

**62A-15-605.5 Admission of person in custody of Department of Corrections to state hospital
-- Retransfer of person to Department of Corrections.**

- (1) The executive director of the Department of Corrections may request the director to admit a person who is in the custody of the Department of Corrections to the state hospital, if the clinical director within the Department of Corrections finds that the inmate has mentally deteriorated to the point that admission to the state hospital is necessary to ensure adequate mental health treatment. In determining whether that inmate should be placed in the state hospital, the director of the division shall consider:
 - (a) the mental health treatment needs of the inmate;
 - (b) the treatment programs available at the state hospital; and
 - (c) whether the inmate meets the requirements of Subsection 62A-15-610(2).
- (2) If the director denies the admission of an inmate as requested by the clinical director within the Department of Corrections, the Board of Pardons and Parole shall determine whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole shall consider:
 - (a) the mental health treatment needs of the inmate;
 - (b) the treatment programs available at the state hospital; and
 - (c) whether the inmate meets the requirements of Subsection 62A-15-610(2).
- (3) The state hospital shall receive any person in the custody of the Department of Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody of the Department of Corrections, and the state hospital shall act solely as the agent of the Department of Corrections.
- (4) Inmates transferred to the state hospital pursuant to this section shall be transferred back to the Department of Corrections through negotiations between the director and the director of the Department of Corrections. If agreement between the director and the director of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall have final authority in determining whether a person will be transferred back to the Department of Corrections. In making that determination, that board shall consider:
 - (a) the mental health treatment needs of the inmate;
 - (b) the treatment programs available at the state hospital;
 - (c) whether the person continues to meet the requirements of Subsection 62A-15-610(2);
 - (d) the ability of the state hospital to provide adequate treatment to the person, as well as safety and security to the public; and
 - (e) whether, in the opinion of the director, in consultation with the clinical director of the state hospital, the person's treatment needs have been met.

Renumbered and Amended by Chapter 8, 2002 Special Session 5
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