

1 **INVOLUNTARY CIVIL COMMITMENT INFORMATION**

2 **AMENDMENTS**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Daniel W. Thatcher**

6 House Sponsor: Lee B. Perry

8 **LONG TITLE**

9 **General Description:**

10 This bill adds requirements for collecting certain information for an individual who a
11 court orders to be involuntarily civilly committed.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ adds a requirement that an application for an individual to be involuntarily civilly
15 committed, if reasonably available, contain the individual's name, date of birth, and
16 Social Security number.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **62A-15-631**, as last amended by Laws of Utah 2012, Chapter 248

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

26 Section 1. Section **62A-15-631** is amended to read:

27 **62A-15-631. Involuntary commitment under court order -- Examination --**
28 **Hearing -- Power of court -- Findings required -- Costs.**

29 (1) Proceedings for involuntary commitment of an individual who is 18 years of age or

30 older may be commenced by filing a written application with the district court of the county in
31 which the proposed patient resides or is found, by a responsible person who has reason to know
32 of the condition or circumstances of the proposed patient which lead to the belief that the
33 individual has a mental illness and should be involuntarily committed. [~~That~~] The application
34 shall [~~be accompanied by~~] include:

35 (a) unless the court finds that the information is not reasonably available, the
36 individual's:

37 (i) name;

38 (ii) date of birth; and

39 (iii) Social Security number; and

40 (b) either:

41 [~~(a)~~] (i) a certificate of a licensed physician or a designated examiner stating that within
42 a seven-day period immediately preceding the certification the physician or designated
43 examiner has examined the individual, and that the physician or designated examiner is of the
44 opinion that the individual is mentally ill and should be involuntarily committed; or

45 [~~(b)~~] (ii) a written statement by the applicant that:

46 [~~(i)~~] (A) the individual has been requested to, but has refused to, submit to an
47 examination of mental condition by a licensed physician or designated examiner;

48 [~~(ii)~~] (B) is sworn to under oath; and

49 [~~(iii)~~] (C) states the facts upon which the application is based.

50 (2) Before issuing a judicial order, the court may require the applicant to consult with
51 the appropriate local mental health authority, or may direct a mental health professional from
52 that local mental health authority to interview the applicant and the proposed patient to
53 determine the existing facts and report them to the court.

54 (3) If the court finds from the application, from any other statements under oath, or
55 from any reports from a mental health professional that there is a reasonable basis to believe
56 that the proposed patient has a mental illness which poses a substantial danger, as defined in
57 Section 62A-15-602, to self or others requiring involuntary commitment pending examination

58 and hearing; or, if the proposed patient has refused to submit to an interview with a mental
59 health professional as directed by the court or to go to a treatment facility voluntarily, the court
60 may issue an order, directed to a mental health officer or peace officer, to immediately place
61 the proposed patient in the custody of a local mental health authority or in a temporary
62 emergency facility as provided in Section 62A-15-634 to be detained for the purpose of
63 examination. Within 24 hours of the issuance of the order for examination, a local mental
64 health authority or its designee shall report to the court, orally or in writing, whether the patient
65 is, in the opinion of the examiners, mentally ill, whether the patient has agreed to become a
66 voluntary patient under Section 62A-15-625, and whether treatment programs are available and
67 acceptable without court proceedings. Based on that information, the court may, without
68 taking any further action, terminate the proceedings and dismiss the application. In any event,
69 if the examiner reports orally, the examiner shall immediately send the report in writing to the
70 clerk of the court.

71 (4) Notice of commencement of proceedings for involuntary commitment, setting forth
72 the allegations of the application and any reported facts, together with a copy of any official
73 order of detention, shall be provided by the court to a proposed patient before, or upon,
74 placement in the custody of a local mental health authority or, with respect to any individual
75 presently in the custody of a local mental health authority whose status is being changed from
76 voluntary to involuntary, upon the filing of an application for that purpose with the court. A
77 copy of that order of detention shall be maintained at the place of detention.

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

85 (6) Proceedings for commitment of an individual under the age of 18 years to the

86 division may be commenced by filing a written application with the juvenile court in
87 accordance with the provisions of Part 7, Commitment of Persons Under Age 18 to Division of
88 Substance Abuse and Mental Health.

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

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

100 (b) The examiner shall inform the patient if not represented by an attorney that, if
101 desired, the patient does not have to say anything, the nature and reasons for the examination,
102 that it was ordered by the court, that any information volunteered could form part of the basis
103 for his or her involuntary commitment, and that findings resulting from the examination will be
104 made available to the court.

105 (c) A time shall be set for a hearing to be held within 10 calendar days of the
106 appointment of the designated examiners, unless those examiners or a local mental health
107 authority or its designee informs the court prior to that hearing date that the patient is not
108 mentally ill, that the patient has agreed to become a voluntary patient under Section
109 62A-15-625, or that treatment programs are available and acceptable without court
110 proceedings, in which event the court may, without taking any further action, terminate the
111 proceedings and dismiss the application.

112 (9) (a) Before the hearing, an opportunity to be represented by counsel shall be
113 afforded to every proposed patient, and if neither the patient nor others provide counsel, the

114 court shall appoint counsel and allow counsel sufficient time to consult with the patient before
115 the hearing. In the case of an indigent patient, the payment of reasonable attorney fees for
116 counsel, as determined by the court, shall be made by the county in which the patient resides or
117 was found.

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

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

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

129 (e) The court shall consider all relevant historical and material information which is
130 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah
131 Rules of Evidence.

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

- 134 (A) the detention order;
- 135 (B) admission notes;
- 136 (C) the diagnosis;
- 137 (D) any doctors' orders;
- 138 (E) progress notes;
- 139 (F) nursing notes; and
- 140 (G) medication records pertaining to the current commitment.

141 (ii) That information shall also be supplied to the patient's counsel at the time of the

142 hearing, and at any time prior to the hearing upon request.

143 (10) The court shall order commitment of an individual who is 18 years of age or older
144 to a local mental health authority if, upon completion of the hearing and consideration of the
145 information presented in accordance with Subsection (9)(e), the court finds by clear and
146 convincing evidence that:

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

148 (b) because of the proposed patient's mental illness the proposed patient poses a
149 substantial danger, as defined in Section 62A-15-602, to self or others, which may include the
150 inability to provide the basic necessities of life such as food, clothing, and shelter, if allowed to
151 remain at liberty;

152 (c) the patient lacks the ability to engage in a rational decision-making process
153 regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh
154 the possible risks of accepting or rejecting treatment;

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

157 (e) the local mental health authority can provide the individual with treatment that is
158 adequate and appropriate to the individual's conditions and needs. In the absence of the
159 required findings of the court after the hearing, the court shall forthwith dismiss the
160 proceedings.

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

167 (b) The court shall maintain a current list of all patients under its order of commitment.
168 That list shall be reviewed to determine those patients who have been under an order of
169 commitment for the designated period. At least two weeks prior to the expiration of the

170 designated period of any order of commitment still in effect, the court that entered the original
171 order shall inform the appropriate local mental health authority or its designee. The local
172 mental health authority or its designee shall immediately reexamine the reasons upon which the
173 order of commitment was based. If the local mental health authority or its designee determines
174 that the conditions justifying that commitment no longer exist, it shall discharge the patient
175 from involuntary commitment and immediately report that to the court. Otherwise, the court
176 shall immediately appoint two designated examiners and proceed under Subsections (8)
177 through (10).

178 (c) The local mental health authority or its designee responsible for the care of a patient
179 under an order of commitment for an indeterminate period, shall at six-month intervals
180 reexamine the reasons upon which the order of indeterminate commitment was based. If the
181 local mental health authority or its designee determines that the conditions justifying that
182 commitment no longer exist, that local mental health authority or its designee shall discharge
183 the patient from its custody and immediately report the discharge to the court. If the local
184 mental health authority or its designee determines that the conditions justifying that
185 commitment continue to exist, the local mental health authority or its designee shall send a
186 written report of those findings to the court. The patient and his counsel of record shall be
187 notified in writing that the involuntary commitment will be continued, the reasons for that
188 decision, and that the patient has the right to a review hearing by making a request to the court.
189 Upon receiving the request, the court shall immediately appoint two designated examiners and
190 proceed under Subsections (8) through (10).

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

195 (13) Any person committed as a result of an original hearing or a person's legally
196 designated representative who is aggrieved by the findings, conclusions, and order of the court
197 entered in the original hearing has the right to a new hearing upon a petition filed with the court

198 within 30 days of the entry of the court order. The petition must allege error or mistake in the
199 findings, in which case the court shall appoint three impartial designated examiners previously
200 unrelated to the case to conduct an additional examination of the patient. The new hearing
201 shall, in all other respects, be conducted in the manner otherwise permitted.

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