

77-16b-103 Involuntary feeding or hydration of prisoners -- Petition procedures, venue -- Prisoner rights.

- (1) A correctional facility administrator may petition the district court where the correctional facility is located for an order permitting the involuntary feeding or hydration of any prisoner who is likely to suffer severe harm or death by refusing to accept sufficient nutrition or hydration.
- (2) Prior to the filing of a petition under this section, a mental health therapist who is designated by the correctional facility administrator shall conduct a mental health evaluation of the subject prisoner.
- (3) Upon the filing of a petition, the district court shall hold a hearing within two working days. The court:
 - (a) shall confidentially review the prisoner's medical and mental health records as they are available;
 - (b) may hear testimony or receive evidence, subject to the Utah Rules of Evidence, concerning the circumstances of the prisoner's lack of nutrition or hydration; and
 - (c) may exclude from the hearing any person whose presence is not necessary for the purposes of the hearing, due to the introduction of personal medical and mental health evidence.
- (4) After conducting the hearing under Subsection (3), the district court shall issue an order to involuntarily feed or hydrate the prisoner, if the court finds by a preponderance of evidence that:
 - (a)
 - (i) the prisoner is likely to suffer severe harm or death by refusing to accept sufficient nutrition or hydration; and
 - (ii) the correctional facility's medical or penological objectives are valid and outweigh the prisoner's right to refuse treatment; or
 - (b) the prisoner is refusing sufficient nutrition or hydration with the intent to obstruct or delay any judicial or administrative proceeding pending against the prisoner.
- (5) The district court shall state its findings of fact and conclusions of law on the record.
- (6) The correctional facility administrator shall serve copies of the petition and a notice of the district court hearing on the prisoner and the prisoner's counsel, if the prisoner is represented by counsel, at least 24 hours in advance of the hearing under Subsection (3).
- (7) The prisoner has the right to attend the hearing, testify, present evidence, and cross-examine witnesses.

Enacted by Chapter 355, 2012 General Session