

Civil Commitment Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor:

LONG TITLE**General Description:**

This bill amends provisions relating to civil commitment.

Highlighted Provisions:

This bill:

- amends notification requirements for when a patient is discharged from temporary, involuntary commitment;
- amends the information that must be included in discharge instructions that are given to an individual who is discharged from a local mental health authority's custody and allows discharge instructions to be provided in paper or electronic form depending on the individual's preference;
- provides that certain requirements related to civil commitment may be performed by a local mental health authority's designee;
- addresses when a local mental health authority is required to follow up with certain individuals discharged from civil commitment; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-5-331, as last amended by Laws of Utah 2024, Chapter 299

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

26B-6-607, as last amended by Laws of Utah 2024, Chapter 299

26B-6-608, as last amended by Laws of Utah 2024, Chapter 299

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

Section 1. Section **26B-5-331** is amended to read:

26B-5-331 . Temporary commitment -- Requirements and procedures -- Rights.

- (1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:
- (a) a written application that:
 - (i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and
 - (ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or
 - (b) a peace officer or a mental health officer:
 - (i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:
 - (A) the adult has a mental illness; and
 - (B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and
 - (ii) completing a temporary commitment application that:
 - (A) is on a form prescribed by the division;
 - (B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;
 - (C) states the specific nature of the danger;
 - (D) provides a summary of the observations upon which the statement of danger is based; and
 - (E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.
- (2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), ~~[the local mental health authority or]~~ the local mental health authority's designee shall:
- (a) document the change and release the patient; and

(b) if the patient was admitted under Subsection (1)(b), notify the ~~[peace officer or mental health officer of the patient's release]~~ local mental health authority of the patient's release if deemed appropriate by a licensed health care provider or if the patient consents to the information being shared.

(3) A patient committed under this section may be held for a maximum of 72 hours after commitment, excluding Saturdays, Sundays, and ~~[legal]~~ state holidays, unless:

(a) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4); or

(b) the patient makes a voluntary application for admission.

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

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

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

(i) an ambulance, if the adult meets any of the criteria described in Section 26B-4-119;

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

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

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

(v) nonemergency secured behavioral health transport as that term is defined in Section 53-2d-101.

(5) Notwithstanding Subsection (4):

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

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take

the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

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

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

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

- (i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and
- (ii) see and communicate with an attorney.

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

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

(8)(a) A local mental health authority or the local mental health authority's designee shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of whether the individual is discharged by being released, taken into a peace officer's protective custody, transported to a medical facility or other facility, or other circumstances.

(b) Discharge instructions provided under Subsection (8)(a) shall include:

- ~~[(i) a summary of why the individual was committed to the local mental health authority;]~~
- ~~[(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;]~~
- ~~[(iii)]~~ (i) a safety plan for the individual based on the individual's mental illness or mental or emotional state, if applicable;
- ~~[(iv) notification to the individual's primary care provider, if applicable;]~~
- ~~[(v)]~~ (ii) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;
- ~~[(vi)]~~ (iii) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

~~[(vii)]~~ (iv) a copy of any psychiatric advance directive~~[-presented to the local mental health authority]~~, if applicable;

~~[(viii)]~~ (v) information about how to establish a psychiatric advance directive if one [was not presented to the local mental health authority] has not been completed;

~~[(ix)]~~ (vi) as applicable, information about medications that were changed or discontinued during the commitment;

~~[(x) a list of any screening or diagnostic tests conducted during the commitment;]~~

~~[(xi) a summary of therapeutic treatments provided during the commitment;]~~

~~[(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and]~~

~~[(xiii)]~~ (vii) information about how to contact the local mental health authority if needed[-] ; and

(viii) information about how to request a copy of the individual's medical record and how to access the electronic patient portal for the individual's medical record.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (8)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) Discharge instructions shall be provided in paper or electronic format based on the individual's preference.

~~[(d)]~~ (e) If an individual refuses to accept discharge instructions, the local mental health authority or the local mental health authority's designee shall document the refusal in the individual's medical record.

~~[(e)]~~ (f) If an individual's discharge instructions include referrals to services under Subsection ~~[(8)(b)(v)]~~ (8)(b)(ii), the local mental health authority or the local mental health authority's designee shall document those referrals in the individual's medical record.

~~[(f)]~~ (g) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, when appropriate, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 2. Section **26B-5-332** is amended to read:

26B-5-332 . Involuntary commitment under court order -- Examination --

Hearing -- Power of court -- Findings required -- Costs.

- (1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application that includes:
- (a) unless the court finds that the information is not reasonably available, the proposed patient's:
 - (i) name;
 - (ii) date of birth; and
 - (iii) social security number;
 - (b)(i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or
 - (ii) a written statement by the applicant that:
 - (A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;
 - (B) is sworn to under oath; and
 - (C) states the facts upon which the application is based; and
 - (c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.
- (2) Before issuing a judicial order, the court:
- (a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and
 - (b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.
- (3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section 26B-5-334, to be detained for the purpose of examination if:
- (a) the court finds from the application, any other statements under oath, or any reports

from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4)(a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) The place of detention shall maintain a copy of the order of detention.

(5)(a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with Part 4, Commitment of Persons Under Age 18.

(7)(a) The court may, in the court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health

authority or the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is:

(i) a licensed physician; or

(ii) a psychiatric mental health nurse practitioner or a psychiatric mental health clinical nurse specialist who:

(A) is nationally certified;

(B) is doctorally trained; and

(C) has at least two years of inpatient mental health experience, regardless of the license the individual held at the time of that experience; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.

(10)(a) The designated examiners shall:

(i) conduct the examinations separately;

(ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;

(iii) inform the proposed patient, if not represented by an attorney:

(A) that the proposed patient does not have to say anything;

(B) of the nature and reasons for the examination;

(C) that the examination was ordered by the court;

(D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(E) that findings resulting from the examination will be made available to the court; and

(F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 26B-5-360, or has acceptable programs

- 270 available to the proposed patient without court proceedings.
- 271 (b) If a designated examiner reports orally under Subsection (10)(a), the designated
272 examiner shall immediately send a written report to the clerk of the court.
- 273 (11) If a designated examiner is unable to complete an examination on the first attempt
274 because the proposed patient refuses to submit to the examination, the court shall fix a
275 reasonable compensation to be paid to the examiner.
- 276 (12) If the local mental health authority, the local mental health authority's designee, or a
277 medical examiner determines before the court hearing that the conditions justifying the
278 findings leading to a commitment hearing no longer exist, the local mental health
279 authority, the local mental health authority's designee, or the medical examiner shall
280 immediately report the determination to the court.
- 281 (13) The court may terminate the proceedings and dismiss the application at any time,
282 including before the hearing, if the designated examiners or the local mental health
283 authority or the local mental health authority's designee informs the court that the
284 proposed patient:
- 285 (a) does not meet the criteria in Subsection (16);
- 286 (b) has agreed to voluntary commitment, as described in Section 26B-5-360;
- 287 (c) has acceptable options for treatment programs that are available without court
288 proceedings; or
- 289 (d) meets the criteria for assisted outpatient treatment described in Section 26B-5-351.
- 290 (14)(a) Before the hearing, the court shall provide the proposed patient an opportunity
291 to be represented by counsel, and if neither the proposed patient nor others provide
292 counsel, the court shall appoint counsel and allow counsel sufficient time to consult
293 with the proposed patient before the hearing.
- 294 (b) In the case of an indigent proposed patient, the county in which the proposed patient
295 resides or is found shall make payment of reasonable attorney fees for counsel, as
296 determined by the court.
- 297 (15)(a)(i) The court shall afford the proposed patient, the applicant, and any other
298 person to whom notice is required to be given an opportunity to appear at the
299 hearing, to testify, and to present and cross-examine witnesses.
- 300 (ii) The court may, in the court's discretion, receive the testimony of any other person.
- 301 (iii) The court may allow a waiver of the proposed patient's right to appear for good
302 cause, which cause shall be set forth in the record, or an informed waiver by the
303 patient, which shall be included in the record.

(b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

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

(e)(i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16)(a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(i)(A) the proposed patient has a mental illness;

(B) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

(C) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by

- 338 evidence of inability to weigh the possible risks of accepting or rejecting
339 treatment;
- 340 (D) there is no appropriate less-restrictive alternative to a court order of
341 commitment; and
- 342 (E) the local mental health authority can provide the proposed patient with
343 treatment that is adequate and appropriate to the proposed patient's conditions
344 and needs; or
- 345 (ii)(A) the proposed patient has been charged with a criminal offense;
- 346 (B) with respect to the charged offense, the proposed patient is found incompetent
347 to proceed as a result of a mental illness;
- 348 (C) the proposed patient has a mental illness;
- 349 (D) the proposed patient has a persistent unawareness of their mental illness and
350 the negative consequences of that illness, or within the preceding six months
351 has been requested or ordered to undergo mental health treatment but has
352 unreasonably refused to undergo that treatment;
- 353 (E) there is no appropriate less-restrictive alternative to a court order of
354 commitment; and
- 355 (F) the local mental health authority can provide the proposed patient with
356 treatment that is adequate and appropriate to the proposed patient's conditions
357 and needs.
- 358 (b)(i) If, at the hearing, the court determines that the proposed patient has a mental
359 illness but does not meet the other criteria described in Subsection (16)(a), the
360 court may consider whether the proposed patient meets the criteria for assisted
361 outpatient treatment under Section 26B-5-351.
- 362 (ii) The court may order the proposed patient to receive assisted outpatient treatment
363 in accordance with Section 26B-5-351 if, at the hearing, the court finds the
364 proposed patient meets the criteria for assisted outpatient treatment under Section
365 26B-5-351.
- 366 (iii) If the court determines that neither the criteria for commitment under Subsection
367 (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351
368 are met, the court shall dismiss the proceedings after the hearing.
- 369 (17)(a)(i) The order of commitment shall designate the period for which the patient
370 shall be treated.
- 371 (ii) If the patient is not under an order of commitment at the time of the hearing, the

- 372 patient's treatment period may not exceed six months without a review hearing.
- 373 (iii) Upon a review hearing, to be commenced before the expiration of the previous
- 374 order of commitment, an order for commitment may be for an indeterminate
- 375 period, if the court finds by clear and convincing evidence that the criteria
- 376 described in Subsection (16) will last for an indeterminate period.
- 377 (b)(i) The court shall maintain a current list of all patients under the court's order of
- 378 commitment and review the list to determine those patients who have been under
- 379 an order of commitment for the court designated period.
- 380 (ii) At least two weeks before the expiration of the designated period of any order of
- 381 commitment still in effect, the court that entered the original order of commitment
- 382 shall inform the appropriate local mental health authority or the local mental
- 383 health authority's designee of the expiration.
- 384 (iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local
- 385 mental health authority or the local mental health authority's designee shall
- 386 immediately reexamine the reasons upon which the order of commitment was
- 387 based.
- 388 (iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health
- 389 authority or the local mental health authority's designee determines that the
- 390 conditions justifying commitment no longer exist, the local mental health
- 391 authority or the local mental health authority's designee shall discharge the patient
- 392 from involuntary commitment and immediately report the discharge to the court.
- 393 (v) If, after reexamination under Subsection (17)(b)(iii), the local mental health
- 394 authority or the local mental health authority's designee determines that the
- 395 conditions justifying commitment continue to exist, the court shall immediately
- 396 appoint two designated examiners and proceed under Subsections (8) through (14).
- 397 (c)(i) The local mental health authority or the local mental health authority's
- 398 designee responsible for the care of a patient under an order of commitment for an
- 399 indeterminate period shall, at six-month intervals, reexamine the reasons upon
- 400 which the order of indeterminate commitment was based.
- 401 (ii) If the local mental health authority or the local mental health authority's designee
- 402 determines that the conditions justifying commitment no longer exist, the local
- 403 mental health authority or the local mental health authority's designee shall
- 404 discharge the patient from the local mental health authority's or the local mental
- 405 health authority designee's custody and immediately report the discharge to the

- 406 court.
- 407 (iii) If the local mental health authority or the local mental health authority's designee
408 determines that the conditions justifying commitment continue to exist, the local
409 mental health authority or the local mental health authority's designee shall send a
410 written report of the findings to the court.
- 411 (iv) A patient and the patient's counsel of record shall be notified in writing that the
412 involuntary commitment will be continued under Subsection (17)(c)(iii), the
413 reasons for the decision to continue, and that the patient has the right to a review
414 hearing by making a request to the court.
- 415 (v) Upon receiving a request under Subsection (17)(c)(iv), the court shall
416 immediately appoint two designated examiners and proceed under Subsections (8)
417 through (14).
- 418 (18)(a) Any patient committed as a result of an original hearing or a patient's legally
419 designated representative who is aggrieved by the findings, conclusions, and order of
420 the court entered in the original hearing has the right to a new hearing upon a petition
421 filed with the court within 30 days after the day on which the court order is entered.
- 422 (b) The petition shall allege error or mistake in the findings, in which case the court shall
423 appoint three impartial designated examiners previously unrelated to the case to
424 conduct an additional examination of the patient.
- 425 (c) Except as provided in Subsection (18)(b), the court shall, in all other respects,
426 conduct the new hearing in the manner otherwise permitted.
- 427 (19) The county in which the proposed patient resides or is found shall pay the costs of all
428 proceedings under this section.
- 429 (20)(a) A local mental health authority or the local mental health authority's designee
430 shall provide discharge instructions to each individual committed under this section
431 at or before the time the individual is discharged from the local mental health
432 authority's custody, regardless of the circumstances under which the individual is
433 discharged.
- 434 (b) Discharge instructions provided under Subsection (20)(a) shall include:
- 435 ~~[(i) a summary of why the individual was committed to the local mental health~~
436 ~~authority;]~~
- 437 ~~[(ii) detailed information about why the individual is being discharged from the local~~
438 ~~mental health authority's custody;]~~
- 439 ~~[(iii)]~~ (i) a safety plan for the individual based on the individual's mental illness or

- 440 mental or emotional state, if applicable;
- 441 ~~[(iv) notification to the individual's primary care provider, if applicable;]~~
- 442 ~~[(v)]~~ (ii) if the individual is discharged without food, housing, or economic security, a
- 443 referral to appropriate services, if such services exist in the individual's
- 444 community;
- 445 ~~[(vi)]~~ (iii) the phone number to call or text for a crisis services hotline, and
- 446 information about the availability of peer support services;
- 447 ~~[(vii)]~~ (iv) a copy of any psychiatric advance directive~~[-presented to the local mental~~
- 448 ~~health authority]~~, if applicable;
- 449 ~~[(viii)]~~ (v) information about how to establish a psychiatric advance directive if one [
- 450 ~~was not presented to the local mental health authority]~~ has not been completed;
- 451 ~~[(ix)]~~ (vi) as applicable, information about medications that were changed or
- 452 discontinued during the commitment;
- 453 ~~[(x) a list of any screening or diagnostic tests conducted during the commitment;]~~
- 454 ~~[(xi) a summary of therapeutic treatments provided during the commitment;]~~
- 455 ~~[(xii) any laboratory work, including blood samples or imaging, that was completed~~
- 456 ~~or attempted during the commitment; and]~~
- 457 ~~[(xiii)]~~ (vii) information about how to contact the local mental health authority [if
- 458 needed] or established provider as appropriate; and
- 459 (viii) information about how to request a copy of the individual's medical record and
- 460 how to access the electronic patient portal for the individual's medical record.
- 461 (c) If an individual's medications were changed, or if an individual was prescribed new
- 462 medications while committed under this section, discharge instructions provided
- 463 under Subsection (20)(a) shall include a clinically appropriate supply of medications,
- 464 as determined by a licensed health care provider, to allow the individual time to
- 465 access another health care provider or follow-up appointment.
- 466 (d) Discharge instructions shall be provided in paper or electronic format based on the
- 467 individual's preference.
- 468 ~~[(d)]~~ (e) If an individual refuses to accept discharge instructions, the local mental health
- 469 authority shall document the refusal in the individual's medical record.
- 470 ~~[(e)]~~ (f) If an individual's discharge instructions include referrals to services under
- 471 Subsection ~~[(20)(b)(v)]~~ (20)(b)(ii), the local mental health authority shall document
- 472 those referrals in the individual's medical record.
- 473 ~~[(f)]~~ (g) The local mental health authority shall attempt to follow up with a discharged

individual at least 48 hours after discharge, when appropriate, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

- (21) If any provision of Subsection (16)(a)(ii) or the application of any provision of Subsection (16)(a)(ii) to any person or circumstance is held invalid by a court with jurisdiction, the remainder of Subsection (16)(a)(ii) shall be given effect without the invalid provision or application. The provisions of Subsection (16)(a)(ii) are severable.

Section 3. Section **26B-6-607** is amended to read:

26B-6-607 . Temporary emergency commitment -- Observation and evaluation.

- (1) The director of the division or his designee may temporarily commit an individual to the division and therefore, as a matter of course, to an intermediate care facility for people with an intellectual disability for observation and evaluation upon:

- (a) written application by a responsible person who has reason to know that the individual is in need of commitment, stating:
 - (i) a belief that the individual has an intellectual disability and is likely to cause serious injury to self or others if not immediately committed;
 - (ii) personal knowledge of the individual's condition; and
 - (iii) the circumstances supporting that belief; or
- (b) certification by a licensed physician or designated intellectual disability professional stating that the physician or designated intellectual disability professional:
 - (i) has examined the individual within a three-day period immediately preceding the certification; and
 - (ii) is of the opinion that the individual has an intellectual disability, and that because of the individual's intellectual disability is likely to injure self or others if not immediately committed.

- (2) If the individual in need of commitment is not placed in the custody of the director or the director's designee by the person submitting the application, the director's or the director's designee may certify, either in writing or orally that the individual is in need of immediate commitment to prevent injury to self or others.

- (3) Upon receipt of the application required by Subsection (1)(a) and the certifications required by Subsections (1)(b) and (2), a peace officer may take the individual named in the application and certificates into custody, and may transport the individual to a designated intermediate care facility for people with an intellectual disability.

- (4)(a) An individual committed under this section may be held for a maximum of 72

hours, excluding Saturdays, Sundays, and [legal] state holidays. At the expiration of that time, the individual shall be released unless proceedings for involuntary commitment have been commenced under Section 26B-6-608.

(b) After proceedings for involuntary commitment have been commenced the individual shall be released unless an order of detention is issued in accordance with Section 26B-6-608.

(5) If an individual is committed to the division under this section on the application of any person other than the individual's legal guardian, spouse, parent, or next of kin, the director or his designee shall immediately give notice of the commitment to the individual's legal guardian, spouse, parent, or next of kin, if known.

(6)(a) The division or an intermediate care facility shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the custody of the division or intermediate care facility, regardless of whether the individual is discharged by being released or under other circumstances.

(b) Discharge instructions provided under Subsection (6)(a) shall include:

- (i) a summary of why the individual was committed;
- (ii) detailed information about why the individual is being discharged;
- (iii) a safety plan for the individual based on the individual's intellectual disability and condition;
- (iv) notification to the individual's primary care provider, if applicable;
- (v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;
- (vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;
- (vii) a copy of any advance directive~~[-presented to the local mental health authority]~~, if applicable;
- (viii) information about how to establish an advance directive if one was not presented to the division or intermediate care facility;
- (ix) as applicable, information about medications that were changed or discontinued during the commitment;
- (x) a list of any screening or diagnostic tests conducted during the commitment;
- (xi) a summary of therapeutic treatments provided during the commitment;
- (xii) any laboratory work, including blood samples or imaging, that was completed or

attempted during the commitment; and
(xiii) information about how to contact the division or intermediate care facility if needed.

- (c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (6)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.
- (d) If an individual refuses to accept discharge instructions, the division or intermediate care facility shall document the refusal in the individual's medical record.
- (e) If an individual's discharge instructions include referrals to services under Subsection (6)(b)(v), the division or intermediate care facility shall document those referrals in the individual's medical record.
- (f) The division shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 4. Section **26B-6-608** is amended to read:

26B-6-608 . Involuntary commitment -- Procedures -- Necessary findings --

Periodic review.

- (1) Any responsible person who has reason to know that an individual is in need of commitment, who has a belief that the individual has an intellectual disability, and who has personal knowledge of the conditions and circumstances supporting that belief, may commence proceedings for involuntary commitment by filing a written petition with the district court, or if the subject of the petition is less than 18 years old with the juvenile court, of the county in which the individual to be committed is physically located at the time the petition is filed. The application shall be accompanied by:
- (a) a certificate of a licensed physician or a designated intellectual disability professional, stating that within a seven-day period immediately preceding the certification, the physician or designated intellectual disability professional examined the individual and believes that the individual has an intellectual disability and is in need of involuntary commitment; or
- (b) a written statement by the petitioner that:
- (i) states that the individual was requested to, but refused to, submit to an examination for an intellectual disability by a licensed physician or designated

- 576 intellectual disability professional, and that the individual refuses to voluntarily go
577 to the division or an intermediate care facility for people with an intellectual
578 disability recommended by the division for treatment;
- 579 (ii) is under oath; and
- 580 (iii) sets forth the facts on which the statement is based.
- 581 (2) Before issuing a detention order, the court may require the petitioner to consult with
582 personnel at the division or at an intermediate care facility for people with an intellectual
583 disability and may direct a designated intellectual disability professional to interview the
584 petitioner and the individual to be committed, to determine the existing facts, and to
585 report them to the court.
- 586 (3) The court may issue a detention order and may direct a peace officer to immediately
587 take the individual to an intermediate care facility for people with an intellectual
588 disability to be detained for purposes of an examination if the court finds from the
589 petition, from other statements under oath, or from reports of physicians or designated
590 intellectual disability professionals that there is a reasonable basis to believe that the
591 individual to be committed:
- 592 (a) poses an immediate danger of physical injury to self or others;
- 593 (b) requires involuntary commitment pending examination and hearing;
- 594 (c) the individual was requested but refused to submit to an examination by a licensed
595 physician or designated intellectual disability professional; or
- 596 (d) the individual refused to voluntarily go to the division or to an intermediate care
597 facility for people with an intellectual disability recommended by the division.
- 598 (4)(a) If the court issues a detention order based on an application that did not include a
599 certification by a designated intellectual disability professional or physician in
600 accordance with Subsection (1)(a), the director or his designee shall within 24 hours
601 after issuance of the detention order, excluding Saturdays, Sundays, and legal
602 holidays, examine the individual, report the results of the examination to the court
603 and inform the court:
- 604 (i) whether the director or his designee believes that the individual has an intellectual
605 disability; and
- 606 (ii) whether appropriate treatment programs are available and will be used by the
607 individual without court proceedings.
- 608 (b) If the report of the director or his designee is based on an oral report of the examiner,
609 the examiner shall immediately send the results of the examination in writing to the

clerk of the court.

(5) Immediately after an individual is involuntarily committed under a detention order or under Section 26B-6-607, the director or his designee shall inform the individual, orally and in writing, of his right to communicate with an attorney. If an individual desires to communicate with an attorney, the director or his designee shall take immediate steps to assist the individual in contacting and communicating with an attorney.

(6)(a) Immediately after commencement of proceedings for involuntary commitment, the court shall give notice of commencement of the proceedings to:

(i) the individual to be committed;

(ii) the applicant;

(iii) any legal guardian of the individual;

(iv) adult members of the individual's immediate family;

(v) legal counsel of the individual to be committed, if any;

(vi) the division; and

(vii) any other person to whom the individual requests, or the court designates, notice to be given.

(b) If an individual cannot or refuses to disclose the identity of persons to be notified, the extent of notice shall be determined by the court.

(7) That notice shall:

(a) set forth the allegations of the petition and all supporting facts;

(b) be accompanied by a copy of any detention order issued under Subsection (3); and

(c) state that a hearing will be held within the time provided by law, and give the time and place for that hearing.

(8) The court may transfer the case and the custody of the individual to be committed to any other district court within the state, if:

(a) there are no appropriate facilities for persons with an intellectual disability within the judicial district; and

(b) the transfer will not be adverse to the interests of the individual.

(9)(a) Within 24 hours, excluding Saturdays, Sundays, and ~~[legal]~~ state holidays, after any order or commitment under a detention order, the court shall appoint two designated intellectual disability professionals to examine the individual. If requested by the individual's counsel, the court shall appoint a reasonably available, qualified person designated by counsel to be one of the examining designated intellectual disability professionals. The examinations shall be conducted:

- (i) separately;
- (ii) at the home of the individual to be committed, a hospital, an intermediate care facility for people with an intellectual disability, or any other suitable place not likely to have a harmful effect on the individual; and
- (iii) within a reasonable period of time after appointment of the examiners by the court.

(b) The court shall set a time for a hearing to be held within 10 court days of the appointment of the examiners. However, the court may immediately terminate the proceedings and dismiss the application if, prior to the hearing date, the examiners, the director, or his designee informs the court that:

- (i) the individual does not have an intellectual disability; or
- (ii) treatment programs are available and will be used by the individual without court proceedings.

(10)(a) Each individual has the right to be represented by counsel at the commitment hearing and in all preliminary proceedings. If neither the individual nor others provide counsel, the court shall appoint counsel and allow sufficient time for counsel to consult with the individual prior to any hearing.

(b) If the individual is indigent, the county in which the individual was physically located when taken into custody shall pay reasonable attorney fees as determined by the court.

(11) The division or a designated intellectual disability professional in charge of the individual's care shall provide all documented information on the individual to be committed and to the court at the time of the hearing. The individual's attorney shall have access to all documented information on the individual at the time of and prior to the hearing.

(12)(a) The court shall provide an opportunity to the individual, the petitioner, and all other persons to whom notice is required to be given to appear at the hearing, to testify, and to present and cross-examine witnesses.

(b) The court may, in its discretion:

- (i) receive the testimony of any other person;
- (ii) allow a waiver of the right to appear only for good cause shown;
- (iii) exclude from the hearing all persons not necessary to conduct the proceedings; and
- (iv) upon motion of counsel, require the testimony of each examiner to be given out

- 678 of the presence of any other examiner.
- 679 (c) The hearing shall be conducted in as informal a manner as may be consistent with
680 orderly procedure, and in a physical setting that is not likely to have a harmful effect
681 on the individual. The Utah Rules of Evidence apply, and the hearing shall be a
682 matter of court record. A verbatim record of the proceedings shall be maintained.
- 683 (13) The court may order commitment if, upon completion of the hearing and consideration
684 of the record, it finds by clear and convincing evidence that all of the following
685 conditions are met:
- 686 (a) the individual to be committed has an intellectual disability;
- 687 (b) because of the individual's intellectual disability one or more of the following
688 conditions exist:
- 689 (i) the individual poses an immediate danger of physical injury to self or others;
- 690 (ii) the individual lacks the capacity to provide the basic necessities of life, such as
691 food, clothing, or shelter; or
- 692 (iii) the individual is in immediate need of habilitation, rehabilitation, care, or
693 treatment to minimize the effects of the condition which poses a threat of serious
694 physical or psychological injury to the individual, and the individual lacks the
695 capacity to engage in a rational decision-making process concerning the need for
696 habilitation, rehabilitation, care, or treatment, as evidenced by an inability to
697 weigh the possible costs and benefits of the care or treatment and the alternatives
698 to it;
- 699 (c) there is no appropriate, less restrictive alternative reasonably available; and
- 700 (d) the division or the intermediate care facility for people with an intellectual disability
701 recommended by the division in which the individual is to be committed can provide
702 the individual with treatment, care, habilitation, or rehabilitation that is adequate and
703 appropriate to the individual's condition and needs.
- 704 (14) In the absence of any of the required findings by the court, described in Subsection
705 (13), the court shall dismiss the proceedings.
- 706 (15)(a) The order of commitment shall designate the period for which the individual
707 will be committed. An initial commitment may not exceed six months. Before the
708 end of the initial commitment period, the administrator of the intermediate care
709 facility for people with an intellectual disability shall commence a review hearing on
710 behalf of the individual.
- 711 (b) At the conclusion of the review hearing, the court may issue an order of commitment

for up to a one-year period.

(16) An individual committed under this part has the right to a rehearing, upon filing a petition with the court within 30 days after entry of the court's order. If the petition for rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial licensed physician and two impartial designated intellectual disability professionals who have not previously been involved in the case to examine the individual. The rehearing shall, in all other respects, be conducted in accordance with this part.

(17)(a) The court shall maintain a current list of all individuals under its orders of commitment. That list shall be reviewed in order to determine those patients who have been under an order of commitment for the designated period.

(b) At least two weeks prior to the expiration of the designated period of any commitment order still in effect, the court that entered the original order shall inform the director of the division of the impending expiration of the designated commitment period.

(c) The staff of the division shall immediately:

(i) reexamine the reasons upon which the order of commitment was based and report the results of the examination to the court;

(ii) discharge the resident from involuntary commitment if the conditions justifying commitment no longer exist; and

(iii) immediately inform the court of any discharge.

(d) If the director of the division reports to the court that the conditions justifying commitment no longer exist, and the administrator of the intermediate care facility for people with an intellectual disability does not discharge the individual at the end of the designated period, the court shall order the immediate discharge of the individual, unless involuntary commitment proceedings are again commenced in accordance with this section.

(e) If the director of the division, or the director's designee reports to the court that the conditions designated in Subsection (13) still exist, the court may extend the commitment order for up to one year. At the end of any extension, the individual must be reexamined in accordance with this section, or discharged.

(18) When a resident is discharged under this subsection, the division shall provide any further support services available and required to meet the resident's needs.

(19)(a) The division or an intermediate care facility shall provide discharge instructions

- 746 to each individual committed under this section at or before the time the individual is
747 discharged from the custody of the division or intermediate care facility, regardless of
748 whether the individual is discharged by being released or under other circumstances.
- 749 (b) Discharge instructions provided under Subsection (19)(a) shall include:
- 750 (i) a summary of why the individual was committed;
 - 751 (ii) detailed information about why the individual is being discharged;
 - 752 (iii) a safety plan for the individual based on the individual's intellectual disability
753 and condition;
 - 754 (iv) notification to the individual's primary care provider, if applicable;
 - 755 (v) if the individual is discharged without food, housing, or economic security, a
756 referral to appropriate services, if such services exist in the individual's
757 community;
 - 758 (vi) the phone number to call or text for a crisis services hotline, and information
759 about the availability of peer support services;
 - 760 (vii) a copy of any advance directive presented to the ~~[local mental health authority]~~
761 division or intermediate care facility, if applicable;
 - 762 (viii) information about how to establish an advance directive if one was not
763 presented to the division or intermediate care facility;
 - 764 (ix) as applicable, information about medications that were changed or discontinued
765 during the commitment;
 - 766 (x) a list of any screening or diagnostic tests conducted during the commitment;
 - 767 (xi) a summary of therapeutic treatments provided during the commitment;
 - 768 (xii) any laboratory work, including blood samples or imaging, that was completed or
769 attempted during the commitment; and
 - 770 (xiii) information about how to contact the division or intermediate care facility if
771 needed.
- 772 (c) If an individual's medications were changed, or if an individual was prescribed new
773 medications while committed under this section, discharge instructions provided
774 under Subsection (19)(a) shall include a clinically appropriate supply of medications,
775 as determined by a licensed health care provider, to allow the individual time to
776 access another health care provider or follow-up appointment.
- 777 (d) If an individual refuses to accept discharge instructions, the division or intermediate
778 care facility shall document the refusal in the individual's medical record.
- 779 (e) If an individual's discharge instructions include referrals to services under Subsection

780 (19)(b)(v), the division or intermediate care facility shall document those referrals in
781 the individual's medical record.

782 (f) The division shall attempt to follow up with a discharged individual at least 48 hours
783 after discharge, and may use peer support professionals when performing follow-up
784 care or developing a continuing care plan.

785 Section 5. **Effective Date.**

786 This bill takes effect on May 7, 2025.