

## **Chapter 16b**

### **Involuntary Feeding and Hydration of Inmates**

#### **77-16b-101 Title.**

This chapter is known as the "Involuntary Feeding and Hydration of Inmates."

Enacted by Chapter 355, 2012 General Session

#### **77-16b-102 Definitions.**

As used in this chapter:

- (1) "Correctional facility" means:
  - (a) a county jail;
  - (b) a secure correctional facility as defined by Section 64-13-1; or
  - (c) a secure facility as defined by Section 62A-7-101.
- (2) "Correctional facility administrator" means:
  - (a) a county sheriff in charge of a county jail;
  - (b) a designee of the executive director of the Utah Department of Corrections; or
  - (c) a designee of the director of the Division of Juvenile Justice Services.
- (3) "Medical supervision" means under the direction of a licensed physician, physician assistant, or nurse practitioner.
- (4) "Mental health therapist" has the same definition as in Section 58-60-102.
- (5) "Prisoner" means:
  - (a) any person who is a pretrial detainee or who has been committed to the custody of a sheriff or the Utah Department of Corrections, and who is physically in a correctional facility; and
  - (b) any person older than 18 years of age and younger than 21 years of age who has been committed to the custody of the Division of Juvenile Justice Services.

Amended by Chapter 121, 2014 General Session

#### **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

**77-16b-104 Involuntary feeding or hydration of prisoners -- Standards, continuing jurisdiction, and records.**

- (1) Any involuntary nutrition or hydration of a prisoner pursuant to this chapter shall be conducted under immediate medical supervision and in a medically recognized and acceptable manner.
- (2) Upon the filing of a petition pursuant to Section 77-16b-102, the court has the continuing jurisdiction to review the prisoner's need for involuntary nutrition or hydration as long as the prisoner remains in custody of the correctional facility.
- (3) A correctional facility shall maintain records of any involuntary feeding or hydration of prisoners under this chapter.
  - (a) The records are classified as "controlled" under Section 63G-2-304.
  - (b) All medical or mental health records submitted to the court under this chapter shall be kept under seal.

Enacted by Chapter 355, 2012 General Session

**77-16b-105 Involuntary feeding or hydration of prisoners -- Exceptions.**

This chapter does not apply to medically imposed fasts for the purpose of conducting medical procedures or tests, or to religious fasts of reasonable duration.

Enacted by Chapter 355, 2012 General Session