

Representative Edward H. Redd proposes the following substitute bill:

INVOLUNTARY CIVIL COMMITMENT MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Edward H. Redd

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts a provision related to the temporary, involuntary commitment of an adult.

Highlighted Provisions:

This bill:

► amends a provision relating to the maximum number of hours an adult may be held in temporary, involuntary commitment by a local mental health authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-103, as last amended by Laws of Utah 2015, Chapter 412

62A-15-629, as last amended by Laws of Utah 2011, Chapter 366

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

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



26 **62A-15-103. Division -- Creation -- Responsibilities.**

27 (1) There is created the Division of Substance Abuse and Mental Health within the
28 department, under the administration and general supervision of the executive director. The
29 division is the substance abuse authority and the mental health authority for this state.

30 (2) The division shall:

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

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

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

37 (iv) cooperate with and assist treatment centers, recovery residences, and other
38 organizations that provide services to individuals recovering from a substance abuse disorder,
39 by identifying and disseminating information about effective practices and programs;

40 (v) promote integrated programs that address an individual's substance abuse, mental
41 health, physical health, and criminal risk factors;

42 (vi) establish and promote an evidence-based continuum of screening, assessment,
43 prevention, treatment, and recovery support services in the community for individuals with
44 substance abuse and mental illness that addresses criminal risk factors;

45 (vii) evaluate the effectiveness of programs described in Subsection (2);

46 (viii) consider the impact of the programs described in Subsection (2) on:

47 (A) emergency department utilization;

48 (B) jail and prison populations;

49 (C) the homeless population; and

50 (D) the child welfare system; and

51 (ix) promote or establish programs for education and certification of instructors to
52 educate persons convicted of driving under the influence of alcohol or drugs or driving with
53 any measurable controlled substance in the body;

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

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

57 (iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative
58 Rulemaking Act, to educate families concerning mental illness and promote family
59 involvement, when appropriate, and with patient consent, in the treatment program of a family
60 member; and

61 (iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative
62 Rulemaking Act, to direct that all individuals receiving services through local mental health
63 authorities or the Utah State Hospital be informed about and, if desired, provided assistance in
64 completion of a declaration for mental health treatment in accordance with Section
65 [62A-15-1002](#);

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

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

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

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

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

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

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

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

82 (A) local substance abuse authorities;

83 (B) local mental health authorities; and

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

87 (ix) contract with local substance abuse authorities and local mental health authorities

88 to provide a comprehensive continuum of services that include community-based services for
89 individuals involved in the criminal justice system, in accordance with division policy, contract
90 provisions, and the local plan;

91 (x) contract with private and public entities for special statewide or nonclinical
92 services, or services for individuals involved in the criminal justice system, according to
93 division rules;

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

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

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

98 (C) services result in improved overall health and functioning;

99 (D) a statewide comprehensive continuum of community-based services designed to
100 reduce criminal risk factors for individuals who are determined to have substance abuse or
101 mental illness conditions or both, and who are involved in the criminal justice system;

102 (E) compliance, where appropriate, with the certification requirements in Subsection
103 (2)(i); and

104 (F) appropriate expenditure of public funds;

105 (xii) review and make recommendations regarding each local substance abuse
106 authority's contract with its provider of substance abuse programs and services and each local
107 mental health authority's contract with its provider of mental health programs and services to
108 ensure compliance with state and federal law and policy;

109 (xiii) monitor and ensure compliance with division rules and contract requirements;
110 and

111 (xiv) withhold funds from local substance abuse authorities, local mental health
112 authorities, and public and private providers for contract noncompliance, failure to comply
113 with division directives regarding the use of public funds, or for misuse of public funds or
114 money;

115 (d) assure that the requirements of this part are met and applied uniformly by local
116 substance abuse authorities and local mental health authorities across the state;

117 (e) require each local substance abuse authority and each local mental health authority
118 to submit its plan to the division by May [±] 15 of each year;

119 (f) conduct an annual program audit and review of each local substance abuse authority
120 in the state and its contract provider and each local mental health authority in the state and its
121 contract provider, including:

122 (i) a review and determination regarding whether:

123 (A) public funds allocated to local substance abuse authorities and local mental health
124 authorities are consistent with services rendered and outcomes reported by them or their
125 contract providers; and

126 (B) each local substance abuse authority and each local mental health authority is
127 exercising sufficient oversight and control over public funds allocated for substance abuse and
128 mental health programs and services; and

129 (ii) items determined by the division to be necessary and appropriate; and

130 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
131 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

132 (h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
133 Rulemaking Act, minimum standards and requirements for the provision of substance abuse
134 and mental health treatment to individuals who are required to participate in treatment by the
135 court or the Board of Pardons and Parole, or who are incarcerated, including:

136 (i) collaboration with the Department of Corrections, the Utah Substance Abuse
137 Advisory Council to develop and coordinate the standards, including standards for county and
138 state programs serving individuals convicted of class A and class B misdemeanors;

139 (ii) determining that the standards ensure available treatment includes the most current
140 practices and procedures demonstrated by recognized scientific research to reduce recidivism,
141 including focus on the individual's criminal risk factors; and

142 (iii) requiring that all public and private treatment programs meet the standards
143 established under this Subsection (2)(h) in order to receive public funds allocated to the
144 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
145 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

146 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
147 Rulemaking Act, the requirements and procedures for the certification of licensed public and
148 private providers who provide, as part of their practice, substance abuse and mental health
149 treatment to individuals involved in the criminal justice system, including:

150 (i) collaboration with the Department of Corrections, the Utah Substance Abuse
151 Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement
152 the certification process;

153 (ii) basing the certification process on the standards developed under Subsection (2)(h)
154 for the treatment of individuals involved in the criminal justice system; and

155 (iii) the requirement that all public and private providers of treatment to individuals
156 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
157 shall renew the certification every two years, in order to qualify for funds allocated to the
158 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
159 on or after July 1, 2016;

160 (j) collaboration with the Commission on Criminal and Juvenile Justice to analyze and
161 provide recommendations to the Legislature regarding:

162 (i) pretrial services and the resources needed for the reduced recidivism efforts;

163 (ii) county jail and county behavioral health early-assessment resources needed for
164 offenders convicted of a class A or class B misdemeanor; and

165 (iii) the replacement of federal dollars associated with drug interdiction law
166 enforcement task forces that are reduced;

167 (k) (i) establish performance goals and outcome measurements for all treatment
168 programs for which minimum standards are established under Subsection (2)(h), including
169 recidivism data and data regarding cost savings associated with recidivism reduction and the
170 reduction in the number of inmates, that are obtained in collaboration with the Administrative
171 Office of the Courts and the Department of Corrections; and

172 (ii) collect data to track and determine whether the goals and measurements are being
173 attained and make this information available to the public;

174 (l) in its discretion, use the data to make decisions regarding the use of funds allocated
175 to the division, the Administrative Office of the Courts, and the Department of Corrections to
176 provide treatment for which standards are established under Subsection (2)(h); and

177 (m) annually, on or before August 31, submit the data collected under Subsection (2)(j)
178 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
179 based on the data and provide the report to the legislative Judiciary Interim Committee, the
180 Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice

181 Interim Committee, and the related appropriations subcommittees.

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

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

189 (4) Before reissuing or renewing a contract with any local substance abuse authority or
190 local mental health authority, the division shall review and determine whether the local
191 substance abuse authority or local mental health authority is complying with its oversight and
192 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
193 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
194 liability described in Section 17-43-303 and to the responsibility and liability described in
195 Section 17-43-203.

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

200 (6) The division may accept in the name of and on behalf of the state donations, gifts,
201 devises, or bequests of real or personal property or services to be used as specified by the
202 donor.

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

206 (a) the use of public funds;

207 (b) oversight responsibilities regarding public funds; and

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

209 (8) The Legislature may refuse to appropriate funds to the division upon the division's
210 failure to comply with the provisions of this part.

211 (9) If a local substance abuse authority contacts the division under Subsection

212 17-43-201(9) for assistance in providing treatment services to a pregnant woman or pregnant
213 minor, the division shall:

214 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
215 capacity to provide the treatment services; or

216 (b) otherwise ensure that treatment services are made available to the pregnant woman
217 or pregnant minor.

218 Section 2. Section 62A-15-629 is amended to read:

219 **62A-15-629. Temporary commitment -- Requirements and procedures.**

220 (1) (a) An adult may be temporarily, involuntarily committed to a local mental health
221 authority upon:

222 (i) written application by a responsible person who has reason to know, stating a belief
223 that the individual is likely to cause serious injury to self or others if not immediately
224 restrained, and stating the personal knowledge of the individual's condition or circumstances
225 which lead to that belief; and

226 (ii) a certification by a licensed physician or designated examiner stating that the
227 physician or designated examiner has examined the individual within a three-day period
228 immediately preceding that certification, and that the physician or designated examiner is of the
229 opinion that the individual has a mental illness and, because of the individual's mental illness,
230 is likely to injure self or others if not immediately restrained.

231 (b) Application and certification as described in Subsection (1)(a) authorizes any peace
232 officer to take the individual into the custody of a local mental health authority and transport
233 the individual to that authority's designated facility.

234 (2) (a) If a duly authorized peace officer observes [~~a person~~] an individual involved in
235 conduct that gives the officer probable cause to believe that the [~~person~~] individual has a
236 mental illness, as defined in Section 62A-15-602, and because of that apparent mental illness
237 and conduct, there is a substantial likelihood of serious harm to that [~~person~~] individual or
238 others, pending proceedings for examination and certification under this part, the officer may
239 take that [~~person~~] individual into protective custody.

240 (b) The peace officer shall transport the [~~person~~] individual to be transported to the
241 designated facility of the appropriate local mental health authority pursuant to this section,
242 either on the basis of the peace officer's own observation or on the basis of a mental health

243 officer's observation that has been reported to the peace officer by that mental health officer.

244 (c) Immediately thereafter, the officer shall place the ~~[person]~~ individual in the custody
245 of the local mental health authority and make application for commitment of that ~~[person]~~
246 individual to the local mental health authority.

247 (d) The application shall be on a prescribed form and shall include the following:

248 ~~[(a)]~~ (i) a statement by the officer that the officer believes, on the basis of personal
249 observation or on the basis of a mental health officer's observation reported to the officer by the
250 mental health officer, that the ~~[person]~~ individual is, as a result of a mental illness, a substantial
251 and immediate danger to self or others;

252 ~~[(b)]~~ (ii) the specific nature of the danger;

253 ~~[(c)]~~ (iii) a summary of the observations upon which the statement of danger is based;
254 and

255 ~~[(d)]~~ (iv) a statement of facts ~~[which]~~ that called the ~~[person]~~ individual to the attention
256 of the officer.

257 (3) (a) ~~[A person]~~ An individual committed under this section may be held for a
258 maximum of ~~[24]~~ 72 hours, excluding Saturdays, Sundays, and legal holidays[-], if the local
259 mental health authority believes that the individual has a mental illness and, because of the
260 individual's mental illness, is likely to injure self or others if not restrained.

261 (b) At the expiration of ~~[that]~~ the time period described in Subsection (3)(a), the
262 ~~[person]~~ individual shall be released unless an application for involuntary commitment has
263 been commenced pursuant to Section [62A-15-631](#).

264 (c) If ~~[that]~~ an application for involuntary commitment has been made, an order of
265 detention may be entered under Subsection [62A-15-631](#)(3).

266 (d) If no order of detention is issued, the ~~[patient]~~ individual shall be released unless
267 ~~[he]~~ the individual has made voluntary application for admission.

268 (4) (a) Transportation of ~~[persons]~~ an individual with a mental illness pursuant to
269 Subsections (1) and (2) shall be conducted by the appropriate municipal, ~~[or]~~ city, or town, law
270 enforcement authority or, under the appropriate law enforcement's authority, by ambulance to
271 the extent that Subsection (5) applies.

272 (b) However, if the designated facility is outside of ~~[that]~~ the municipal, city, or town
273 authority's jurisdiction, the appropriate county sheriff shall transport the ~~[person]~~ individual or

274 cause the [~~person~~] individual to be transported by ambulance to the extent that Subsection (5)
275 applies.

276 (5) (a) Notwithstanding Subsections (2) and (4), a peace officer shall cause [~~a person~~]
277 an individual to be transported by ambulance if the [~~person~~] individual meets any of the criteria
278 in Section [26-8a-305](#).

279 (b) In addition, if the [~~person~~] individual requires physical medical attention, the peace
280 officer shall direct that transportation be to an appropriate medical facility for treatment.