

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

29 Section 1. Section **62A-15-103** is amended to read:

30 **62A-15-103. Division -- Creation -- Responsibilities.**

31 (1) There is created the Division of Substance Abuse and Mental Health within the
32 department, under the administration and general supervision of the executive director, and,
33 with regard to its programs, under the policy direction of the board. The division is the
34 substance abuse authority and the mental health authority for this state.

35 (2) The division shall:

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

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

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

42 (iv) cooperate and assist other organizations and private treatment centers for substance
43 abusers, by providing them with essential materials for furthering programs of prevention and
44 rehabilitation of actual and potential substance abusers; and

45 (v) promote or establish programs for education and certification of instructors to
46 educate persons convicted of driving under the influence of alcohol or drugs or driving with
47 any measurable controlled substance in the body;

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

49 (ii) provide direction over the state hospital including approval of its budget,
50 administrative policy, and coordination of services with local service plans; ~~and~~

51 (iii) promulgate rules in accordance with the Title 63, Chapter 46a, Utah
52 Administrative Rulemaking Act, to educate families concerning mental illness and promote
53 family involvement, when appropriate, and with patient consent, in the treatment program of a
54 family member; and

55 (iv) promulgate rules in accordance with the Title 63, Chapter 46a, Utah
56 Administrative Rulemaking Act, to direct that all individuals receiving services through local
57 mental health authorities or the Utah State Hospital be informed about and, if desired,
58 provided assistance in completion of a declaration for mental health treatment in accordance

59 with Section 62A-15-1002; and

60 (c) (i) consult and coordinate with local substance abuse authorities and local mental
61 health authorities regarding programs and services;

62 (ii) provide consultation and other assistance to public and private agencies and groups
63 working on substance abuse and mental health issues;

64 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
65 medical and social agencies, public health authorities, law enforcement agencies, education and
66 research organizations, and other related groups;

67 (iv) promote or conduct research on substance abuse and mental health issues, and
68 submit to the governor and the Legislature recommendations for changes in policy and
69 legislation;

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

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

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

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

76 (A) local substance abuse authorities;

77 (B) local mental health authorities; and

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

81 (ix) contract with local substance abuse authorities and local mental health authorities
82 to provide a comprehensive continuum of services in accordance with board and division
83 policy, contract provisions, and the local plan;

84 (x) contract with private and public entities for special statewide or nonclinical services
85 according to board and division policy;

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

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

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

90 (C) appropriate expenditure of public funds;
91 (xii) review and make recommendations regarding each local substance abuse
92 authority's contract with its provider of substance abuse programs and services and each local
93 mental health authority's contract with its provider of mental health programs and services to
94 ensure compliance with state and federal law and policy;

95 (xiii) monitor and ensure compliance with board and division policy and contract
96 requirements; and

97 (xiv) withhold funds from local substance abuse authorities, local mental health
98 authorities, and public and private providers for contract noncompliance, failure to comply
99 with division directives regarding the use of public funds, or for misuse of public funds or
100 monies.

101 (3) (a) The division may refuse to contract with and may pursue its legal remedies
102 against any local substance abuse authority or local mental health authority that fails, or has
103 failed, to expend public funds in accordance with state law, division policy, contract
104 provisions, or directives issued in accordance with state law.

105 (b) The division may withhold funds from a local substance abuse authority or local
106 mental health authority if the authority's contract with its provider of substance abuse or mental
107 health programs or services fails to comply with state and federal law or policy.

108 (4) Before reissuing or renewing a contract with any local substance abuse authority or
109 local mental health authority, the division shall review and determine whether the local
110 substance abuse authority or local mental health authority is complying with its oversight and
111 management responsibilities described in Sections 17A-3-601, 17A-3-603.5, 17A-3-701 and
112 17A-3-703. Nothing in this Subsection (4) may be used as a defense to the responsibility and
113 liability described in Section 17A-3-603.5 and to the responsibility and liability described in
114 Section 17A-3-703.

115 (5) In carrying out its duties and responsibilities, the division may not duplicate
116 treatment or educational facilities that exist in other divisions or departments of the state, but
117 shall work in conjunction with those divisions and departments in rendering the treatment or
118 educational services that those divisions and departments are competent and able to provide.

119 (6) (a) The division may accept in the name of and on behalf of the state donations,
120 gifts, devises, or bequests of real or personal property or services to be used as specified by the

121 donor.

122 (b) Those donations, gifts, devises, or bequests shall be used by the division in
123 performing its powers and duties. Any money so obtained shall be considered private
124 nonlapsing funds and shall be deposited into an interest-bearing restricted special revenue fund
125 to be used by the division for substance abuse or mental health services. The state treasurer
126 may invest the fund and all interest shall remain with the fund.

127 (7) The division shall annually review with each local substance abuse authority and
128 each local mental health authority the authority's statutory and contract responsibilities
129 regarding:

130 (a) the use of public funds;

131 (b) oversight responsibilities regarding public funds; and

132 (c) governance of substance abuse and mental health programs and services.

133 Section 2. Section **62A-15-602** is amended to read:

134 **62A-15-602. Definitions.**

135 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of
136 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah
137 Forensic Mental Health Facility, and Part 10, Declaration for Mental Health Treatment:

138 (1) "Adult" means a person 18 years of age or older.

139 (2) "Commitment to the custody of a local mental health authority" means that an adult
140 is committed to the custody of the local mental health authority that governs the mental health
141 catchment area in which the proposed patient resides or is found.

142 (3) "Designated examiner" means a licensed physician familiar with severe mental
143 illness, preferably a psychiatrist, designated by the division as specially qualified by training or
144 experience in the diagnosis of mental or related illness or another licensed mental health
145 professional designated by the division as specially qualified by training and at least five years'
146 continual experience in the treatment of mental or related illness. At least one designated
147 examiner in any case shall be a licensed physician. No person who is the applicant, or who
148 signs the certification, under Section 62A-15-631 may be a designated examiner in the same
149 case.

150 (4) "Designee" means a physician who has responsibility for medical functions
151 including admission and discharge, an employee of a local mental health authority, or an

152 employee of an agency that has contracted with a local mental health authority to provide
153 mental health services under Section 17A-3-606.

154 (5) "Institution" means a hospital, or a health facility licensed under the provisions of
155 Section 26-21-9.

156 (6) "Licensed physician" means an individual licensed under the laws of this state to
157 practice medicine, or a medical officer of the United States government while in this state in
158 the performance of official duties.

159 (7) "Local comprehensive community mental health center" means an agency or
160 organization that provides treatment and services to residents of a designated geographic area,
161 operated by or under contract with a local mental health authority, in compliance with state
162 standards for local comprehensive community mental health centers.

163 (8) (a) "Mental illness" for purposes of this part only, means a severe psychiatric
164 disorder [as defined by the current edition of the Diagnostic and Statistical Manual of Mental
165 Disorders published by the American Psychiatric Association] which substantially impairs a
166 person's [mental, emotional, behavioral, or related functioning.] thought processes, sensory
167 input, or mood balance, causing delusions, hallucinations, threatening behavior or dangerous
168 paranoid ideations, or which renders a person unable to provide the basic necessities of life.

169 (b) "Mental illness" does not include the following conditions unless a severe
170 psychiatric condition exists independently of one of the following conditions, and is not
171 induced or caused by the following conditions:

172 (i) conditions which are primarily due to drug abuse or alcoholism;

173 (ii) other known neurological disorders such as epilepsy, multiple sclerosis, Parkinson's
174 disease, or Alzheimer's disease;

175 (iii) age-related impairments of the brain;

176 (iv) brain changes related to medical conditions or traumatic brain injury;

177 (v) moderate, severe, and profound mental retardation as defined by the APA-DSM; or

178 (vi) pervasive developmental disorders, including autistic disorder, Rett's disorder, and
179 Asperger's disorder as defined by the APA-DSM.

180 (9) "Mental health facility" means the Utah State Hospital or other facility that
181 provides mental health services under contract with the division, a local mental health
182 authority, or organization that contracts with a local mental health authority.

183 (10) "Mental health officer" means an individual who is designated by a local mental
184 health authority as qualified by training and experience in the recognition and identification of
185 mental illness, to interact with and transport persons to any mental health facility.

186 (11) "Patient" means an individual [~~who has been temporarily placed in~~] under
187 commitment to the custody or to the treatment services of a local mental health authority[~~, or~~
188 ~~who has been committed to a local mental health authority either voluntarily or by court order~~].

189 (12) "Substantial danger" means the person, by his or her behavior, due to mental
190 illness:

191 (a) is at serious risk to commit suicide, inflict serious bodily harm on himself or
192 herself, or because of his or her actions or inaction, to suffer serious physical harm within 90
193 days; or

194 (b) is at serious risk to cause or attempt to cause harm to another, which may include:

195 (i) that he or she has inflicted or attempted to inflict bodily harm on another; or

196 (ii) that he or she has presented a danger to a person in his or her care; and

197 (c) is incapable of providing the basic necessities of life, such as food, clothing, and
198 shelter, to a degree that physically harms their health or safety.

199 [~~(12)~~] (13) "Treatment" means psychotherapy, medication, including the administration
200 of psychotropic medication, and other medical treatments that are generally accepted medical
201 and psychosocial interventions for the purpose of restoring the patient to an optimal level of
202 functioning in the least restrictive environment.

203 Section 3. Section **62A-15-631** is amended to read:

204 **62A-15-631. Involuntary commitment under court order -- Examination --**
205 **Hearing -- Power of court -- Findings required -- Costs.**

206 (1) Proceedings for involuntary commitment of an individual who is 18 years of age or
207 older may be commenced by filing a written application with the district court of the county in
208 which the proposed patient resides or is found, by a responsible person who has reason to know
209 of the condition or circumstances of the proposed patient which lead to the belief that the
210 individual is mentally ill and should be involuntarily committed. That application shall be
211 accompanied by:

212 (a) a certificate of a licensed physician or a designated examiner stating that within a
213 seven-day period immediately preceding the certification the physician or designated examiner

214 has examined the individual, and that he is of the opinion that the individual is mentally ill and
215 should be involuntarily committed; or

216 (b) a written statement by the applicant that the individual has been requested to but
217 has refused to submit to an examination of mental condition by a licensed physician or
218 designated examiner. That application shall be sworn to under oath and shall state the facts
219 upon which the application is based.

220 (2) Prior to issuing a judicial order, the court may require the applicant to consult with
221 the appropriate local mental health authority, or may direct a mental health professional from
222 that local mental health authority to interview the applicant and the proposed patient to
223 determine the existing facts and report them to the court.

224 (3) If the court finds from the application, from any other statements under oath, or
225 from any reports from a mental health professional that there is a reasonable basis to believe
226 that the proposed [~~patient's mental condition and immediate~~] patient has a mental illness which
227 poses a substantial danger, as defined in Section 62A-15-602, to himself, others, or property
228 [~~requires~~] requiring involuntary commitment pending examination and hearing; or, if the
229 proposed patient has refused to submit to an interview with a mental health professional as
230 directed by the court or to go to a treatment facility voluntarily, the court may issue an order,
231 directed to a mental health officer or peace officer, to immediately place the proposed patient in
232 the custody of a local mental health authority or in a temporary emergency facility as provided
233 in Section 62A-15-634 to be detained for the purpose of examination. Within 24 hours of the
234 issuance of the order for examination, a local mental health authority or its designee shall
235 report to the court, orally or in writing, whether the patient is, in the opinion of the examiners,
236 mentally ill, whether the patient has agreed to become a voluntary patient under Section
237 62A-15-625, and whether treatment programs are available and acceptable without court
238 proceedings. Based on that information, the court may, without taking any further action,
239 terminate the proceedings and dismiss the application. In any event, if the examiner reports
240 orally, he shall immediately send the report in writing to the clerk of the court.

241 (4) Notice of commencement of proceedings for involuntary commitment, setting forth
242 the allegations of the application and any reported facts, together with a copy of any official
243 order of detention, shall be provided by the court to a proposed patient prior to, or upon,
244 placement in the custody of a local mental health authority or, with respect to any individual

245 presently in the custody of a local mental health authority whose status is being changed from
246 voluntary to involuntary, upon the filing of an application for that purpose with the court. A
247 copy of that order of detention shall be maintained at the place of detention.

248 (5) Notice of commencement of those proceedings shall be provided by the court as
249 soon as practicable to the applicant, any legal guardian, any immediate adult family members,
250 legal counsel for the parties involved, and any other persons whom the proposed patient or the
251 court shall designate. That notice shall advise those persons that a hearing may be held within
252 the time provided by law. If the patient has refused to permit release of information necessary
253 for provisions of notice under this subsection, the extent of notice shall be determined by the
254 court.

255 (6) Proceedings for commitment of an individual under the age of 18 years to the
256 division may be commenced by filing a written application with the juvenile court in
257 accordance with the provisions of Part 7.

258 (7) The district court may, in its discretion, transfer the case to any other district court
259 within this state, provided that the transfer will not be adverse to the interest of the proposed
260 patient.

261 (8) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the
262 issuance of a judicial order, or after commitment of a proposed patient to a local mental health
263 authority under court order for detention or examination, the court shall appoint two designated
264 examiners to examine the proposed patient. If requested by the proposed patient's counsel, the
265 court shall appoint, as one of the examiners, a reasonably available qualified person designated
266 by counsel. The examinations, to be conducted separately, shall be held at the home of the
267 proposed patient, a hospital or other medical facility, or at any other suitable place that is not
268 likely to have a harmful effect on the patient's health.

269 (b) The examiner shall inform the patient if not represented by an attorney that he or
270 she has the right to remain silent, the nature and reasons for the examination, that it was
271 ordered by the court, that any information volunteered could form part of the basis for his or
272 her involuntary commitment, and that findings resulting from the examination will be made
273 available to the court.

274 ~~(b)~~ (c) A time shall be set for a hearing to be held within ~~ten~~ five court days of the
275 appointment of the designated examiners, unless those examiners or a local mental health

276 authority or its designee informs the court prior to that hearing date that the patient is not
277 mentally ill, that he has agreed to become a voluntary patient under Section 62A-15-625, or
278 that treatment programs are available and acceptable without court proceedings, in which event
279 the court may, without taking any further action, terminate the proceedings and dismiss the
280 application.

281 (9) (a) Prior to the hearing, an opportunity to be represented by counsel shall be
282 afforded to every proposed patient, and if neither the patient nor others provide counsel, the
283 court shall appoint counsel and allow him sufficient time to consult with the patient prior to the
284 hearing. In the case of an indigent patient, the payment of reasonable attorneys' fees for
285 counsel, as determined by the court, shall be made by the county in which the patient resides or
286 was found.

287 (b) The proposed patient, the applicant, and all other persons to whom notice is
288 required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to
289 present and cross-examine witnesses. The court may, in its discretion, receive the testimony of
290 any other person. The court may allow a waiver of the patient's right to appear only for good
291 cause shown, and that cause shall be made a matter of court record.

292 (c) The court is authorized to exclude all persons not necessary for the conduct of the
293 proceedings and may, upon motion of counsel, require the testimony of each examiner to be
294 given out of the presence of any other examiners.

295 (d) The hearing shall be conducted in as informal a manner as may be consistent with
296 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
297 mental health of the proposed patient.

298 (e) The court shall [~~receive~~] consider all relevant historical and material [~~evidence~~]
299 information which is offered, subject to the rules of evidence.

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

- 302 [~~(i)~~] (A) the detention order;
- 303 [~~(ii)~~] (B) admission notes;
- 304 [~~(iii)~~] (C) the diagnosis;
- 305 [~~(iv)~~] (D) any doctors' orders;
- 306 [~~(v)~~] (E) progress notes;

307 [~~(vi)~~] (F) nursing notes; and

308 [~~(vii)~~] (G) medication records pertaining to the current commitment.

309 (ii) That information shall also be supplied to the patient's counsel at the time of the
310 hearing, and at any time prior to the hearing upon request.

311 (10) The court shall order commitment of an individual who is 18 years of age or older
312 to a local mental health authority if, upon completion of the hearing and consideration of the
313 ~~[record]~~ information presented in accordance with Subsection (9)(e), the court finds by clear
314 and convincing evidence that:

315 (a) the proposed patient has a mental illness;

316 (b) because of the proposed patient's mental illness he poses ~~[an immediate]~~ a
317 substantial danger, as defined in Section 62A-15-602, of physical injury to others or himself,
318 which may include the inability to provide the basic necessities of life such as food, clothing,
319 and shelter, if allowed to remain at liberty;

320 (c) the patient lacks the ability to engage in a rational decision-making process
321 regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh
322 the possible ~~[costs and benefits of]~~ risks of accepting or rejecting treatment;

323 (d) there is no appropriate less-restrictive alternative to a court order of commitment;
324 and

325 (e) the local mental health authority can provide the individual with treatment that is
326 adequate and appropriate to his conditions and needs. In the absence of the required findings of
327 the court after the hearing, the court shall forthwith dismiss the proceedings.

328 (11) (a) The order of commitment shall designate the period for which the individual
329 shall be treated. When the individual is not under an order of commitment at the time of the
330 hearing, that period may not exceed six months without benefit of a review hearing. Upon
331 such a review hearing, to be commenced prior to the expiration of the previous order, an order
332 for commitment may be for an indeterminate period, if the court finds by clear and convincing
333 evidence that the required conditions in Subsection (10) will last for an indeterminate period.

334 (b) The court shall maintain a current list of all patients under its order of commitment.
335 That list shall be reviewed to determine those patients who have been under an order of
336 commitment for the designated period. At least two weeks prior to the expiration of the
337 designated period of any order of commitment still in effect, the court that entered the original

338 order shall inform the appropriate local mental health authority or its designee. The local
339 mental health authority or its designee shall immediately reexamine the reasons upon which the
340 order of commitment was based. If the local mental health authority or its designee determines
341 that the conditions justifying that commitment no longer exist, it shall discharge the patient
342 from involuntary commitment and immediately report that to the court. Otherwise, the court
343 shall immediately appoint two designated examiners and proceed under Subsections (8)
344 through (10).

345 (c) The local mental health authority or its designee responsible for the care of a patient
346 under an order of commitment for an indeterminate period, shall at six-month intervals
347 reexamine the reasons upon which the order of indeterminate commitment was based. If the
348 local mental health authority or its designee determines that the conditions justifying that
349 commitment no longer exist, that local mental health authority or its designee shall discharge
350 the patient from its custody and immediately report the discharge to the court. If the local
351 mental health authority or its designee determines that the conditions justifying that
352 commitment continue to exist, the local mental health authority or its designee shall send a
353 written report of those findings to the court. The patient and his counsel of record shall be
354 notified in writing that the involuntary commitment will be continued, the reasons for that
355 decision, and that the patient has the right to a review hearing by making a request to the court.
356 Upon receiving the request, the court shall immediately appoint two designated examiners and
357 proceed under Subsections (8) through (10).

358 (12) In the event that the designated examiners are unable, because a proposed patient
359 refuses to submit to an examination, to complete that examination on the first attempt, the
360 court shall fix a reasonable compensation to be paid to those designated examiners for their
361 services.

362 (13) Any person committed as a result of an original hearing or a person's legally
363 designated representative who is aggrieved by the findings, conclusions, and order of the court
364 entered in the original hearing has the right to a new hearing upon a petition filed with the court
365 within 30 days of the entry of the court order. The petition must allege error or mistake in the
366 findings, in which case the court shall appoint three impartial designated examiners previously
367 unrelated to the case to conduct an additional examination of the patient. The new hearing
368 shall, in all other respects, be conducted in the manner otherwise permitted.

369 (14) Costs of all proceedings under this section shall be paid by the county in which the
370 proposed patient resides or is found.

371 Section 4. Section **62A-15-701** is amended to read:

372 **62A-15-701. Definitions.**

373 As used in this part:

374 (1) "Child" means a person under 18 years of age.

375 (2) "Commit" and "commitment" mean the transfer of physical or legal custody in
376 accordance with the requirements of this part.

377 (3) "Legal custody" means:

378 (a) the right to determine where and with whom the child shall live;

379 (b) the right to participate in all treatment decisions and to consent or withhold consent
380 for treatment in which a constitutionally protected liberty or privacy interest may be affected,
381 including antipsychotic medication, electroshock therapy, and psychosurgery; and

382 (c) the right to authorize surgery or other extraordinary medical care.

383 (4) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic
384 and Statistical Manual of Mental Disorders, that substantially impairs a person's mental,
385 emotional, behavioral, or related functioning to such an extent that he requires care and
386 treatment for his own welfare, the welfare of others, or the community.

387 [~~4~~] (5) "Physical custody" means:

388 (a) placement of a child in any residential or inpatient setting;

389 (b) the right to physical custody of a child;

390 (c) the right and duty to protect the child; and

391 (d) the duty to provide, or insure that the child is provided with, adequate food,
392 clothing, shelter, and ordinary medical care.

393 [~~5~~] (6) "Residential" means any out-of-home placement made by a local mental
394 health authority, but does not include out-of-home respite care.

395 [~~6~~] (7) "Respite care" means temporary, periodic relief provided to parents or
396 guardians from the daily care of children with serious emotional disorders for the limited time
397 periods designated by the division.

398 Section 5. Section **62A-15-902** is amended to read:

399 **62A-15-902. Design and operation -- Security.**

400 (1) The forensic mental health facility shall be designed as a secure treatment facility.
401 The department shall have primary responsibility to design the treatment environment.
402 However, the department shall consult with the Department of Corrections on all matters that
403 affect the ability to secure the facility, its residents, and staff.

404 (2) (a) The forensic mental health facility shall be designed to separately accommodate
405 the following populations:

406 (i) prison inmates displaying mental illness[~~as defined in Section 62A-15-602,~~
407 necessitating treatment in a secure mental health facility;

408 (ii) criminally adjudicated persons found guilty and mentally ill or undergoing
409 evaluation for mental illness under Title 77, Chapter 16a, Commitment and Treatment of
410 Mentally Ill Persons;

411 (iii) criminally adjudicated persons found guilty and mentally ill under Title 77,
412 Chapter 16a, Commitment and Treatment of Mentally Ill Persons, who are also mentally
413 retarded;

414 (iv) persons found by a court to be incompetent to proceed in accordance with Title 77,
415 Chapter 15, Inquiry Into Sanity of Defendant, or not guilty by reason of insanity under Title 77,
416 Chapter 14, Defenses; and

417 (v) persons who are civilly committed to the custody of a local mental health authority
418 in accordance with Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health
419 Facilities, and who may not be properly supervised by the Utah State Hospital because of a lack
420 of necessary security, as determined by the superintendent or his designee.

421 (b) Placement of an offender in the forensic mental health facility under any category
422 described in Subsection (2)(a)(ii), (iii), or (iv) shall be made on the basis of the offender's status
423 as established by the court at the time of adjudication.

424 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
425 department shall make rules providing for the allocation of beds to the categories described in
426 Subsection (2)(a).

427 (3) The department shall:

428 (a) own and operate the forensic mental health facility;

429 (b) provide and supervise administrative and clinical staff; and

430 (c) provide security staff who are trained both as psychiatric technicians and certified

431 by the Department of Corrections to perform security responsibilities for the forensic mental
432 health facility.

433 (4) As used in this part, "mental illness" means a psychiatric disorder as defined by the
434 current Diagnostic and Statistical Manual of Mental Disorders, that substantially impairs a
435 person's mental, emotional, behavioral, or related functioning to such an extent that he requires
436 care and treatment for his own welfare, the welfare of others, or the community.

437 Section 6. Section **62A-15-1001** is amended to read:

438 **62A-15-1001. Definitions.**

439 As used in this part:

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

442 (2) "Attorney-in-fact" means an adult properly appointed under this part to make
443 mental health treatment decisions for a declarant under a declaration for mental health
444 treatment.

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

450 (4) "Mental health facility" means the same as that term is defined in Section
451 62A-15-602.

452 (5) "Mental health treatment" means convulsive treatment, treatment with psychoactive
453 medication, or admission to and retention in a facility for a period not to exceed 17 days.

454 (6) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic
455 and Statistical Manual of Mental Disorders, that substantially impairs a person's mental,
456 emotional, behavioral, or related functioning to such an extent that he requires care and
457 treatment for his own welfare, the welfare of others, or the community.

458 Section 7. **Reporting requirements.**

459 On or before November 1, 2004, the division shall report to the Health and Human
460 Services Interim Committee an analysis of mental health commitments using the following
461 information:

462 (1) the total number of individuals committed under the definitions of mental illness
463 and substantial danger;

464 (2) the length of time between initial hold and commitment hearing, and the mental
465 health facility or unit where the individual was placed during this time period;

466 (3) the total cost of care given between detention of the individual and formal
467 commitment, or until the time the individual hold is dropped and the individual is discharged
468 from the facility;

469 (4) for each individual committed, actual placement, including days in inpatient
470 settings before a community placement occurred;

471 (5) the duration for the commitment, including all recommitments;

472 (6) the length of time between termination of the commitment and recommitment, if it
473 occurs; and

474 (7) the number of people lost to followup and why.

Legislative Review Note
as of 11-20-02 5:02 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-16-02 11:56 AM

The Health and Human Services Interim Committee recommended this bill.

Legislative Committee Note
as of 12-16-02 11:56 AM

The Involuntary Commitment of the Mentally Ill Task Force recommended this bill.

AMENDED NOTE

State Impact

It is estimated that provisions of this legislation would increase the number of annual involuntary commitment orders by about 45. The cost of services related to these additional commitment orders is estimated at \$188,700 (General Fund). Local Mental Health Centers will draw down additional Medicaid funds estimated over \$400,000. Additional costs to the Court system is estimated at \$74,400 (General Fund). There will also be a cost to local county attorney offices, estimated at \$25,000 annually.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$263,100	\$263,100	\$0	\$0
Transfers	\$0	\$0	\$0	\$0
TOTAL	<u><u>\$263,100</u></u>	<u><u>\$263,100</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>

Individual and Business Impact

In rare cases, where a client has resources or insurance, some of the costs of the mental health services would be borne by the client or the insurance carrier.

Office of the Legislative Fiscal Analyst