (3) or an exam approved by the
9750 department in accordance with Subsection (11); and

9751 (ii) which certificate of completion:

- 9752 (A) includes student identifying information determined by department rule; and
9753 (B) is delivered by mail or electronic means.
- 9754 (4) (a) A person may obtain a food handler permit by:
9755 (i) providing a valid certificate of completion of an approved food handler training
9756 program and an application, approved by the local health department, to a local health
9757 department; and
9758 (ii) paying a food handler permit fee to the local health department.
- 9759 (b) (i) A local health department may charge a food handler permit fee that is
9760 reasonable and that reflects the cost of managing the food safety program.
9761 (ii) The department shall establish by rule the maximum amount a local health
9762 department may charge for the fee described in Subsection (4)(b)(i).
- 9763 (5) A person working as a food handler for a food service establishment shall obtain a
9764 food handler permit:
9765 (a) before handling any food;
9766 (b) within 30 days of initial employment with a food service establishment; and
9767 (c) within seven days of the expiration of an existing food handler permit.
- 9768 (6) (a) A person who holds a valid food handler permit under this section may serve as
9769 a food handler throughout the state without restriction.
9770 (b) A food handler permit granted after June 30, 2013, is valid for three years from the
9771 date of issuance.
- 9772 (7) An individual may not serve as an instructor, unless the provider includes the
9773 individual on the provider's list of instructors.
- 9774 (8) The department, in consultation with local health departments, shall:
9775 (a) approve the content of an approved food handler training program required under
9776 Subsection (3);
9777 (b) approve, as qualified, each provider; and
9778 (c) in accordance with applicable rules made under Subsection (12), provide a means to
9779 authenticate:
9780 (i) documents used in an approved food handler training program;
9781 (ii) the identity of an approved instructor; and
9782 (iii) an approved provider.

- 9783 (9) An approved food handler training program shall:
- 9784 (a) provide basic instruction on the Centers for Disease Control and Prevention's top
- 9785 five foodborne illness risk factors, including:
- 9786 (i) improper hot and cold holding temperatures of potentially hazardous food;
- 9787 (ii) improper cooking temperatures of food;
- 9788 (iii) dirty or contaminated utensils and equipment;
- 9789 (iv) poor employee health and hygiene; and
- 9790 (v) food from unsafe sources;
- 9791 (b) be offered through:
- 9792 (i) a trainer-led class;
- 9793 (ii) the Internet; or
- 9794 (iii) a combination of a trainer-led class and the Internet;
- 9795 (c) maintain a system to verify a certificate of completion of an approved food handler
- 9796 training program issued under Subsection (3) to the department, a local health department, and
- 9797 a food service establishment; and
- 9798 (d) provide to the department unrestricted access to classroom training sessions and
- 9799 online course materials at any time for audit purposes.
- 9800 (10) (a) A provider that provides an approved food handler training program may
- 9801 charge a reasonable fee.
- 9802 (b) If a person or an entity is not approved by the department to provide an approved
- 9803 food handler training program, the person or entity may not represent, in connection with the
- 9804 person's or entity's name or business, including in advertising, that the person or entity is a
- 9805 provider of an approved food handler training program or otherwise represent that a program
- 9806 offered by the person or entity will qualify an individual to work as a food handler in the state.
- 9807 (11) (a) Subject to the approval of the department every three years, a provider may use
- 9808 an exam that consists of questions that do not conform with the provisions of Subsection
- 9809 (3)(b), if:
- 9810 (i) the provider complies with the provisions of this Subsection (11);
- 9811 (ii) the provider pays a fee every three years to the department, which fee shall be
- 9812 determined by the department and shall reflect the cost of the review of the alternative test
- 9813 questions; and

9814 (iii) an independent instructional design and testing expert provides a written report to
9815 the department containing a positive recommendation based on the expert's analysis as
9816 described in Subsection 11(b).

9817 (b) (i) A provider may request approval of a different bank of test questions other than
9818 the questions developed under Subsection (3) by submitting to the department a proposed bank
9819 of at least 200 test questions organized by learning objective in accordance with Subsection
9820 (9)(a).

9821 (ii) A provider proposing a different bank of test questions under this Subsection (11)
9822 shall contract with an independent instructional design and testing expert approved by the
9823 department at the provider's expense to analyze the provider's bank of test questions to ensure
9824 the questions:

9825 (A) effectively measure the applicant's knowledge of the required learning objectives;
9826 and

9827 (B) meet the appropriate testing standards for question structure.

9828 (c) If the department provides written notice to a provider that any test question of the
9829 provider's approved exam under this Subsection (11) inadequately tests the required learning
9830 objectives, the provider shall make required changes to the question within 30 days after the
9831 day on which written notice is received by the provider.

9832 (d) A food handler exam offered by a provider may be:

9833 (i) a written exam;

9834 (ii) an online exam; or

9835 (iii) an oral exam, if circumstances require, including when an applicant's language or
9836 reading abilities interfere with taking a written or online exam.

9837 (e) A provider shall routinely rotate test questions from the test question bank, change
9838 the order of test questions in tests, and change the order of multiple-choice answers in test
9839 questions to discourage cheating.

9840 (12) (a) When exercising rulemaking authority under this section the department shall
9841 comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9842 (b) The department shall, by rule, establish requirements designed to inhibit fraud for
9843 an approved food handler training program described in this section.

9844 (c) The requirements described in Subsection (12)(b) may include requirements to

9845 ensure that:

9846 (i) an individual does not attempt to complete the program or exam in another
9847 individual's place;

9848 (ii) an individual taking the approved food handler training program is focused on
9849 training material and actively engaged throughout the training period;

9850 (iii) if the individual is unable to participate online because of technical difficulties, an
9851 approved food handler training program provides technical support, such as requiring a
9852 telephone number, email, or other method of communication to allow an individual taking the
9853 online course or test to receive assistance;

9854 (iv) an approved food handler training program provider maintains a system to reduce
9855 fraud as to who completes an approved food handler training program, such as requiring a
9856 distinct online certificate with information printed on the certificate that identifies a person
9857 taking an online course or exam, or requiring measures to inhibit duplication of a certificate of
9858 completion or of a food handler permit;

9859 (v) the department may audit an approved food handler training program;

9860 (vi) an individual taking an online course or certification exam has the opportunity to
9861 provide an evaluation of the online course or test;

9862 (vii) an approved food handler training program provider track the Internet protocol
9863 address or similar electronic location of an individual who takes an online course or
9864 certification exam;

9865 (viii) an individual who takes an online course or exam uses an electronic signature; or

9866 (ix) if the approved food handler training program provider learns that a certificate of
9867 completion does not accurately reflect the identity of the individual who took the online course
9868 or certification exam, an approved food handler training program provider invalidates the
9869 certificate of completion.

9870 (13) An instructor is not required to satisfy any additional training requirements if the
9871 instructor:

9872 (a) is an educator in a public or private school; and

9873 (b) teaches a food program that includes food safety in a public or private school in
9874 which the instructor is an educator.

9875 (14) (a) This section does not apply to an individual who handles food:

9876 (i) at an event sponsored by a charitable organization where the organization provides
9877 food to a disadvantaged group free of charge; and

9878 (ii) in compliance with rules established by the department under Subsection (2).

9879 (b) The department may establish additional requirements, in accordance with Title
9880 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an
9881 event sponsored by a charitable organization under Subsection (14)(a).

9882 Section 307. Section **26B-7-414**, which is renumbered from Section 26-15-9 is
9883 renumbered and amended to read:

9884 **[26-15-9]. 26B-7-414. Impoundment of adulterated food products authorized.**

9885 The department and local health departments may impound any food products found in
9886 places where food or drink is handled, sold, or served to the public that is intended for but
9887 found to be adulterated and unfit for human consumption; and, upon five days notice and
9888 reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same
9889 if deemed necessary for the protection of the public health.

9890 Section 308. Section **26B-7-415**, which is renumbered from Section 26-15b-105 is
9891 renumbered and amended to read:

9892 **[26-15b-105]. 26B-7-415. Agritourism food establishment permits --**
9893 **Permit requirements -- Inspections.**

9894 (1) As used in this section, "operator" means a person who owns, manages, or controls,
9895 or who has the duty to manage or control, the farm.

9896 (2) (a) A farm may not operate an agritourism food establishment unless the farm
9897 obtains a permit from the local health department that has jurisdiction over the area in which
9898 the farm is located.

9899 (b) In accordance with Section 26A-1-121, and subject to the restrictions of Section
9900 26-15b-105, a local health department shall make standards and regulations relating to the
9901 permitting of an agritourism food establishment.

9902 (c) In accordance with Section 26A-1-114, a local health department shall impose a fee
9903 for an agritourism food establishment permit in an amount that reimburses the local health
9904 department for the cost of regulating the agritourism food establishment.

9905 (3) (a) A local health department with jurisdiction over an area in which a farm is
9906 located may grant an agritourism food establishment permit to the farm.

9907 (b) Nothing in this section prevents a local health department from revoking an
9908 agritourism food establishment permit issued by the local health department if the operation of
9909 the agritourism food establishment violates the terms of the permit or Section 26B-7-408.

9910 ~~(1)~~ (4) A farm may qualify for an agritourism food establishment permit if:

9911 (a) poultry products that are served at the agritourism food establishment are
9912 slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C.
9913 Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

9914 (b) meat not described in Subsection (1)(a) that is served at the agritourism food
9915 establishment is slaughtered and processed in compliance with the Federal Meat Inspection
9916 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

9917 (c) a kitchen facility used to prepare food for the agritourism food establishment meets
9918 the requirements established by the department;

9919 (d) the farm operates the agritourism food establishment for no more than 14
9920 consecutive days at a time; and

9921 (e) the farm complies with the requirements of this section.

9922 ~~(2)~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah
9923 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance
9924 requirements for agritourism food establishments.

9925 ~~(3)~~ (6) A local health department shall:

9926 (a) ensure compliance with the rules described in Subsection (2) when inspecting a
9927 kitchen facility;

9928 (b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that
9929 requests an agritourism food establishment permit only:

9930 (i) for an initial inspection, no more than one week before the agritourism food
9931 establishment is scheduled to begin operation;

9932 (ii) for an unscheduled inspection:

9933 (A) of an event scheduled to last no more than three days if the local health department
9934 conducts the inspection within three days before or after the day on which the agritourism food
9935 establishment is scheduled to begin operation; or

9936 (B) of an event scheduled to last longer than three days if the local health department
9937 conducts the inspection within three days before or after the day on which the agritourism food

9938 establishment is scheduled to begin operation, or conducts the inspection during operating
9939 hours of the agritourism food establishment; or

9940 (iii) for subsequent inspections if:

9941 (A) the local health department provides the operator with reasonable advanced notice
9942 about an inspection; or

9943 (B) the local health department has a valid reason to suspect that the agritourism food
9944 establishment is the source of an adulterated food or of an outbreak of illness caused by a
9945 contaminated food; and

9946 (c) document the reason for any inspection after the permitting inspection, keep a copy
9947 of that documentation on file with the agritourism food establishment's permit, and provide a
9948 copy of that documentation to the operator.

9949 ~~[(4)]~~ (7) An agritourism food establishment shall:

9950 (a) take steps to avoid any potential contamination to:

9951 (i) food;

9952 (ii) equipment;

9953 (iii) utensils; or

9954 (iv) unwrapped single-service and single-use articles; and

9955 (b) prevent an individual from entering the food preparation area while food is being
9956 prepared if the individual is known to be suffering from:

9957 (i) symptoms associated with acute gastrointestinal illness; or

9958 (ii) a communicable disease that is transmissible through food.

9959 ~~[(5)]~~ (8) When making the rules described in Subsection ~~[(2)]~~ (5), the department may
9960 not make rules regarding:

9961 (a) hand washing facilities, except to require that a hand washing station supplied with
9962 warm water, soap, and disposable hand towels is conveniently located;

9963 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
9964 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
9965 are sanitized between each use;

9966 (c) the individuals allowed access to the food preparation areas, food storage, and
9967 washing areas, except during food preparation;

9968 (d) display guards, covers, or containers for display foods, except to require that any

- 9969 food on display that is not protected from the direct line of a consumer's mouth by an effective
9970 means is not served or sold to any subsequent consumer;
- 9971 (e) outdoor display and sale of food, except to require that food is maintained at proper
9972 holding temperatures;
- 9973 (f) reuse by an individual of drinking cups and tableware for multiple portions;
- 9974 (g) utensils and equipment, except to require that utensils and equipment used in the
9975 home kitchen:
- 9976 (i) retain their characteristic qualities under normal use conditions;
- 9977 (ii) are properly sanitized after use; and
- 9978 (iii) are maintained in a sanitary manner between uses;
- 9979 (h) food contact surfaces, except to require that food contact surfaces are smooth,
9980 easily cleanable, in good repair, and properly sanitized between tasks;
- 9981 (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in
9982 residential settings, except to require that those surfaces are kept clean from the accumulation
9983 of residue and debris;
- 9984 (j) clean-in-place equipment, except to require that the equipment is cleaned and
9985 sanitized between uses;
- 9986 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and
9987 smoke are able to escape the kitchen;
- 9988 (l) fixed temperature measuring devices or product mimicking sensors for the holding
9989 equipment for [~~time/temperature~~] time or temperature control food, except to require non-fixed
9990 temperature measuring devices for hot and cold holding of food during storage, serving, and
9991 cooling;
- 9992 (m) fixed floor-mounted and table-mounted equipment except to require that
9993 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
- 9994 (n) dedicated laundry facilities, except to require that linens used for the agritourism
9995 food establishment are stored and laundered separately from household laundry and that soiled
9996 laundry is stored to prevent contamination of food and equipment;
- 9997 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with
9998 hot water;
- 9999 (p) the number of and path of access to toilet facilities, except to require that toilet

- 10000 facilities are equipped with proper handwashing stations;
- 10001 (q) lighting, except to require that food preparation areas are well lit by natural or
- 10002 artificial light whenever food is being prepared;
- 10003 (r) designated dressing areas and storage facilities, except to require that items not
- 10004 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that
- 10005 dressing takes place outside of the kitchen facility, and that food items are stored in a manner
- 10006 that does not allow for contamination;
- 10007 (s) the presence and handling of animals, except to require that all animals are kept
- 10008 outside of food preparation and service areas during food service and food preparation;
- 10009 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces
- 10010 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
- 10011 (u) kitchen facilities open to living areas, except to require that food is only prepared,
- 10012 handled, or stored in kitchen and food storage areas;
- 10013 (v) submission of plans and specifications before construction or remodel of a kitchen
- 10014 facility;
- 10015 (w) the number and type of [~~time/temperature~~] time or temperature controlled food
- 10016 offered for sale;
- 10017 (x) approved food sources, except those required by 9 C.F.R. 303.1;
- 10018 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or
- 10019 (z) food safety certification, except any individual who is involved in the preparation,
- 10020 storage, or service of food in the agritourism food establishment shall hold a food handler
- 10021 permit as defined in Section 26-15-5.
- 10022 [~~(6)~~] (9) An operator applying for an agritourism food establishment permit shall
- 10023 provide to the local health department:
- 10024 (a) written consent to enter the premises where food is prepared, cooked, stored, or
- 10025 harvested for the agritourism food establishment; and
- 10026 (b) written standard operating procedures that include:
- 10027 (i) all food that will be stored, handled, and prepared;
- 10028 (ii) the proposed procedures and methods of food preparation and handling;
- 10029 (iii) procedures, methods, and schedules for cleaning utensils and equipment;
- 10030 (iv) procedures and methods for the disposal of refuse; and

10031 (v) a plan for maintaining [~~time/temperature~~] time or temperature controlled food at the
10032 appropriate temperatures for each [~~time/temperature~~] time or temperature controlled food.

10033 ~~[(7)]~~ (10) In addition to a fee charged under Section [~~26-15b-103~~] Subsection (2), if the
10034 local health department is required to inspect the farm as a source of an adulterated food or an
10035 outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that
10036 the farm has produced an adulterated food or was the source of an outbreak of illness caused by
10037 a contaminated food, the local health department may charge and collect from the farm a fee
10038 for that inspection.

10039 ~~[(8)]~~ (11) An agritourism food establishment permit:

10040 (a) is nontransferable;

10041 (b) is renewable on an annual basis;

10042 (c) is restricted to the location listed on the permit; and

10043 (d) shall provide the operator the opportunity to update the food types and products
10044 handled without requiring the operator to renew the permit.

10045 ~~[(9)]~~ (12) This section does not prohibit an operator from applying for a different type
10046 of food event permit from a local health department.

10047 Section 309. Section **26B-7-416**, which is renumbered from Section 26-15c-105 is
10048 renumbered and amended to read:

10049 ~~[26-15c-105].~~ **26B-7-416. Microenterprise home kitchen permits -- Fees --**
10050 **Safety and health inspections -- Permit requirements.**

10051 (1) As used in this section, "operator" means an individual who resides in the private
10052 home and who manages or controls the microenterprise home kitchen.

10053 (2) (a) An operator may not operate a microenterprise home kitchen unless the operator
10054 obtains a permit from the local health department that has jurisdiction over the area in which
10055 the microenterprise home kitchen is located.

10056 (b) In accordance with Section 26A-1-121, and subject to the restrictions of Section
10057 26-15c-105, the department shall make standards and regulations relating to the permitting of a
10058 microenterprise home kitchen.

10059 (c) In accordance with Section 26A-1-114, a local health department shall impose a fee
10060 for a microenterprise home kitchen permit in an amount that reimburses the local health
10061 department for the cost of regulating the microenterprise home kitchen.

10062 (3) (a) A local health department with jurisdiction over an area in which a
10063 microenterprise home kitchen is located may grant a microenterprise home kitchen permit to
10064 the operator.

10065 (b) Nothing in this section prevents a local health department from revoking a
10066 microenterprise home kitchen permit issued by the local health department if the operation of
10067 the microenterprise home kitchen violates the terms of the permit or this section.

10068 ~~(1)~~ (4) An operator may qualify for a microenterprise home kitchen permit if:

10069 (a) food that is served at the microenterprise home kitchen is processed in compliance
10070 with state and federal regulations;

10071 (b) a kitchen facility used to prepare food for the microenterprise home kitchen meets
10072 the requirements established by the department;

10073 (c) the microenterprise home kitchen operates only during the hours approved in the
10074 microenterprise home kitchen permit; and

10075 (d) the microenterprise home kitchen complies with the requirements of this section.

10076 ~~(2)~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah
10077 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance
10078 requirements for microenterprise home kitchens.

10079 ~~(3)~~ (6) A local health department shall:

10080 (a) ensure compliance with the rules described in Subsection (2) when inspecting a
10081 microenterprise home kitchen;

10082 (b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that
10083 requests a microenterprise home kitchen permit only:

10084 (i) for an initial inspection, no more than one week before the microenterprise home
10085 kitchen is scheduled to begin operation;

10086 (ii) for an unscheduled inspection, if the local health department conducts the
10087 inspection:

10088 (A) within three days before or after the day on which the microenterprise home
10089 kitchen is scheduled to begin operation; or

10090 (B) during operating hours of the microenterprise home kitchen; or

10091 (iii) for subsequent inspections if:

10092 (A) the local health department provides the operator with reasonable advanced notice

10093 of the inspection; or

10094 (B) the local health department has a valid reason to suspect that the microenterprise
10095 home kitchen is the source of an adulterated food or of an outbreak of illness caused by a
10096 contaminated food; and

10097 (c) document the reason for any inspection after the initial inspection, keep a copy of
10098 that documentation on file with the microenterprise home kitchen's permit, and provide a copy
10099 of that documentation to the operator.

10100 [~~(4)~~] (7) A microenterprise home kitchen shall:

10101 (a) take steps to avoid any potential contamination to:

10102 (i) food;

10103 (ii) equipment;

10104 (iii) utensils; or

10105 (iv) unwrapped single-service and single-use articles;

10106 (b) prevent an individual from entering the food preparation area while food is being
10107 prepared if the individual is known to be suffering from:

10108 (i) symptoms associated with acute gastrointestinal illness; or

10109 (ii) a communicable disease that is transmissible through food; and

10110 (c) comply with the following requirements:

10111 (i) time or temperature control food shall be prepared, cooked, and served on the same
10112 day;

10113 (ii) food that is sold or provided to a customer may not be consumed onsite at the
10114 microenterprise home kitchen operation;

10115 (iii) food that is sold or provided to a customer shall be picked up by the consumer or
10116 delivered within a safe time period based on holding equipment capacity;

10117 (iv) food preparation may not involve processes that require a HACCP plan, or the
10118 production, service, or sale of raw milk or raw milk products;

10119 (v) molluscan shellfish may not be served or sold;

10120 (vi) the operator may only sell or provide food directly to consumers and may not sell
10121 or provide food to any wholesaler or retailer; and

10122 (vii) the operator shall provide the consumer with a notification that, while a permit
10123 has been issued by the local health department, the kitchen may not meet all of the

10124 requirements of a commercial retail food establishment.

10125 ~~[(5)]~~ (8) When making the rules described in Subsection ~~[(2)]~~ (5), the department may
10126 not make rules regarding:

10127 (a) hand washing facilities, except to require that a hand washing station supplied with
10128 warm water, soap, and disposable hand towels is conveniently located in food preparation, food
10129 dispensing, and warewashing areas;

10130 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
10131 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
10132 are sanitized between each use;

10133 (c) the individuals allowed access to the food preparation areas, food storage areas, and
10134 washing areas, except during food preparation;

10135 (d) display guards, covers, or containers for display foods, except to require that
10136 ready-to-eat food is protected from contamination during storage, preparation, handling,
10137 transport, and display;

10138 (e) outdoor display and sale of food, except to require that food is maintained at proper
10139 holding temperatures;

10140 (f) utensils and equipment, except to require that utensils and equipment used in the
10141 home kitchen:

10142 (i) retain their characteristic qualities under normal use conditions;

10143 (ii) are properly sanitized after use; and

10144 (iii) are maintained in a sanitary manner between uses;

10145 (g) food contact surfaces, except to require that food contact surfaces are smooth,
10146 easily cleanable, in good repair, and properly sanitized between tasks;

10147 (h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in
10148 residential settings, except to require that those surfaces are kept clean from the accumulation
10149 of residue and debris;

10150 (i) clean-in-place equipment, except to require that the equipment is cleaned and
10151 sanitized between uses;

10152 (j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and
10153 smoke are able to escape the kitchen;

10154 (k) fixed temperature measuring devices or product mimicking sensors for the holding

10155 equipment for time or temperature control food, except to require non-fixed temperature
10156 measuring devices for hot and cold holding of food during storage, serving, and cooling;

10157 (l) fixed floor-mounted and table-mounted equipment, except to require that
10158 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

10159 (m) dedicated laundry facilities, except to require that linens used for the
10160 microenterprise home kitchen are stored and laundered separately from household laundry and
10161 that soiled laundry is stored to prevent contamination of food and equipment;

10162 (n) water, plumbing, drainage, and waste, except to require that:

10163 (i) sinks be supplied with hot and cold potable water from:

10164 (A) an approved public water system as defined in Section 19-4-102;

10165 (B) if the local health department with jurisdiction over the microenterprise home
10166 kitchen has regulations regarding the safety of drinking water, a source that meets the local
10167 health department's regulations regarding the safety of drinking water; or

10168 (C) a water source that is tested at least once per month for bacteriologic quality, and at
10169 least once in every three year period for lead and copper; and

10170 (ii) food preparation and service is discontinued in the event of a disruption of potable
10171 water service;

10172 (o) the number of and path of access to toilet facilities, except to require that toilet
10173 facilities are equipped with proper handwashing stations;

10174 (p) lighting, except to require that food preparations are well lit by natural or artificial
10175 light whenever food is being prepared;

10176 (q) designated dressing areas and storage facilities, except to require that items not
10177 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that
10178 dressing takes place outside of the kitchen facility, and that food items are stored in a manner
10179 that does not allow for contamination;

10180 (r) the presence and handling of animals, except to require that all animals are kept
10181 outside of food preparation and service areas;

10182 (s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces
10183 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

10184 (t) kitchen facilities open to living areas, except to require that food is only prepared,
10185 handled, or stored in kitchen and food storage areas;

- 10186 (u) submission of plans and specifications before construction or remodel of a kitchen
10187 facility;
- 10188 (v) the number and type of time or temperature controlled food offered for sale, except:
10189 (i) a raw time or temperature controlled food such as raw fish, raw milk, and raw
10190 shellfish;
- 10191 (ii) any food requiring special processes that would necessitate a HACCP plan; and
10192 (iii) fish from waters of the state;
- 10193 (w) approved food sources, except to require that:
10194 (i) food in a hermetically sealed container is obtained from a regulated food processing
10195 plant;
- 10196 (ii) liquid milk and milk products are obtained from sources that comply with Grade A
10197 standards specified by the Department of Agriculture and Food by rule made in accordance
10198 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 10199 (iii) fish for sale or service are commercially and legally caught;
10200 (iv) mushrooms picked in the wild are not offered for sale or service; and
10201 (v) game animals offered for sale or service are raised, slaughtered, and processed
10202 according to rules governing meat and poultry as specified by the Department of Agriculture
10203 and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
10204 Rulemaking Act;
- 10205 (x) the use of items produced under this chapter; or
10206 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven.
- 10207 ~~[(6)]~~ (9) An operator applying for a microenterprise home kitchen permit shall provide
10208 to the local health department:
- 10209 (a) written consent to enter the premises where food is prepared, cooked, stored, or
10210 harvested for the microenterprise home kitchen; and
- 10211 (b) written standard operating procedures that include:
10212 (i) all food that will be stored, handled, and prepared;
10213 (ii) the proposed procedures and methods of food preparation and handling;
10214 (iii) procedures, methods, and schedules for cleaning utensils and equipment;
10215 (iv) procedures and methods for the disposal of refuse; and
10216 (v) a plan for maintaining time or temperature controlled food at the appropriate

10217 temperatures for each time or temperature controlled food.

10218 ~~[(7)]~~ (10) In addition to a fee charged under Section ~~[26-15c-103]~~ Subsection (2), if the
 10219 local health department is required to inspect the microenterprise home kitchen as a source of
 10220 an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a
 10221 result of that inspection, that the microenterprise home kitchen has produced an adulterated
 10222 food or was the source of an outbreak of illness caused by a contaminated food, the local health
 10223 department may charge and collect from the microenterprise home kitchen a fee for that
 10224 inspection.

10225 ~~[(8)]~~ (11) A microenterprise home kitchen permit:

10226 (a) is nontransferable;

10227 (b) is renewable on an annual basis;

10228 (c) is restricted to the location and hours listed on the permit;

10229 (d) shall include a statement that reads: "This location is permitted under modified
 10230 FDA requirements."; and

10231 (e) shall provide the operator the opportunity to update the food types and products
 10232 handled without requiring the operator to renew the permit.

10233 ~~[(9)]~~ (12) This section does not prohibit an operator from applying for a different type
 10234 of food event permit from a local health department.

10235 Section 310. Section **26B-7-501**, which is renumbered from Section 26-62-102 is
 10236 renumbered and amended to read:

10237 **Part 5. Regulation of Smoking, Tobacco Products, and Nicotine Products**

10238 ~~[26-62-102].~~ **26B-7-501. Definitions.**

10239 As used in this ~~[chapter]~~ part:

10240 (1) "Community location" means the same as that term is defined:

10241 (a) as it relates to a municipality, in Section 10-8-41.6; and

10242 (b) as it relates to a county, in Section 17-50-333.

10243 (2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

10244 ~~[(2)]~~ (3) "Electronic cigarette product" means the same as that term is defined in
 10245 Section 76-10-101.

10246 (4) "Electronic cigarette substance" means the same as that term is defined in Section
 10247 76-10-101.

- 10248 ~~[(3)]~~ (5) "Employee" means an employee of a tobacco retailer.
- 10249 ~~[(4)]~~ (6) "Enforcing agency" means the ~~[state Department of Health]~~ department, or
- 10250 any local health department enforcing the provisions of this chapter.
- 10251 ~~[(5)]~~ (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco
- 10252 specialty business.
- 10253 ~~[(6)]~~ ~~"Local health department" means the same as that term is defined in Section~~
- 10254 ~~26A-1-102.]~~
- 10255 (8) "Manufacture" includes:
- 10256 (a) to cast, construct, or make electronic cigarettes; or
- 10257 (b) to blend, make, process, or prepare an electronic cigarette substance.
- 10258 (9) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette
- 10259 substance that is sold in a container that:
- 10260 (a) is prefilled by the electronic cigarette substance manufacturer; and
- 10261 (b) the electronic cigarette manufacturer does not intend for a consumer to open.
- 10262 (10) "Manufacturer sealed electronic cigarette product" means:
- 10263 (a) an electronic cigarette substance or container that the electronic cigarette
- 10264 manufacturer does not intend for a consumer to open or refill; or
- 10265 (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.
- 10266 (11) "Nicotine" means the same as that term is defined in Section 76-10-101.
- 10267 ~~[(7)]~~ (12) "Nicotine product" means the same as that term is defined in Section
- 10268 76-10-101.
- 10269 (13) "Non-tobacco shisha" means any product that:
- 10270 (a) does not contain tobacco or nicotine; and
- 10271 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 10272 ~~[(8)]~~ (14) "Owner" means a person holding a 20% ownership interest in the business
- 10273 that is required to obtain a permit under this chapter.
- 10274 ~~[(9)]~~ (15) "Permit" means a tobacco retail permit issued under this chapter.
- 10275 (16) "Place of public access" means any enclosed indoor place of business, commerce,
- 10276 banking, financial service, or other service-related activity, whether publicly or privately owned
- 10277 and whether operated for profit or not, to which persons not employed at the place of public
- 10278 access have general and regular access or which the public uses, including:

- 10279 (a) buildings, offices, shops, elevators, or restrooms;
- 10280 (b) means of transportation or common carrier waiting rooms;
- 10281 (c) restaurants, cafes, or cafeterias;
- 10282 (d) taverns as defined in Section 32B-1-102, or cabarets;
- 10283 (e) shopping malls, retail stores, grocery stores, or arcades;
- 10284 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
10285 sites, auditoriums, or arenas;
- 10286 (g) barber shops, hair salons, or laundromats;
- 10287 (h) sports or fitness facilities;
- 10288 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
10289 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
10290 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
10291 of these;
- 10292 (j) (i) any child care facility or program subject to licensure or certification under this
10293 title, including those operated in private homes, when any child cared for under that license is
10294 present; and
- 10295 (ii) any child care, other than child care as defined in Section 26-39-102, that is not
10296 subject to licensure or certification under this title, when any child cared for by the provider,
10297 other than the child of the provider, is present;
- 10298 (k) public or private elementary or secondary school buildings and educational
10299 facilities or the property on which those facilities are located;
- 10300 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
10301 religious organization when used solely by the organization members or their guests or
10302 families;
- 10303 (m) any facility rented or leased for private functions from which the general public is
10304 excluded and arrangements for the function are under the control of the function sponsor;
- 10305 (n) any workplace that is not a place of public access or a publicly owned building or
10306 office but has one or more employees who are not owner-operators of the business;
- 10307 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
10308 stating "no smoking", "thank you for not smoking", or similar statement; and
- 10309 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.

- 10310 ~~[(10)]~~ (17) (a) "Proof of age" means:
- 10311 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
- 10312 Card Act;
- 10313 (ii) a valid identification that:
- 10314 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,
- 10315 Part 8, Identification Card Act;
- 10316 (B) is issued in accordance with the laws of a state other than Utah in which the
- 10317 identification is issued;
- 10318 (C) includes date of birth; and
- 10319 (D) has a picture affixed;
- 10320 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
- 10321 Driver License Act, or in accordance with the laws of the state in which the valid driver license
- 10322 is issued;
- 10323 (iv) a valid United States military identification card that:
- 10324 (A) includes date of birth; and
- 10325 (B) has a picture affixed; or
- 10326 (v) a valid passport.
- 10327 (b) "Proof of age" does not include a valid driving privilege card issued in accordance
- 10328 with Section 53-3-207.
- 10329 (18) "Publicly owned building or office" means any enclosed indoor place or portion of
- 10330 a place owned, leased, or rented by any state, county, or municipal government, or by any
- 10331 agency supported by appropriation of, or by contracts or grants from, funds derived from the
- 10332 collection of federal, state, county, or municipal taxes.
- 10333 ~~[(11)]~~ (19) "Retail tobacco specialty business" means the same as that term is defined:
- 10334 (a) as it relates to a municipality, in Section 10-8-41.6; and
- 10335 (b) as it relates to a county, in Section 17-50-333.
- 10336 (20) (20) "Shisha" means any product that:
- 10337 (a) contains tobacco or nicotine; and
- 10338 (b) is smoked or intended to be smoked in a hookah or water pipe.
- 10339 (21) "Smoking" means:
- 10340 (a) the possession of any lighted or heated tobacco product in any form;

10341 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe,
 10342 or hookah that contains:

10343 (i) tobacco or any plant product intended for inhalation;

10344 (ii) shisha or non-tobacco shisha;

10345 (iii) nicotine;

10346 (iv) a natural or synthetic tobacco substitute; or

10347 (v) a natural or synthetic flavored tobacco product;

10348 (c) using an electronic cigarette; or

10349 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
 10350 this chapter.

10351 ~~[(12)]~~ (22) "Tax commission license" means a license issued by the State Tax

10352 Commission under:

10353 (a) Section 59-14-201 to sell a cigarette at retail;

10354 (b) Section 59-14-301 to sell a tobacco product at retail; or

10355 (c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

10356 ~~[(13)]~~ (23) "Tobacco product" means:

10357 (a) a tobacco product as defined in Section 76-10-101; or

10358 (b) tobacco paraphernalia as defined in Section 76-10-101.

10359 ~~[(14)]~~ (24) "Tobacco retailer" means a person that is required to obtain a tax

10360 commission license.

10361 Section 311. Section **26B-7-502**, which is renumbered from Section 26-15-11 is

10362 renumbered and amended to read:

10363 ~~[26-15-11].~~ **26B-7-502. Statutes on smoking considered public health laws.**

10364 ~~[Title 26, Chapter 38, Utah Indoor Clean Air Act,]~~ Section 26B-7-503 is a public health

10365 law and shall be enforced by the department and local health departments.

10366 Section 312. Section **26B-7-503**, which is renumbered from Section 26-38-3 is

10367 renumbered and amended to read:

10368 ~~[26-38-3].~~ **26B-7-503. Utah Indoor Clean Air Act -- Restriction on smoking in**

10369 **public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local**

10370 **ordinances.**

10371 (1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), smoking is

10372 prohibited in all enclosed indoor places of public access and publicly owned buildings and
10373 offices.

10374 (2) Subsection (1) does not apply to:

10375 (a) areas not commonly open to the public of owner-operated businesses having no
10376 employees other than the owner-operator;

10377 (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other
10378 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas
10379 of these facilities, including dining areas and lobby areas; and

10380 (c) separate enclosed smoking areas:

10381 (i) located in the passenger terminals of an international airport located in the city of
10382 the first class;

10383 (ii) vented directly to the outdoors; and

10384 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the
10385 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

10386 (3) (a) A person is exempt from the restrictions of Subsection (1) if the person:

10387 (i) is a member of an American Indian tribe whose members are recognized as eligible
10388 for the special programs and services provided by the United States to American Indians who
10389 are members of those tribes;

10390 (ii) is an American Indian who actively practices an American Indian religion, the
10391 origin and interpretation of which is from a traditional American Indian culture;

10392 (iii) is smoking tobacco using the traditional pipe of an American Indian tribal
10393 religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of
10394 that ceremony; and

10395 (iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine
10396 person recognized by the tribe of which the person is a member and the Indian community.

10397 (b) This Subsection (3) takes precedence over Subsection (1).

10398 (c) A religious ceremony using a traditional pipe under this section is subject to any
10399 applicable state or local law, except as provided in this section.

10400 (4) (a) An owner or the agent or employee of the owner of a place where smoking is
10401 prohibited under Subsection(1) who observes a person smoking in apparent violation of this
10402 chapter shall request the person to stop smoking.

10403 (b) If the person fails to comply, the proprietor or the agent or employee of the
10404 proprietor shall ask the person to leave the premises.

10405 (5) (a) A first violation of Subsection (1) is subject to a civil penalty of not more than
10406 \$100.

10407 (b) Any second or subsequent violation of Subsection (1) is subject to a civil penalty of
10408 not less than \$100 and not more than \$500.

10409 (6) (a) The department and local health departments shall:

10410 (i) enforce this chapter and shall coordinate their efforts to promote the most effective
10411 enforcement of this chapter; and

10412 (ii) impose the penalties under Section 26-38-8 in accordance with this section.

10413 (b) When enforcing this chapter, the department and the local health departments shall
10414 notify persons of alleged violations of this chapter, conduct hearings, and impose penalties in
10415 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

10416 (c) The department shall adopt rules necessary and reasonable to implement the
10417 provisions of Title 26, Chapter 38, Utah Indoor Clean Air Act.

10418 (7) Civil penalties collected under this section by:

10419 (a) a local health department shall be paid to the treasurer of the county in which the
10420 violation was committed; and

10421 (b) the department shall be deposited in the General Fund.

10422 (8) (a) This section supersedes any ordinance enacted by the governing body of a
10423 political subdivision that restricts smoking in a place of public access as defined in Section
10424 26-38-2 and that is not essentially identical to the provisions of this chapter.

10425 (b) This section does not supersede an ordinance enacted by the governing body of a
10426 political subdivision that restricts smoking in outdoor places of public access which are owned
10427 or operated by:

10428 (i) a political subdivision as defined in Section 17B-1-102;

10429 (ii) a state institution of higher education; or

10430 (iii) a state institution of public education.

10431 Section 313. Section **26B-7-504**, which is renumbered from Section 26-43-102 is
10432 renumbered and amended to read:

10433 **[26-43-102].** **26B-7-504. Gathering of information.**

10434 (1) The department shall obtain annually publicly available information regarding
 10435 cigarettes and tobacco products from other states and sources concerning:

10436 [(+) (a) the presence of the following substances in detectable levels in a burned state
 10437 and, if the cigarette or tobacco product is typically burned when consumed, in a burned state:

10438 [(a)] (i) ammonia or ammonia compounds;

10439 [(b)] (ii) arsenic;

10440 [(c)] (iii) cadmium;

10441 [(d)] (iv) formaldehyde; and

10442 [(e)] (v) lead; and

10443 [(2)] (b) a nicotine yield rating for the cigarette or tobacco product for which a rating
 10444 has been developed.

10445 (2) Information obtained by the department under Subsection (1) is a public record and
 10446 may be disclosed in accordance with Section 63G-2-201 and disseminated generally by the
 10447 department.

10448 Section 314. Section **26B-7-505**, which is renumbered from Section 26-57-103 is
 10449 renumbered and amended to read:

10450 ~~[26-57-103].~~ **26B-7-505. Electronic cigarette products -- Labeling --**

10451 **Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.**

10452 (1) The department shall, in consultation with a local health department and with input
 10453 from members of the public, establish by rule made in accordance with Title 63G, Chapter 3,
 10454 Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance
 10455 that is not a manufacturer sealed electronic cigarette substance regarding:

10456 (a) labeling;

10457 (b) nicotine content;

10458 (c) packaging; and

10459 (d) product quality.

10460 (2) On or before January 1, 2021, the department shall, in consultation with a local
 10461 health department and with input from members of the public, establish by rule made in
 10462 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements
 10463 to sell a manufacturer sealed electronic cigarette product regarding:

10464 (a) labeling;

10465 (b) nicotine content;

10466 (c) packaging; and

10467 (d) product quality.

10468 (3) (a) A person may not sell an electronic cigarette substance unless the electronic
10469 cigarette substance complies with the requirements established by the department under
10470 Subsection (1).

10471 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic
10472 cigarette product unless the manufacturer sealed electronic cigarette product complies with the
10473 requirements established by the department under Subsection (2).

10474 (4) (a) A local health department may not enact a rule or regulation regarding
10475 electronic cigarette substance labeling, nicotine content, packaging, or product quality that is
10476 not identical to the requirements established by the department under Subsections (1) and (2).

10477 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule
10478 or regulation regarding electronic cigarette substance manufacturing.

10479 (c) A local health department may not enact a rule or regulation regarding a
10480 manufacturer sealed electronic cigarette product.

10481 (5) A person may not advertise an electronic cigarette product as a tobacco cessation
10482 device.

10483 (6) Any nicotine product shall contain the statement described in Subsection (2) if the
10484 nicotine product:

10485 (a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal
10486 regulations; or

10487 (ii) is not otherwise required under federal or state law to contain a nicotine warning;
10488 and

10489 (b) contains nicotine.

10490 (7) A statement shall appear on the exterior packaging of a nicotine product described
10491 in Subsection (6) as follows:

10492 "This product contains nicotine."

10493 Section 315. Section **26B-7-506**, which is renumbered from Section 26-62-103 is
10494 renumbered and amended to read:

10495 **[26-62-103]**. **26B-7-506. Regulation of tobacco retailers.**

10496 The regulation of a tobacco retailer is an exercise of the police powers of the state, and
10497 through delegation, to other governmental entities.

10498 Section 316. Section **26B-7-507**, which is renumbered from Section 26-62-201 is
10499 renumbered and amended to read:

10500 ~~[26-62-201]~~. **26B-7-507. Permitting requirement.**

10501 (1) (a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance
10502 with this chapter by the local health department with jurisdiction over the physical location
10503 where the tobacco retailer operates.

10504 (b) A tobacco retailer without a valid permit may not:

10505 (i) place a tobacco product, an electronic cigarette product, or a nicotine product in
10506 public view;

10507 (ii) display any advertisement related to a tobacco product, an electronic cigarette
10508 product, or a nicotine product that promotes the sale, distribution, or use of those products; or

10509 (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, a
10510 tobacco product, an electronic cigarette product, or a nicotine product.

10511 (2) A local health department may issue a permit under this chapter for a tobacco
10512 retailer in the classification of:

10513 (a) a general tobacco retailer; or

10514 (b) a retail tobacco specialty business.

10515 (3) A permit under this chapter is:

10516 (a) valid only for one physical location, including a vending machine;

10517 (b) valid only at one fixed business address; and

10518 (c) if multiple tobacco retailers are at the same address, separately required for each
10519 tobacco retailer.

10520 Section 317. Section **26B-7-508**, which is renumbered from Section 26-62-202 is
10521 renumbered and amended to read:

10522 ~~[26-62-202]~~. **26B-7-508. Permit application.**

10523 (1) A local health department shall issue a permit under this chapter for a tobacco
10524 retailer if the local health department determines that the applicant:

10525 (a) accurately provided all information required under Subsection (3) and, if applicable,
10526 Subsection (4); and

- 10527 (b) meets all requirements for a permit under this chapter.
- 10528 (2) An applicant for a permit shall:
- 10529 (a) submit an application described in Subsection (3) to the local health department
- 10530 with jurisdiction over the area where the tobacco retailer is located; and
- 10531 (b) pay all applicable fees described in Section 26-62-203.
- 10532 (3) The application for a permit shall include:
- 10533 (a) the name, address, and telephone number of each proprietor;
- 10534 (b) the name and mailing address of each proprietor authorized to receive
- 10535 permit-related communication and notices;
- 10536 (c) the business name, address, and telephone number of the single, fixed location for
- 10537 which a permit is sought;
- 10538 (d) evidence that the location for which a permit is sought has a valid tax commission
- 10539 license;
- 10540 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco
- 10541 retailer has been determined to have violated, or has been a proprietor at a location that has
- 10542 been determined to have violated:
- 10543 (i) a provision of this chapter;
- 10544 (ii) Chapter 38, Utah Indoor Clean Air Act;
- 10545 (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical
- 10546 Solvents;
- 10547 (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 10548 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco
- 10549 issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
- 10550 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or
- 10551 distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and
- 10552 (f) the dates of all violations disclosed under this Subsection (3).
- 10553 (4) (a) In addition to the information described in Subsection (3), an applicant for a
- 10554 retail tobacco specialty business permit shall include evidence showing whether the business is
- 10555 located within:
- 10556 (i) 1,000 feet of a community location;
- 10557 (ii) 600 feet of another retail tobacco specialty business; or

10558 (iii) 600 feet of property used or zoned for agricultural or residential use.

10559 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in
10560 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest
10561 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard
10562 to intervening structures or zoning districts.

10563 (5) The department or a local health department may not deny a permit to a retail
10564 tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets
10565 the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

10566 (6) (a) The department shall establish by rule made in accordance with Title 63G,
10567 Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments
10568 in accordance with this chapter.

10569 (b) The permit process established by the department under Subsection (6)(a) may not
10570 require any information in an application that is not required by this section.

10571 Section 318. Section **26B-7-509**, which is renumbered from Section 26-62-203 is
10572 renumbered and amended to read:

10573 ~~**26-62-203**~~. **26B-7-509**. **Permit term and fees.**

10574 (1) (a) The term of a permit issued under this chapter to a retail tobacco specialty
10575 business is one year.

10576 (b) The term of a permit issued under this chapter to a general tobacco retailer is two
10577 years.

10578 (2) (a) A local health department may not issue a permit under this chapter until the
10579 applicant has paid a permit fee to the local health department of:

10580 (i) \$30 for a new permit;

10581 (ii) \$20 for a permit renewal; or

10582 (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to
10583 expire.

10584 (b) A local health department that collects fees under Subsection (2)(a) shall use the
10585 fees to administer the permit requirements under this chapter.

10586 (c) In addition to the fee described in Subsection (2)(a), a local health department may
10587 establish and collect a fee to perform a plan review for a retail tobacco specialty business
10588 permit.

10589 (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before
10590 the day on which the permit expires.

10591 (4) A tobacco retailer that fails to renew a permit before the permit expires may apply
10592 to reinstate the permit by submitting to the local health department:

10593 (a) the information required in Subsection 26-62-202(3) and, if applicable, Subsection
10594 26-62-202(4);

10595 (b) the fee for the reinstatement of a permit; and

10596 (c) a signed affidavit affirming that the tobacco retailer has not violated the
10597 prohibitions in Subsection 26-62-201(1)(b) after the permit expired.

10598 Section 319. Section **26B-7-510**, which is renumbered from Section 26-62-204 is
10599 renumbered and amended to read:

10600 ~~[26-62-204]~~. **26B-7-510**. **Permit nontransferable.**

10601 (1) A permit is nontransferable.

10602 (2) If the information described in Subsection 26-62-202(3) changes, a tobacco retailer:

10603 (a) may not renew the permit; and

10604 (b) shall apply for a new permit no later than 15 days after the information in
10605 Subsection 26-62-202(3) changes.

10606 Section 320. Section **26B-7-511**, which is renumbered from Section 26-62-205 is
10607 renumbered and amended to read:

10608 ~~[26-62-205]~~. **26B-7-511**. **Permit requirements for a retail tobacco
10609 specialty business.**

10610 (1) A retail tobacco specialty business shall:

10611 (a) electronically verify proof of age for any individual that enters the premises of the
10612 business in accordance with Part 4, Proof of Age Requirements;

10613 (b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from
10614 entering the business if the individual is under 21 years old; and

10615 (c) prominently display at the retail tobacco specialty business a sign on the public
10616 entrance of the business that communicates:

10617 (i) the prohibition on the presence of an individual under 21 years old in a retail
10618 tobacco specialty business in Subsection 76-10-105.1(4); and

10619 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to

10620 an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1,
10621 and 76-10-114.

10622 (2) A retail tobacco specialty business may not:

10623 (a) employ an individual under 21 years old to sell a tobacco product, an electronic
10624 cigarette product, or a nicotine product; or

10625 (b) permit an employee under 21 years old to sell a tobacco product, an electronic
10626 cigarette product, or a nicotine product.

10627 Section 321. Section **26B-7-512**, which is renumbered from Section 26-62-206 is
10628 renumbered and amended to read:

10629 ~~[26-62-206]~~. **26B-7-512**. **Requirements for the sale of tobacco product,**
10630 **electronic cigarette product, or nicotine product.**

10631 (1) A tobacco retailer shall:

10632 (a) provide the customer with an itemized receipt for each sale of a tobacco product, an
10633 electronic cigarette product, or a nicotine product that separately identifies:

10634 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
10635 product;

10636 (ii) the amount charged for each tobacco product, electronic cigarette product, or
10637 nicotine product; and

10638 (iii) the date and time of the sale; and

10639 (b) maintain an itemized transaction log for each sale of a tobacco product, an
10640 electronic cigarette product, or a nicotine product that separately identifies:

10641 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
10642 product;

10643 (ii) the amount charged for each tobacco product, electronic cigarette product, or
10644 nicotine product; and

10645 (iii) the date and time of the sale.

10646 (2) The itemized transaction log described in Subsection (1)(b) shall be:

10647 (a) maintained for at least one year after the date of each transaction in the itemized
10648 transaction log;

10649 (b) made available to an enforcing agency or a peace officer at the request of the
10650 enforcing agency or the peace officer; and

10651 (c) in addition to any documentation required under Section 59-1-1406 and Subsection
10652 59-14-805(2).

10653 Section 322. Section **26B-7-513**, which is renumbered from Section 26-62-207 is
10654 renumbered and amended to read:

10655 ~~[26-62-207]~~. **26B-7-513**. **Permit requirements for the sale of tobacco**
10656 **products and electronic cigarette products.**

10657 (1) A tobacco retailer shall:

10658 (a) provide the customer with an itemized receipt for each sale of a tobacco product or
10659 an electronic cigarette product that separately identifies:

10660 (i) the name of the tobacco product or the electronic cigarette product;

10661 (ii) the amount charged for each tobacco product or electronic cigarette product; and

10662 (iii) the time and date of the sale; and

10663 (b) maintain an itemized transaction log for each sale of a tobacco product or an
10664 electronic cigarette product that separately identifies:

10665 (i) the name of the tobacco product or the electronic cigarette product;

10666 (ii) the amount charged for each tobacco product or electronic cigarette product; and

10667 (iii) the date and time of the sale.

10668 (2) The itemized transaction log described in Subsection (1)(b) shall be:

10669 (a) maintained for at least one year after the date of each transaction in the itemized
10670 transaction log; and

10671 (b) made available to an enforcing agency or a peace officer at the request of the
10672 enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

10673 Section 323. Section **26B-7-514**, which is renumbered from Section 26-62-301 is
10674 renumbered and amended to read:

10675 ~~[26-62-301]~~. **26B-7-514**. **Permit violation.**

10676 A person is in violation of the permit issued under this chapter if the person violates:

10677 (1) a provision of this chapter;

10678 (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;

10679 (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic
10680 Chemical Solvents;

10681 (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

10682 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco
 10683 issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

10684 (6) any other provision of state law or local ordinance regarding the sale, marketing, or
 10685 distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

10686 Section 324. Section **26B-7-515**, which is renumbered from Section 26-62-302 is
 10687 renumbered and amended to read:

10688 ~~[26-62-302]~~. **26B-7-515. Enforcement by state and local health**
 10689 **departments.**

10690 The department and local health departments shall enforce this chapter under the
 10691 procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative
 10692 proceeding, including:

- 10693 (1) notifying a tobacco retailer of alleged violations of this chapter;
- 10694 (2) conducting hearings;
- 10695 (3) determining violations of this chapter; and
- 10696 (4) imposing civil administrative penalties.

10697 Section 325. Section **26B-7-516**, which is renumbered from Section 26-62-303 is
 10698 renumbered and amended to read:

10699 ~~[26-62-303]~~. **26B-7-516. Inspection of retail tobacco businesses.**

10700 The department or a local health department may inspect a tobacco retailer to determine
 10701 whether the tobacco retailer:

- 10702 (1) continues to meet the qualifications for the permit issued under this chapter;
- 10703 (2) if applicable, continues to meet the requirements for a retail tobacco specialty
 10704 business license issued under Section 10-8-41.6 or Section 17-50-333;

10705 (3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16,
 10706 Pattern of Unlawful Activity Act;

10707 (4) violated any of the regulations restricting the sale and distribution of cigarettes and
 10708 smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R.
 10709 Part 1140; or

10710 (5) has violated any other provision of state law or local ordinance.

10711 Section 326. Section **26B-7-517**, which is renumbered from Section 26-62-304 is
 10712 renumbered and amended to read:

10713 ~~[26-62-304]~~. **26B-7-517. Hearing -- Evidence of criminal conviction.**

10714 (1) At a civil hearing conducted under Section 26-62-302, evidence of the final
10715 criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same location
10716 and within the same time period as the location and time period alleged in the civil hearing for
10717 violation of this chapter for sale of a tobacco product, an electronic cigarette product, or a
10718 nicotine product to an individual under 21 years old is prima facie evidence of a violation of
10719 this chapter.

10720 (2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing
10721 agency:

10722 (a) shall assess an additional monetary penalty under this chapter for the same offense
10723 for which the conviction was obtained; and

10724 (b) shall revoke or suspend a permit in accordance with Section 26-62-305.

10725 Section 327. Section **26B-7-518**, which is renumbered from Section 26-62-305 is
10726 renumbered and amended to read:

10727 ~~[26-62-305]~~. **26B-7-518. Penalties.**

10728 (1) (a) If an enforcing agency determines that a person has violated the terms of a
10729 permit issued under this chapter, the enforcing agency may impose the penalties described in
10730 this section.

10731 (b) If multiple violations are found in a single inspection by an enforcing agency or a
10732 single investigation by a law enforcement agency under Section 77-39-101, the enforcing
10733 agency shall treat the multiple violations as one single violation under Subsections (2), (3), and
10734 (4).

10735 (2) Except as provided in Subsections (3) and (4), if a violation is found in an
10736 investigation by a law enforcement agency under Section 77-39-101 or an inspection by an
10737 enforcing agency, the enforcing agency shall:

10738 (a) on a first violation at a retail location, impose a penalty of \$1,000;

10739 (b) on a second violation at the same retail location that occurs within one year of a
10740 previous violation, impose a penalty of \$1,500;

10741 (c) on a third violation at the same retail location that occurs within two years after two
10742 previous violations, impose:

10743 (i) a suspension of the permit for 30 consecutive business days within 60 days after the

10744 day on which the third violation occurs; or

10745 (ii) a penalty of \$2,000; and

10746 (d) on a fourth or subsequent violation within two years of three previous violations:

10747 (i) impose a penalty of \$2,000;

10748 (ii) revoke a permit of the retailer; and

10749 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty

10750 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

10751 (3) If a violation is found in an investigation of a general tobacco retailer by a law

10752 enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic

10753 cigarette product, or a nicotine product to an individual under 21 years old and the violation is

10754 committed by the owner of the general tobacco retailer, the enforcing agency shall:

10755 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and

10756 (b) on the second violation for the same general tobacco retailer within one year of the

10757 first violation:

10758 (i) impose a fine of \$5,000; and

10759 (ii) revoke the permit for the general tobacco retailer.

10760 (4) If a violation is found in an investigation of a retail tobacco specialty business by a

10761 law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an

10762 electronic cigarette product, or a nicotine product to an individual under 21 years old, the

10763 enforcing agency shall:

10764 (a) on the first violation:

10765 (i) impose a fine of \$5,000; and

10766 (ii) immediately suspend the permit for 30 consecutive days; and

10767 (b) on the second violation at the same retail location within two years of the first

10768 violation:

10769 (i) impose a fine of \$10,000; and

10770 (ii) revoke the permit for the retail tobacco specialty business.

10771 (5) (a) Except when a transfer described in Subsection (6) occurs, a local health

10772 department may not issue a permit to:

10773 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)

10774 or (3); or

10775 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,
10776 or other holder of significant interest as another tobacco retailer for whom a permit is
10777 suspended or revoked under Subsection (2), (3), or (4).

10778 (b) A person whose permit:

10779 (i) is suspended under this section may not apply for a new permit for any other
10780 tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends
10781 the permit; and

10782 (ii) is revoked under this section may not apply for a new permit for any tobacco
10783 retailer for a period of 24 months after the day on which an enforcing agency revokes the
10784 permit.

10785 (6) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a
10786 tobacco retailer location shall stay on the record for that tobacco retailer location unless:

10787 (a) the tobacco retailer is transferred to a new proprietor; and

10788 (b) the new proprietor provides documentation to the local health department that the
10789 new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous
10790 proprietor.

10791 Section 328. Section **26B-7-519**, which is renumbered from Section 26-62-306 is
10792 renumbered and amended to read:

10793 ~~[26-62-306]~~. **26B-7-519. Recognition of tobacco retailer training program.**

10794 (1) In determining the amount of the monetary penalty to be imposed for a violation of
10795 this chapter, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer
10796 determines that:

10797 (a) the tobacco retailer has implemented a documented employee training program; and

10798 (b) the employees have completed that training program within 30 days after the day on
10799 which each employee commences the duties of selling a tobacco product, an electronic
10800 cigarette product, or a nicotine product.

10801 (2) (a) For the first offense at a location, if the hearing officer determines under
10802 Subsection (1) that the tobacco retailer has not implemented a documented training program
10803 with a written curriculum for employees at that location regarding compliance with this
10804 chapter, the hearing officer may suspend all or a portion of the penalty if:

10805 (i) the tobacco retailer agrees to initiate a training program for employees at that

10806 location; and

10807 (ii) the training program begins within 30 days after the hearing officer makes a
10808 determination under this Subsection (2)(a).

10809 (b) If the hearing officer determines at a subsequent hearing that the tobacco retailer
10810 has not implemented the training program within the time period required under Subsection
10811 (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the
10812 tobacco retailer demonstrates good cause for an extension of time for implementation of the
10813 training program.

10814 Section 329. Section **26B-7-520**, which is renumbered from Section 26-62-307 is
10815 renumbered and amended to read:

10816 ~~[26-62-307]~~. **26B-7-520. Allocation of civil penalties.**

10817 Civil monetary penalties collected under this chapter shall be allocated as follows:

10818 (1) if a local health department conducts an adjudicative proceeding under Section
10819 26-62-302, the penalty shall be paid to the treasurer of the county in which the violation was
10820 committed, and transferred to the local health department; and

10821 (2) if the department conducts a civil hearing under Section 26-62-302, the penalty
10822 shall be deposited in the state's General Fund, and may be appropriated by the Legislature to
10823 the department for use in enforcement of this chapter.

10824 Section 330. Section **26B-7-521**, which is renumbered from Section 26-62-401 is
10825 renumbered and amended to read:

10826 ~~[26-62-401]~~. **26B-7-521. Verification of proof of age.**

10827 (1) As used in this section:

10828 (a) "Employee" means an employee of a retail tobacco specialty business.

10829 (b) "Electronic verification program" means a technology used by a retail tobacco
10830 specialty business to confirm proof of age for an individual.

10831 (2) A retail tobacco specialty business shall require that an employee verify proof of
10832 age as provided in this section.

10833 (3) To comply with Subsection (2), an employee shall:

10834 (a) request the individual present proof of age; and

10835 (b) verify the validity of the proof of age electronically in accordance with Subsection

10836 (4).

10837 (4) A retail tobacco specialty business shall use an electronic verification program to
10838 assist the business in complying with the requirements of this section.

10839 (5) (a) A retail tobacco specialty business may not disclose information obtained under
10840 this section except as provided under this part.

10841 (b) Information obtained under this section:

10842 (i) shall be kept for at least 180 days; and

10843 (ii) is subject to inspection upon request by a peace officer or the representative of an
10844 enforcing agency.

10845 (6) (a) If an employee does not verify proof of age under this section, the employee
10846 may not permit an individual to:

10847 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

10848 (ii) purchase a tobacco product or an electronic cigarette product.

10849 (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years
10850 old may be permitted to enter a retail tobacco specialty business if the individual is:

10851 (i) accompanied by a parent or legal guardian who provides proof of age; or

10852 (ii) (A) present at the retail tobacco specialty business solely for the purpose of
10853 providing a commercial service to the retail tobacco specialty business, including making a
10854 commercial delivery;

10855 (B) monitored by the proprietor of the retail tobacco specialty business or an employee
10856 of the retail tobacco specialty business; and

10857 (C) not permitted to make any purchase or conduct any commercial transaction other
10858 than the service described in Subsection (6)(b)(ii)(A).

10859 (7) To determine whether the individual described in Subsection (2) is 21 years old or
10860 older, the following may request an individual described in Subsection (2) to present proof of
10861 age:

10862 (a) an employee;

10863 (b) a peace officer; or

10864 (c) a representative of an enforcing agency.