

1 **SUBSTANCE ABUSE AND MENTAL HEALTH ACT**

2 **AMENDMENTS**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Edward H. Redd**

6 Senate Sponsor: Todd Weiler

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Substance Abuse and Mental Health Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies definitions;
- 14 ▶ changes the date by which local substance abuse authorities and local mental health
15 authorities shall annually submit a service plan to the Division of Substance Abuse
16 and Mental Health within the Department of Human Services;
- 17 ▶ expands the division's responsibilities with respect to peer support services to
18 include peer support services for individuals with mental health disorders;
- 19 ▶ amends peer support services provisions;
- 20 ▶ recodifies peer support services provisions;
- 21 ▶ requires rulemaking;
- 22 ▶ clarifies the role of a mental health officer;
- 23 ▶ removes obsolete references to the Utah State Hospital Board;
- 24 ▶ removes the exemption of security officers from the public safety retirement system;
- 25 ▶ updates code provisions in accordance with the existing practice of private hospitals
26 providing inpatient mental health treatment;
- 27 ▶ makes changes to procedures and criteria for civil commitments;



28 ▶ gives officers authority to not take a mentally ill individual into custody in order to
29 avoid escalating a dangerous situation; and

30 ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **62A-15-103**, as last amended by Laws of Utah 2017, Chapter 163

38 **62A-15-602**, as last amended by Laws of Utah 2017, Chapter 408

39 **62A-15-603**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
40 Chapter 8

41 **62A-15-613**, as last amended by Laws of Utah 2006, Chapter 139

42 **62A-15-625**, as last amended by Laws of Utah 2003, Chapter 195

43 **62A-15-627**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
44 Chapter 8

45 **62A-15-628**, as last amended by Laws of Utah 2003, Chapter 195

46 **62A-15-629**, as last amended by Laws of Utah 2011, Chapter 366

47 **62A-15-631**, as last amended by Laws of Utah 2013, Chapters 29 and 312

48 **62A-15-632**, as last amended by Laws of Utah 2011, Chapter 366

49 **62A-15-635**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
50 Chapter 8

51 **62A-15-637**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
52 Chapter 8

53 **62A-15-703**, as last amended by Laws of Utah 2017, Chapter 181

54 **62A-15-705**, as last amended by Laws of Utah 2003, Chapter 195

55 REPEALS:

56 **62A-15-402**, as enacted by Laws of Utah 2012, Chapter 179



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

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

60 **62A-15-103. Division -- Creation -- Responsibilities.**

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

64 (2) The division shall:

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

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

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

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

74 (v) [~~promulgate~~] make rules in accordance with Title 63G, Chapter 3, Utah
75 Administrative Rulemaking Act, to develop, in collaboration with public and private programs,
76 minimum standards for public and private providers of substance abuse and mental health
77 programs licensed by the [~~Department of Human Services~~] department under Title 62A,
78 Chapter 2, Licensure of Programs and Facilities;

79 (vi) promote integrated programs that address an individual's substance abuse, mental
80 health, physical health, and criminal risk factors;

81 (vii) establish and promote an evidence-based continuum of screening, assessment,
82 prevention, treatment, and recovery support services in the community for individuals with
83 substance [~~abuse~~] use disorder and mental illness that addresses criminal risk factors;

84 (viii) evaluate the effectiveness of programs described in this Subsection (2);

85 (ix) consider the impact of the programs described in this Subsection (2) on:

86 (A) emergency department utilization;

87 (B) jail and prison populations;

88 (C) the homeless population; and

89 (D) the child welfare system; and

90 (x) promote or establish programs for education and certification of instructors to
91 educate persons convicted of driving under the influence of alcohol or drugs or driving with
92 any measurable controlled substance in the body;

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

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

96 (iii) [~~promulgate~~] make rules in accordance with Title 63G, Chapter 3, Utah
97 Administrative Rulemaking Act, to educate families concerning mental illness and promote
98 family involvement, when appropriate, and with patient consent, in the treatment program of a
99 family member; and

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

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

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

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

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

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

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

119 (vii) examine expenditures of [~~any~~] local, state, and federal funds;

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

- 121 (A) local substance abuse authorities;
- 122 (B) local mental health authorities; and
- 123 (C) in counties where they exist, ~~the~~ a private contract provider that has an annual or
124 otherwise ongoing contract to provide comprehensive substance abuse or mental health
125 programs or services for the local substance abuse authority or local mental health ~~authorities~~
126 authority;
- 127 (ix) contract with local substance abuse authorities and local mental health authorities
128 to provide a comprehensive continuum of services that include community-based services for
129 individuals involved in the criminal justice system, in accordance with division policy, contract
130 provisions, and the local plan;
- 131 (x) contract with private and public entities for special statewide or nonclinical
132 services, or services for individuals involved in the criminal justice system, according to
133 division rules;
- 134 (xi) review and approve each local substance abuse authority's plan and each local
135 mental health authority's plan in order to ensure:
- 136 (A) a statewide comprehensive continuum of substance abuse services;
- 137 (B) a statewide comprehensive continuum of mental health services;
- 138 (C) services result in improved overall health and functioning;
- 139 (D) a statewide comprehensive continuum of community-based services designed to
140 reduce criminal risk factors for individuals who are determined to have substance abuse or
141 mental illness conditions or both, and who are involved in the criminal justice system;
- 142 (E) compliance, where appropriate, with the certification requirements in Subsection
143 ~~(2)(f)~~(j); and
- 144 (F) appropriate expenditure of public funds;
- 145 (xii) review and make recommendations regarding each local substance abuse
146 authority's contract with ~~its~~ the local substance abuse authority's provider of substance abuse
147 programs and services and each local mental health authority's contract with ~~its~~ the local
148 mental health authority's provider of mental health programs and services to ensure compliance
149 with state and federal law and policy;
- 150 (xiii) monitor and ensure compliance with division rules and contract requirements;
- 151 and

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

156 (d) ~~[assure]~~ ensure that the requirements of this part are met and applied uniformly by
157 local substance abuse authorities and local mental health authorities across the state;

158 (e) require each local substance abuse authority and each local mental health authority,
159 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit ~~[its]~~ a plan
160 to the division ~~[by May 1]~~ on or before May 15 of each year;

161 (f) conduct an annual program audit and review of each local substance abuse authority
162 ~~[in the state and its]~~ and each local substance abuse authority's contract provider, and each local
163 mental health authority ~~[in the state and its]~~ and each local mental health authority's contract
164 provider, including:

165 (i) a review and determination regarding whether:

166 (A) public funds allocated to the local substance abuse ~~[authorities and]~~ authority or
167 the local mental health authorities are consistent with services rendered by the authority or the
168 authority's contract provider, and with outcomes reported by ~~[-them or their contract providers]~~
169 the authority's contract provider; and

170 (B) each local substance abuse authority and each local mental health authority is
171 exercising sufficient oversight and control over public funds allocated for substance ~~[abuse]~~
172 use disorder and mental health programs and services; and

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

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

176 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
177 supports services to an individual with:

178 (A) a substance use disorder;

179 (B) a mental health disorder; or

180 (C) a substance use disorder and a mental health disorder;

181 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
182 adult as a peer support specialist;

183 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
 184 Rulemaking Act, that:
 185 (A) establish training and certification requirements for a peer support specialist;
 186 (B) specify the types of services a peer support specialist is qualified to provide;
 187 (C) specify the type of supervision under which a peer support specialist is required to
 188 operate; and

189 (D) specify continuing education and other requirements for maintaining or renewing
 190 certification as a peer support specialist; and

191 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
 192 Rulemaking Act, that:

193 (A) establish the requirements for a person to be certified to carry out, as needed, the
 194 division's duty to train and certify an adult as a peer support specialist; and

195 (B) specify how the division shall provide oversight of a person certified to train and
 196 certify a peer support specialist;

197 ~~(h)~~ (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah
 198 Administrative Rulemaking Act, minimum standards and requirements for the provision of
 199 substance ~~abuse~~ use disorder and mental health treatment to ~~individuals~~ an individual who
 200 ~~are~~ is required to participate in treatment by the court or the Board of Pardons and Parole, or
 201 who ~~are~~ is incarcerated, including:

202 (i) collaboration with the Department of Corrections and the Utah Substance Use and
 203 Mental Health Advisory Council to develop and coordinate the standards, including standards
 204 for county and state programs serving individuals convicted of class A and class B
 205 misdemeanors;

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

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

213 ~~(i)~~ (j) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative

214 Rulemaking Act, the requirements and procedures for the certification of licensed public and
215 private providers who provide, as part of their practice, substance [~~abuse~~] use disorder and
216 mental health treatment to [~~individuals~~] an individual involved in the criminal justice system,
217 including:

218 (i) collaboration with the Department of Corrections, the Utah Substance Use and
219 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
220 and implement the certification process;

221 (ii) basing the certification process on the standards developed under Subsection
222 (2)[~~(h)~~](i) for the treatment of [~~individuals~~] an individual involved in the criminal justice
223 system; and

224 (iii) the requirement that [~~all~~] a public [~~and~~] or private [~~providers~~] provider of
225 treatment to [~~individuals~~] an individual involved in the criminal justice system shall obtain
226 certification on or before July 1, 2016, and shall renew the certification every two years, in
227 order to qualify for funds allocated to the division, the Department of Corrections, or the
228 Commission on Criminal and Juvenile Justice on or after July 1, 2016;

229 [~~(j)~~] (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze
230 and provide recommendations to the Legislature regarding:

231 (i) pretrial services and the resources needed [~~for the reduced~~] to reduce recidivism
232 [~~efforts~~];

233 (ii) county jail and county behavioral health early-assessment resources needed for
234 [~~offenders~~] an offender convicted of a class A or class B misdemeanor; and

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

237 [~~(k)~~] (l) (i) establish performance goals and outcome measurements for all treatment
238 programs for which minimum standards are established under Subsection (2)[~~(h)~~](i), including
239 recidivism data and data regarding cost savings associated with recidivism reduction and the
240 reduction in the number of inmates, that are obtained in collaboration with the Administrative
241 Office of the Courts and the Department of Corrections; and

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

244 [~~(h)~~] (m) in [~~its~~] the division's discretion, use the data to make decisions regarding the

245 use of funds allocated to the division, the Administrative Office of the Courts, and the
246 Department of Corrections to provide treatment for which standards are established under
247 Subsection (2)~~(h)~~(i); and

248 ~~(m)~~ (n) annually, on or before August 31, submit the data collected under Subsection
249 (2)~~(j)~~(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of
250 findings based on the data and provide the report to the ~~legislative~~ Judiciary Interim
251 Committee, the Health and Human Services Interim Committee, the Law Enforcement and
252 Criminal Justice Interim Committee, and the related appropriations subcommittees.

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

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

260 (4) Before reissuing or renewing a contract with any local substance abuse authority or
261 local mental health authority, the division shall review and determine whether the local
262 substance abuse authority or local mental health authority is complying with ~~its~~ the oversight
263 and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
264 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
265 liability described in Section 17-43-303 and to the responsibility and liability described in
266 Section 17-43-203.

267 (5) In carrying out ~~its~~ the division's duties and responsibilities, the division may not
268 duplicate treatment or educational facilities that exist in other divisions or departments of the
269 state, but shall work in conjunction with those divisions and departments in rendering the
270 treatment or educational services that those divisions and departments are competent and able
271 to provide.

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

275 (7) The division shall annually review with each local substance abuse authority and

276 each local mental health authority the authority's statutory and contract responsibilities
277 regarding:

- 278 (a) ~~[the]~~ use of public funds;
- 279 (b) oversight ~~[responsibilities regarding]~~ of public funds; and
- 280 (c) governance of substance ~~[abuse]~~ use disorder and mental health programs and
281 services.

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

284 (9) If a local substance abuse authority contacts the division under Subsection
285 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
286 minor, the division shall:

- 287 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
288 capacity to provide the treatment services; or
- 289 (b) otherwise ensure that treatment services are made available to the pregnant woman
290 or pregnant minor.

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

292 **62A-15-602. Definitions.**

293 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of
294 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah
295 Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part
296 12, Essential Treatment and Intervention Act:

- 297 (1) "Adult" means ~~[a person]~~ an individual 18 years of age or older.
- 298 (2) "Approved treatment facility or program" means a treatment provider that meets the
299 standards described in Subsection [62A-15-103](#)(2)(a)(v).
- 300 (3) "Commitment to the custody of a local mental health authority" means that an adult
301 is committed to the custody of the local mental health authority that governs the mental health
302 catchment area ~~[in which the proposed patient]~~ where the adult resides or is found.
- 303 (4) "Community mental health center" means an entity that provides treatment and
304 services to a resident of a designated geographical area, that operates by or under contract with
305 a local mental health authority, and that complies with state standards for community mental
306 health centers.

307 ~~[(4)]~~ (5) "Designated examiner" means:

308 (a) a licensed physician ~~[familiar with severe mental illness, preferably a psychiatrist],~~
 309 preferably a psychiatrist, who is designated by the division as specially qualified by training or
 310 experience in the diagnosis of mental or related illness; or ~~[another]~~

311 (b) a licensed mental health professional designated by the division as specially
 312 qualified by training and who has at least five years' continual experience in the treatment of
 313 mental ~~[or related]~~ illness. ~~[At least one designated examiner in any case shall be a licensed~~
 314 ~~physician. No person who is the applicant, or who signs the certification, under Section~~
 315 ~~62A-15-631 may be a designated examiner in the same case.]~~

316 ~~[(5)]~~ (6) "Designee" means a physician who has responsibility for medical functions
 317 including admission and discharge, an employee of a local mental health authority, or an
 318 employee of ~~[an agency]~~ a person that has contracted with a local mental health authority to
 319 provide mental health services under Section 17-43-304.

320 ~~[(6)]~~ (7) "Essential treatment" and "essential treatment and intervention" mean
 321 court-ordered treatment at a local substance abuse authority or an approved treatment facility or
 322 program for the treatment of an adult's substance use disorder.

323 ~~[(7)]~~ (8) "Harmful sexual conduct" means ~~[any of]~~ the following conduct upon an
 324 individual without the individual's consent, ~~[or upon an individual who cannot legally consent~~
 325 ~~to the conduct including under the]~~ including the nonconsensual circumstances described in
 326 Subsections 76-5-406(1) through (12):

327 (a) sexual intercourse;

328 (b) penetration, however slight, of the genital or anal opening of the individual;

329 (c) any sexual act involving the genitals or anus of the actor or the individual and the
 330 mouth or anus of either individual, regardless of the gender of either participant; or

331 (d) any sexual act causing substantial emotional injury or bodily pain.

332 ~~[(8)]~~ (9) "Institution" means a hospital[;] or a health facility licensed under ~~[the~~
 333 ~~provisions of Section 26-21-9]~~ Section 26-21-8.

334 ~~[(9)]~~ "Licensed physician" means an individual licensed under the laws of this state to
 335 practice medicine, or a medical officer of the United States government while in this state in
 336 ~~the performance of official duties.]~~

337 ~~[(10)]~~ "Local comprehensive community mental health center" means an agency or

338 ~~organization that provides treatment and services to residents of a designated geographic area,~~
339 ~~operated by or under contract with a local mental health authority, in compliance with state~~
340 ~~standards for local comprehensive community mental health centers.]~~

341 ~~[(11)]~~ (10) "Local substance abuse authority" means the same as that term is defined in
342 Section [62A-15-102](#) and described in Section [17-43-201](#).

343 ~~[(12)]~~ (11) "Mental health facility" means the Utah State Hospital or other facility that
344 provides mental health services under contract with the division, a local mental health
345 authority, ~~[or organization]~~ a person that contracts with a local mental health authority, or a
346 person that provides acute inpatient psychiatric services to a patient.

347 ~~[(13)]~~ (12) "Mental health officer" means an individual who is designated by a local
348 mental health authority as qualified by training and experience in the recognition and
349 identification of mental illness, to ~~[interact with and transport persons to any mental health~~
350 ~~facility.];~~

- 351 (a) apply for and provide certification for a temporary commitment; or
- 352 (b) assist in the arrangement of transportation to a designated mental health facility.

353 ~~[(14)]~~ (13) "Mental illness" means ~~[a psychiatric disorder as defined by the current~~
354 ~~edition of the Diagnostic and Statistical Manual of Mental Disorders published by the~~
355 ~~American Psychiatric Association which substantially impairs a person's mental, emotional,~~
356 ~~behavioral, or related functioning.];~~

- 357 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
358 behavioral, or related functioning; or

- 359 (b) the same as that term is defined in:
- 360 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
361 published by the American Psychiatric Association; or

- 362 (ii) the current edition of the International Statistical Classification of Diseases and
363 Related Health Problems.

364 ~~[(15)]~~ (14) "Patient" means an individual who is:

- 365 (a) under commitment to the custody or to the treatment services of a local mental
366 health authority; or
- 367 (b) undergoing essential treatment and intervention.

368 (15) "Physician" means an individual who is:

369 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

370 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical

371 Practice Act.

372 (16) "Serious bodily injury" means bodily injury [~~which~~] that involves a substantial
373 risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
374 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

375 (17) "Substantial danger" means [~~the person, by his or her behavior, due to mental~~
376 ~~illness~~] that due to mental illness, an individual is at serious risk of:

377 [~~(a) is at serious risk to:~~]

378 [~~(i) commit suicide;~~]

379 [~~(ii) inflict serious bodily injury on himself or herself; or]~~

380 [~~(iii) because of his or her actions or inaction, suffer serious bodily injury because he or~~
381 ~~she is incapable of providing the basic necessities of life, such as food, clothing, and shelter;~~
382 ~~or]~~

383 [~~(b) is at serious risk to cause or attempt to cause serious bodily injury or engage in~~
384 ~~harmful sexual conduct.]~~

385 (a) suicide;

386 (b) serious bodily self-injury;

387 (c) serious bodily injury because the individual is incapable of providing the basic
388 necessities of life, including food, clothing, or shelter;

389 (d) causing or attempting to cause serious bodily injury to another individual; or

390 (e) engaging in harmful sexual conduct.

391 (18) "Treatment" means psychotherapy, medication, including the administration of
392 psychotropic medication, [~~and~~] or other medical treatments that are generally accepted medical
393 [~~and~~] or psychosocial interventions for the purpose of restoring the patient to an optimal level
394 of functioning in the least restrictive environment.

395 Section 3. Section **62A-15-603** is amended to read:

396 **62A-15-603. Administration of state hospital -- Division -- Authority.**

397 [~~(1) The administration of the state hospital is vested in the division where it shall~~
398 ~~function and be administered as a part of the state's comprehensive mental health program and,~~
399 ~~to the fullest extent possible, shall be coordinated with local mental health authority programs.~~

400 When it becomes feasible the board may direct that the hospital be decentralized and
401 administered at the local level by being integrated with, and becoming a part of, the community
402 mental health services.]

403 [~~(2) The division shall succeed to all the powers, discharge all the duties, and perform~~
404 ~~all the functions, duties, rights, and responsibilities pertaining to the state hospital which by~~
405 ~~law are conferred upon it or required to be discharged or performed. However, the functions,~~
406 ~~powers, duties, rights, and responsibilities of the division and of the board otherwise provided~~
407 ~~by law and by this part apply.]~~

408 (1) The division shall administer the state hospital as part of the state's comprehensive
409 mental health program and, to the fullest extent possible, shall, as the state hospital's
410 administrator, coordinate with local mental health authority programs.

411 (2) The division has the same powers, duties, rights, and responsibilities as, and shall
412 perform the same functions that by law are conferred or required to be discharged or performed
413 by, the state hospital.

414 (3) Supervision and administration of security responsibilities for the state hospital is
415 vested in the division. The executive director shall designate, as special function officers,
416 individuals with peace officer authority to perform special security functions for the state
417 hospital [~~that require peace officer authority. These special function officers may not become~~
418 ~~or be designated as members of the Public Safety Retirement System].~~

419 [~~(4) Directors of mental health facilities that house involuntary detainees or detainees~~
420 ~~committed pursuant to judicial order may establish secure areas, as prescribed in Section~~
421 ~~76-8-311.1, within the mental health facility for the detainees.]~~

422 (4) A director of a mental health facility that houses an involuntary patient or a patient
423 committed by judicial order may establish secure areas, as provided in Section 76-8-311.1,
424 within the mental health facility for the patient.

425 Section 4. Section **62A-15-613** is amended to read:

426 **62A-15-613. Appointment of superintendent -- Qualifications -- Powers and**
427 **responsibilities.**

428 (1) The director, with the [~~advice and consent of the board and the approval]~~ consent of
429 the executive director, shall appoint a superintendent of the state hospital, who shall hold office
430 at the will of the director.

431 (2) The superintendent shall have a bachelor's degree from an accredited university or
432 college, be experienced in administration, and be knowledgeable in matters concerning mental
433 health.

434 (3) ~~[Subject to the rules of the board, the]~~ The superintendent has general responsibility
435 for the buildings, grounds, and property of the state hospital. The superintendent shall appoint,
436 with the approval of the director, as many employees as necessary for the efficient and
437 economical care and management of the state hospital, and shall fix ~~[their]~~ the employees'
438 compensation and administer personnel functions according to the standards of the Department
439 of Human Resource Management.

440 Section 5. Section **62A-15-625** is amended to read:

441 **62A-15-625. Voluntary admission of adults.**

442 ~~[(1) A local mental health authority or its designee may admit to that authority, for
443 observation, diagnosis, care, and treatment any individual who is mentally ill or has symptoms
444 of mental illness and who, being 18 years of age or older, applies for voluntary admission.]~~

445 ~~[(2)(a) No adult may be committed or continue to be committed to a local mental
446 health authority against his will except as provided in this chapter.]~~

447 ~~[(b) A person under 18 years of age may be committed to the physical custody of a local
448 mental health authority only after a court commitment proceeding in accordance with the
449 provisions of Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse
450 and Mental Health.]~~

451 (1) A local mental health authority, a designee of a local mental health authority, or
452 another mental health facility may admit for observation, diagnosis, care, and treatment an
453 adult who applies for voluntary admission and who has a mental illness or exhibits the
454 symptoms of a mental illness.

455 (2) No adult may be committed to a local mental health authority against that adult's
456 will except as provided in this chapter.

457 (3) An adult may be voluntarily admitted to a local mental health authority for
458 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after
459 the requirements of Subsection 77-18-1(13) have been met.

460 Section 6. Section **62A-15-627** is amended to read:

461 **62A-15-627. Release of voluntary patient -- Exceptions.**

462 (1) A ~~[voluntary]~~ patient who is voluntarily admitted, as described in Section
463 62A-15-625, and who requests release, verbally or in writing, or whose release is requested in
464 writing by ~~[his]~~ the patient's legal guardian, parent, spouse, or adult next of kin, shall be
465 immediately released except that:

466 ~~[(1) if the patient was voluntarily admitted on his own application, and]~~
467 (a) release may be conditioned upon the agreement of the patient, if the request for
468 release is made by [a person] an individual other than the patient~~[, release may be conditioned~~
469 ~~upon the agreement of the patient; and]; or~~

470 ~~[(2)]~~ (b) if [a] the admitting local mental health authority, [or its designee is of the
471 opinion that release of a patient would be unsafe for that patient or others,] a designee of the
472 local mental health authority, or a mental health facility has cause to believe that release of the
473 patient would be unsafe for the patient or others, release of that patient may be postponed for
474 up to 48 hours, excluding weekends and holidays, provided that the [local mental health]
475 admitting authority, [or its] the designee, or the facility shall cause to be instituted involuntary
476 commitment proceedings with the district court within the specified time period.~~[, unless cause~~
477 ~~no longer exists for instituting those proceedings. Written]~~

478 (2) The admitting authority, the designee, or the facility shall provide written notice of
479 ~~[that]~~ the postponement [with] and the reasons~~[, shall be given]~~ for the postponement to the
480 patient without undue delay.

481 (3) No judicial proceedings for involuntary commitment may be commenced with
482 respect to a voluntary patient unless [he] the patient has requested release.

483 Section 7. Section **62A-15-628** is amended to read:

484 **62A-15-628. Involuntary commitment -- Procedures.**

485 (1) An adult may not be involuntarily committed to the custody of a local mental health
486 authority except under the following provisions:

487 (a) emergency procedures for temporary commitment upon medical or designated
488 examiner certification, as provided in Subsection 62A-15-629(1)(a);

489 (b) emergency procedures for temporary commitment without endorsement of medical
490 or designated examiner certification, as provided in Subsection 62A-15-629~~[(2)]~~(1)(b); or

491 (c) commitment on court order, as provided in Section 62A-15-631.

492 (2) A person under 18 years of age may be committed to the physical custody of a local

493 mental health authority only ~~[after a court commitment proceeding]~~ in accordance with the
 494 provisions of Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse
 495 and Mental Health.

496 Section 8. Section **62A-15-629** is amended to read:

497 **62A-15-629. Temporary commitment -- Requirements and procedures.**

498 (1) ~~[(a)]~~ An adult ~~[may]~~ shall be temporarily, involuntarily committed to a local mental
 499 health authority upon:

500 (a) a written application that:

501 (i) ~~[written application]~~ is completed by a responsible ~~[person]~~ individual who has
 502 reason to know, stating a belief that the ~~[individual]~~ adult, due to mental illness, is likely to
 503 ~~[cause serious injury]~~ pose substantial danger to self or others if not ~~[immediately]~~ restrained~~;~~
 504 and stating the personal knowledge of the ~~[individual's]~~ adult's condition or circumstances
 505 ~~[which]~~ that lead to ~~[that]~~ the individual's belief; and

506 (ii) includes a certification by a licensed physician or designated examiner stating that
 507 the physician or designated examiner has examined the ~~[individual]~~ adult within a three-day
 508 period immediately preceding that certification, and that the physician or designated examiner
 509 is of the opinion that ~~[the individual has a mental illness and, because of the individual's mental~~
 510 ~~illness, is likely to injure self or others if not immediately restrained.],~~ due to mental illness, the
 511 adult poses a substantial danger to self or others; or

512 ~~[(b) Application and certification as described in Subsection (1)(a) authorizes any~~
 513 ~~peace officer to take the individual into the custody of a local mental health authority and~~
 514 ~~transport the individual to that authority's designated facility.]~~

515 ~~[(2) If a duly authorized peace officer observes a person involved in conduct that gives~~
 516 ~~the officer probable cause to believe that the person has a mental illness, as defined in Section~~
 517 ~~62A-15-602, and because of that apparent mental illness and conduct, there is a substantial~~
 518 ~~likelihood of serious harm to that person or others, pending proceedings for examination and~~
 519 ~~certification under this part, the officer may take that person into protective custody. The peace~~
 520 ~~officer shall transport the person to be transported to the designated facility of the appropriate~~
 521 ~~local mental health authority pursuant to this section, either on the basis of the peace officer's~~
 522 ~~own observation or on the basis of a mental health officer's observation that has been reported~~
 523 ~~to the peace officer by that mental health officer. Immediately thereafter, the officer shall place~~

524 the person in the custody of the local mental health authority and make application for
 525 commitment of that person to the local mental health authority. The application shall be on a
 526 prescribed form and shall include the following:]

527 ~~[(a) a statement by the officer that the officer believes, on the basis of personal~~
 528 ~~observation or on the basis of a mental health officer's observation reported to the officer by the~~
 529 ~~mental health officer, that the person is, as a result of a mental illness, a substantial and~~
 530 ~~immediate danger to self or others;]~~

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

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

533 ~~[(d) a statement of facts which called the person to the attention of the officer.]~~

534 (b) a peace officer or a mental health officer:

535 (i) observing an adult's conduct that gives the peace officer or mental health officer
 536 probable cause to believe that:

537 (A) the adult has a mental illness; and

538 (B) because of the adult's mental illness and conduct, the adult poses a substantial
 539 danger to self or others; and

540 (ii) completing a temporary commitment application that:

541 (A) is on a form prescribed by the division;

542 (B) states the peace officer's or mental health officer's belief that the adult poses a
 543 substantial danger to self or others;

544 (C) states the specific nature of the danger;

545 (D) provides a summary of the observations upon which the statement of danger is
 546 based; and

547 (E) provides a statement of the facts that called the adult to the peace officer's or
 548 mental health officer's attention.

549 (2) If at any time a patient committed under this section no longer meets the
 550 commitment criteria described in Subsection (1), the local mental health authority or the local
 551 mental health authority's designee shall document the change and release the patient.

552 (3) A [person] patient committed under this section may be held for a maximum of 24
 553 hours after commitment, excluding Saturdays, Sundays, and legal holidays[. ~~At the expiration~~
 554 ~~of that time period, the person shall be released unless application for involuntary commitment~~

555 has been commenced pursuant to Section ~~62A-15-631~~. If that application has been made, an
556 order of detention may be entered under Subsection ~~62A-15-631(3)~~. If no order of detention is
557 issued, the patient shall be released unless he has made voluntary application for admission.],
558 unless:

559 (a) as described in Section 62A-15-631, an application for involuntary commitment is
560 commenced, which may be accompanied by an order of detention described in Subsection
561 62A-15-631(4); or

562 (b) the patient makes a voluntary application for admission.

563 [~~(4) Transportation of persons with a mental illness pursuant to Subsections (1) and (2)~~
564 ~~shall be conducted by the appropriate municipal, or city or town, law enforcement authority or,~~
565 ~~under the appropriate law enforcement's authority, by ambulance to the extent that Subsection~~
566 ~~(5) applies. However, if the designated facility is outside of that authority's jurisdiction, the~~
567 ~~appropriate county sheriff shall transport the person or cause the person to be transported by~~
568 ~~ambulance to the extent that Subsection (5) applies.]~~

569 [~~(5) Notwithstanding Subsections (2) and (4), a peace officer shall cause a person to be~~
570 ~~transported by ambulance if the person meets any of the criteria in Section 26-8a-305. In~~
571 ~~addition, if the person requires physical medical attention, the peace officer shall direct that~~
572 ~~transportation be to an appropriate medical facility for treatment.]~~

573 (4) Upon a written application described in Subsection (1)(a) or the observation and
574 belief described in Subsection (1)(b)(i), the adult shall be:

575 (a) taken into a peace officer's protective custody, by reasonable means, if necessary for
576 public safety; and

577 (b) transported for temporary commitment to a facility designated by the local mental
578 health authority, by means of:

579 (i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

580 (ii) an ambulance, if a peace officer is not necessary for public safety, and

581 transportation arrangements are made by a physician, designated examiner, or mental health
582 officer;

583 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the
584 location where the individual to be committed is present, if the individual is not transported by
585 ambulance; or

586 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law
587 enforcement authority described in Subsection (4)(b)(iii) and the individual is not transported
588 by ambulance.

589 (5) Notwithstanding Subsection (4):

590 (a) an individual shall be transported by ambulance to an appropriate medical facility
591 for treatment if the individual requires physical medical attention; and

592 (b) if an officer determines through the officer's experience and training that taking an
593 individual into protective custody or transporting an individual for temporary commitment
594 would increase the risk of substantial danger to the individual or others, a peace officer may
595 exercise discretion to not take the individual into custody or transport the individual, as
596 permitted by policies and procedures established by the officer's law enforcement agency and
597 any applicable federal or state statute, or case law.

598 (6) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.
599 This section does not create a special duty of care.

600 Section 9. Section **62A-15-631** is amended to read:

601 **62A-15-631. Involuntary commitment under court order -- Examination --**
602 **Hearing -- Power of court -- Findings required -- Costs.**

603 ~~[(1) Proceedings for involuntary commitment of an individual who is 18 years of age~~
604 ~~or older may be commenced by filing a written application with the district court of the county~~
605 ~~in which the proposed patient resides or is found, by a responsible person who has reason to~~
606 ~~know of the condition or circumstances of the proposed patient which lead to the belief that the~~
607 ~~individual has a mental illness and should be involuntarily committed. The application shall~~
608 ~~include:]~~

609 (1) A responsible person who has reason to know of an adult's mental illness and the
610 condition or circumstances that have lead to the adult's need to be involuntarily committed may
611 initiate an involuntary commitment court proceeding by filing, in the district court in the
612 county where the proposed patient resides or is found, a written application that includes:

613 (a) unless the court finds that the information is not reasonably available, the

614 [individual's] proposed patient's:

615 (i) name;

616 (ii) date of birth; and

617 (iii) social security number; and

618 [~~(b) either:~~]

619 (b) (i) a certificate of a licensed physician or a designated examiner stating that within
620 ~~[a] the~~ seven-day period immediately preceding the certification, the physician or designated
621 examiner ~~[has]~~ examined the ~~[individual, and that the physician or designated examiner]~~
622 proposed patient and is of the opinion that the ~~[individual is mentally ill]~~ proposed patient has a
623 mental illness and should be involuntarily committed; or

624 (ii) a written statement by the applicant that:

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

627 (B) is sworn to under oath; and

628 (C) states the facts upon which the application is based.

629 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may
630 require the applicant to consult with the appropriate local mental health authority, and the court
631 may direct a mental health professional from that local mental health authority to interview the
632 applicant and the proposed patient to determine the existing facts and report them to the court.

633 (b) The consultation described in Subsection (2)(a):

634 (i) may take place at or before the hearing; and

635 (ii) is required if the local mental health authority appears at the hearing.

636 (3) If the court finds from the application, from any other statements under oath, or
637 from any reports from a mental health professional that there is a reasonable basis to believe
638 that the proposed patient has a mental illness that poses a substantial danger~~[, as defined in~~
639 ~~Section 62A-15-602,]~~ to self or others requiring involuntary commitment pending examination
640 and hearing; or, if the proposed patient has refused to submit to an interview with a mental
641 health professional as directed by the court or to go to a treatment facility voluntarily, the court
642 may issue an order, directed to a mental health officer or peace officer, to immediately place
643 the proposed patient in the custody of a local mental health authority or in a temporary
644 emergency facility as provided in Section 62A-15-634 to be detained for the purpose of
645 examination. ~~[Within 24 hours of the issuance of the order for examination, a local mental~~
646 ~~health authority or its designee shall report to the court, orally or in writing, whether the patient~~
647 ~~is, in the opinion of the examiners, mentally ill, whether the patient has agreed to become a~~

648 voluntary patient under Section ~~62A-15-625~~, and whether treatment programs are available and
649 acceptable without court proceedings. Based on that information, the court may, without
650 taking any further action, terminate the proceedings and dismiss the application. In any event,
651 if the examiner reports orally, the examiner shall immediately send the report in writing to the
652 clerk of the court.]

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

660 (5) Notice of commencement of those proceedings shall be provided by the court as
661 soon as practicable to the applicant, any legal guardian, any immediate adult family members,
662 legal counsel for the parties involved, the local mental health authority or its designee, and any
663 other persons whom the proposed patient or the court shall designate. That notice shall advise
664 those persons that a hearing may be held within the time provided by law. If the proposed
665 patient has refused to permit release of information necessary for provisions of notice under
666 this subsection, the extent of notice shall be determined by the court.

667 (6) Proceedings for commitment of an individual under the age of 18 years to [the
668 division] a local mental health authority may be commenced [by filing a written application
669 with the juvenile court in accordance with the provisions of] in accordance with Part 7,
670 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

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

674 [(8) (a) ~~Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the~~
675 ~~issuance of a judicial order, or after commitment of a proposed patient to a local mental health~~
676 ~~authority under court order for detention or examination, the court shall appoint two designated~~
677 ~~examiners to examine the proposed patient. If requested by the proposed patient's counsel, the~~
678 ~~court shall appoint, as one of the examiners, a reasonably available qualified person designated~~

679 by counsel. The examinations, to be conducted separately, shall be held at the home of the
680 proposed patient, a hospital or other medical facility, or at any other suitable place that is not
681 likely to have a harmful effect on the patient's health.]

682 ~~[(b) The examiner shall inform the patient if not represented by an attorney that, if
683 desired, the patient does not have to say anything, the nature and reasons for the examination,
684 that it was ordered by the court, that any information volunteered could form part of the basis
685 for the patient's involuntary commitment, and that findings resulting from the examination will
686 be made available to the court.]~~

687 ~~[(c) A time shall be set for a hearing to be held within 10 calendar days of the
688 appointment of the designated examiners, unless those examiners or a local mental health
689 authority or its designee informs the court prior to that hearing date that the patient is not
690 mentally ill, that the patient has agreed to become a voluntary patient under Section
691 [62A-15-625](#), or that treatment programs are available and acceptable without court
692 proceedings, in which event the court may, without taking any further action, terminate the
693 proceedings and dismiss the application.]~~

694 (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance
695 of a judicial order, or after commitment of a proposed patient to a local mental health authority
696 or its designee under court order for detention or examination, the court shall appoint two
697 designated examiners:

698 (a) who did not sign the civil commitment application nor the civil commitment
699 certification under Subsection (1);

700 (b) one of whom is a licensed physician; and

701 (c) one of whom may be designated by the proposed patient or the proposed patient's
702 counsel, if that designated examiner is reasonably available.

703 (9) The court shall schedule a hearing to be held within 10 calendar days of the day on
704 which the designated examiners are appointed.

705 (10) The designated examiners shall:

706 (a) conduct their examinations separately;

707 (b) conduct the examinations at the home of the proposed patient, at a hospital or other
708 medical facility, or at any other suitable place that is not likely to have a harmful effect on the
709 proposed patient's health;

710 (c) inform the proposed patient, if not represented by an attorney:
711 (i) that the proposed patient does not have to say anything;
712 (ii) of the nature and reasons for the examination;
713 (iii) that the examination was ordered by the court;
714 (iv) that any information volunteered could form part of the basis for the proposed
715 patient's involuntary commitment; and
716 (v) that findings resulting from the examination will be made available to the court;
717 and
718 (d) within 24 hours of examining the proposed patient, report to the court, orally or in
719 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as
720 described in Section [62A-15-625](#), or has acceptable programs available to the proposed patient
721 without court proceedings. If the designated examiner reports orally, the designated examiner
722 shall immediately send a written report to the clerk of the court.
723 (11) If a designated examiner is unable to complete an examination on the first attempt
724 because the proposed patient refuses to submit to the examination, the court shall fix a
725 reasonable compensation to be paid to the examiner.
726 (12) If the local mental health authority, its designee, or a medical examiner determines
727 before the court hearing that the conditions justifying the findings leading to a commitment
728 hearing no longer exist, the local mental health authority, its designee, or the medical examiner
729 shall immediately report that determination to the court.
730 (13) The court may terminate the proceedings and dismiss the application at any time,
731 including prior to the hearing, if the designated examiners or the local mental health authority
732 or its designee informs the court that the proposed patient:
733 (a) is not mentally ill;
734 (b) has agreed to voluntary commitment, as described in Section [62A-15-625](#); or
735 (c) has acceptable options for treatment programs that are available without court
736 proceedings.
737 ~~[(9)(a)]~~ (14) Before the hearing, an opportunity to be represented by counsel shall be
738 afforded to every proposed patient, and if neither the proposed patient nor others provide
739 counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the
740 proposed patient before the hearing. In the case of an indigent proposed patient, the payment

741 of reasonable attorney fees for counsel, as determined by the court, shall be made by the county
742 in which the proposed patient resides or [~~was~~] is found.

743 [~~(b)~~] (15)(a) The proposed patient, the applicant, and all other persons to whom notice
744 is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and
745 to present and cross-examine witnesses. The court may, in its discretion, receive the testimony
746 of any other person. The court may allow a waiver of the proposed patient's right to appear
747 only for good cause shown, and that cause shall be made a matter of court record.

748 [~~(c)~~] (b) The court is authorized to exclude all persons not necessary for the conduct of
749 the proceedings and may, upon motion of counsel, require the testimony of each examiner to be
750 given out of the presence of any other examiners.

751 [~~(d)~~] (c) The hearing shall be conducted in as informal a manner as may be consistent
752 with orderly procedure, and in a physical setting that is not likely to have a harmful effect on
753 the mental health of the proposed patient.

754 [~~(e)~~] (d) The court shall consider all relevant historical and material information that is
755 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah
756 Rules of Evidence.

757 [~~(f)~~] (e) (i) A local mental health authority or its designee, or the physician in charge of
758 the proposed patient's care shall, at the time of the hearing, provide the court with the following
759 information:

760 (A) the detention order;

761 (B) admission notes;

762 (C) the diagnosis;

763 (D) any doctors' orders;

764 (E) progress notes;

765 (F) nursing notes; and

766 (G) medication records pertaining to the current commitment.

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

769 [~~(10)~~] (16) The court shall order commitment of [~~an individual~~] a proposed patient who
770 is 18 years of age or older to a local mental health authority if, upon completion of the hearing
771 and consideration of the information presented in accordance with Subsection [~~(9)(e)~~] (15)(d),

772 the court finds by clear and convincing evidence that:

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

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

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

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

783 (e) the local mental health authority can provide the [~~individual~~] proposed patient with
784 treatment that is adequate and appropriate to the [~~individual's~~] proposed patient's conditions
785 and needs. In the absence of the required findings of the court after the hearing, the court shall
786 [~~forthwith~~] dismiss the proceedings.

787 [(11)] (17) (a) The order of commitment shall designate the period for which the
788 [~~individual~~] patient shall be treated. When the [~~individual~~] patient is not under an order of
789 commitment at the time of the hearing, that period may not exceed six months without benefit
790 of a review hearing. Upon such a review hearing, to be commenced prior to the expiration of
791 the previous order, an order for commitment may be for an indeterminate period, if the court
792 finds by clear and convincing evidence that the required conditions in Subsection [(10)] (16)
793 will last for an indeterminate period.

794 (b) The court shall maintain a current list of all patients under its order of commitment.
795 That list shall be reviewed to determine those patients who have been under an order of
796 commitment for the designated period. At least two weeks prior to the expiration of the
797 designated period of any order of commitment still in effect, the court that entered the original
798 order shall inform the appropriate local mental health authority or its designee. The local
799 mental health authority or its designee shall immediately reexamine the reasons upon which the
800 order of commitment was based. If the local mental health authority or its designee determines
801 that the conditions justifying that commitment no longer exist, it shall discharge the patient
802 from involuntary commitment and immediately report [~~that~~] the discharge to the court.

803 Otherwise, the court shall immediately appoint two designated examiners and proceed under
804 Subsections (8) through ~~[(10)]~~ (14).

805 (c) The local mental health authority or its designee responsible for the care of a patient
806 under an order of commitment for an indeterminate period² shall₂ at six-month intervals₂
807 reexamine the reasons upon which the order of indeterminate commitment was based. If the
808 local mental health authority or its designee determines that the conditions justifying that
809 commitment no longer exist, that local mental health authority or its designee shall discharge
810 the patient from its custody and immediately report the discharge to the court. If the local
811 mental health authority or its designee determines that the conditions justifying that
812 commitment continue to exist, the local mental health authority or its designee shall send a
813 written report of those findings to the court. The patient and the patient's counsel of record
814 shall be notified in writing that the involuntary commitment will be continued, the reasons for
815 that decision, and that the patient has the right to a review hearing by making a request to the
816 court. Upon receiving the request, the court shall immediately appoint two designated
817 examiners and proceed under Subsections (8) through ~~[(10)]~~ (14).

818 ~~[(12) In the event that the designated examiners are unable, because a proposed patient~~
819 ~~refuses to submit to an examination, to complete that examination on the first attempt, the~~
820 ~~court shall fix a reasonable compensation to be paid to those designated examiners for their~~
821 ~~services.]~~

822 ~~[(13)]~~ (18) Any ~~[person]~~ patient committed as a result of an original hearing or a
823 ~~[person's]~~ patient's legally designated representative who is aggrieved by the findings,
824 conclusions, and order of the court entered in the original hearing has the right to a new hearing
825 upon a petition filed with the court within 30 days of the entry of the court order. The petition
826 must allege error or mistake in the findings, in which case the court shall appoint three
827 impartial designated examiners previously unrelated to the case to conduct an additional
828 examination of the patient. The new hearing shall, in all other respects, be conducted in the
829 manner otherwise permitted.

830 ~~[(14)]~~ (19) Costs of all proceedings under this section shall be paid by the county in
831 which the proposed patient resides or is found.

832 Section 10. Section **62A-15-632** is amended to read:

833 **62A-15-632. Circumstances under which conditions justifying initial involuntary**

834 **commitment shall be considered to continue to exist.**

835 (1) After ~~[a person has been]~~ an individual is involuntarily committed to the custody of
836 a local mental health authority under Subsection ~~62A-15-631~~~~(10)~~(16), the conditions
837 justifying commitment under that subsection shall be considered to continue to exist, for
838 purposes of continued treatment under Subsection ~~62A-15-631~~~~(11)~~(17) or conditional release
839 under Section ~~62A-15-637~~, if the court finds that the patient is still mentally ill, and that absent
840 an order of involuntary commitment and without continued treatment the patient will suffer
841 severe and abnormal mental and emotional distress as indicated by recent past history, and will
842 experience deterioration in the patient's ability to function in the least restrictive environment,
843 thereby making the patient a substantial danger to self or others.

844 (2) A patient whose treatment is continued or who is conditionally released under the
845 terms of this section, shall be maintained in the least restrictive environment available that can
846 provide the patient with the treatment that is adequate and appropriate.

847 Section 11. Section ~~62A-15-635~~ is amended to read:

848 **62A-15-635. Notice of commitment.**

849 Whenever a patient has been temporarily, involuntarily committed to a local mental
850 health authority ~~[pursuant to]~~ under Section ~~62A-15-629~~ on the application of ~~[any person]~~ an
851 individual other than ~~[his]~~ the patient's legal guardian, spouse, or next of kin, the local mental
852 health authority or ~~[its]~~ a designee of the local mental health authority shall immediately notify
853 the patient's legal guardian, spouse, or next of kin, if known.

854 Section 12. Section ~~62A-15-637~~ is amended to read:

855 **62A-15-637. Release of patient to receive other treatment -- Placement in more**
856 **restrictive environment -- Procedures.**

857 (1) A local mental health authority or ~~[its]~~ a designee of a local mental health authority
858 may release an improved patient to less restrictive treatment ~~[as it may specify, and when~~
859 ~~agreed to in writing by the patient:]~~ when:

860 (a) the authority specifies the less-restrictive treatment; and

861 (b) the patient agrees in writing to the less restrictive treatment.

862 (2) Whenever a local mental health authority or ~~[its designee]~~ a designee of a local
863 mental health authority determines that the conditions justifying commitment no longer exist,
864 the ~~[patient shall be discharged]~~ local mental health authority or the designee shall discharge

865 the patient. If the patient has been committed through judicial proceedings, [~~a report~~
866 ~~describing that determination shall be sent~~] the local mental health authority or the designee
867 shall prepare a report describing the determination and shall send the report to the clerk of the
868 court where the proceedings were held.

869 [~~(2)~~] (3) (a) A local mental health authority or [~~its designee~~] a designee of a local
870 mental health authority is authorized to issue an order for the immediate placement of a current
871 patient [~~not previously released from an order of commitment~~] into a more restrictive
872 environment, if:

873 (i) the local mental health authority or [~~its designee~~] a designee of a local mental health
874 authority has reason to believe that the [~~less restrictive environment in which the patient has~~
875 ~~been placed~~] patient's current environment is aggravating the patient's mental illness [~~as~~
876 ~~defined in Subsection 62A-15-631(10), or that~~]; or

877 (ii) the patient has failed to comply with the specified treatment plan to which [~~he had~~]
878 the patient agreed in writing.

879 (b) [~~That~~] An order for a more restrictive environment shall include the reasons
880 [~~therefor~~] for the order and shall authorize any peace officer to take the patient into physical
881 custody and transport [~~him~~] the patient to a facility designated by the [~~division~~] local mental
882 health authority. Prior to or upon admission to the more restrictive environment, or upon
883 imposition of additional or different requirements as conditions for continued release from
884 inpatient care, copies of the order shall be personally delivered to the patient and sent to the
885 person in whose care the patient is placed. The order shall also be sent to the patient's counsel
886 of record and to the court that entered the original order of commitment. The order shall
887 inform the patient of the right to a hearing, as prescribed in this section, the right to appointed
888 counsel, and the other procedures prescribed in Subsection 62A-15-631[~~(9)~~](14).

889 (c) If the patient [~~has been in the~~] was in a less restrictive environment for more than
890 30 days and is aggrieved by the change to a more restrictive environment, the patient or [~~his~~]
891 the patient's representative may request a hearing within 30 days of the change. Upon receiving
892 the request, the court shall immediately appoint two designated examiners and proceed
893 pursuant to Section 62A-15-631, with the exception of Subsection 62A-15-631[~~(10)~~](16),
894 unless, by the time set for the hearing, the patient [~~has again been placed in~~] is returned to the
895 less restrictive environment[;] or the patient [~~has in writing withdrawn his~~] withdraws the

896 request for a hearing, in writing.

897 ~~[(3) The court shall find that either:]~~

898 ~~[(a) the less restrictive environment in which the patient has been placed is aggravating~~
 899 ~~the patient's dangerousness or mental illness as defined in Subsection 62A-15-631(10), or the~~
 900 ~~patient has failed to comply with a specified treatment plan to which he had agreed in writing;~~
 901 ~~or]~~

902 ~~[(b) the less restrictive environment in which the patient has been placed is not~~
 903 ~~aggravating the patient's mental illness or dangerousness, and the patient has not failed to~~
 904 ~~comply with any specified treatment plan to which he had agreed in writing, in which event the~~
 905 ~~order shall designate that the individual shall be placed and treated in a less restrictive~~
 906 ~~environment appropriate for his needs.]~~

907 (d) The court shall:

908 (i) make findings regarding whether the conditions described in Subsections (3)(a) and
 909 (b) were met and whether the patient is in the least restrictive environment that is appropriate
 910 for the patient's needs; and

911 ~~[(4)]~~ (ii) [The order shall also] designate, by order, the environment for the patient's
 912 care and the period for which the [individual] patient shall be treated, [in no event to] which
 913 may not extend beyond expiration of the original order of commitment.

914 ~~[(5)]~~ (4) Nothing contained in this section prevents a local mental health authority or
 915 its designee, pursuant to Section 62A-15-636, from discharging a patient from commitment or
 916 from placing a patient in an environment that is less restrictive than that ordered by the court.

917 Section 13. Section **62A-15-703** is amended to read:

918 **62A-15-703. Residential and inpatient settings -- Commitment proceeding --**
 919 **Child in physical custody of local mental health authority.**

920 (1) A child may receive services from a local mental health authority in an inpatient or
 921 residential setting only after a commitment proceeding, for the purpose of transferring physical
 922 custody, has been conducted in accordance with the requirements of this section.

923 (2) That commitment proceeding shall be initiated by a petition for commitment, and
 924 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
 925 to the procedures and requirements of this section. If the findings described in Subsection (4)
 926 exist, the proceeding shall result in the transfer of physical custody to the appropriate local

927 mental health authority, and the child may be placed in an inpatient or residential setting.

928 (3) The neutral and detached fact finder who conducts the inquiry:

929 (a) shall be a designated examiner, as defined in [~~Subsection~~] Section

930 62A-15-602~~(3)~~; and

931 (b) may not profit, financially or otherwise, from the commitment or physical
932 placement of the child in that setting.

933 (4) Upon determination by [~~the~~] a fact finder that the following circumstances clearly
934 exist, [~~he~~] the fact finder may order that the child be committed to the physical custody of a
935 local mental health authority:

936 (a) the child has a mental illness, as defined in Subsection 62A-15-602~~(11)~~(13);

937 (b) the child demonstrates [~~a risk of harm to himself~~] a reasonable fear of the risk of
938 substantial danger to self or others;

939 [~~(c) the child is experiencing significant impairment in his ability to perform socially;~~]

940 [~~(d)~~] (c) the child will benefit from care and treatment by the local mental health
941 authority; and

942 [~~(e)~~] (d) there is no appropriate less-restrictive alternative.

943 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
944 conducted in as informal manner as possible~~;~~ and in a physical setting that is not likely to
945 have a harmful effect on the child.

946 (b) The child, the child's parent or legal guardian, the [~~person who submitted the~~
947 ~~petition for commitment~~] petitioner, and a representative of the appropriate local mental health
948 authority [~~shall all~~];

949 (i) shall receive informal notice of the date and time of the proceeding~~[- Those parties~~
950 ~~shall also be afforded an opportunity to appear and to]; and~~

951 (ii) may appear and address the petition for commitment.

952 (c) The neutral and detached fact finder may, in [~~his~~] the fact finder's discretion,
953 receive the testimony of any other person.

954 (d) The fact finder may allow [~~the~~] a child to waive [~~his~~] the child's right to be present
955 at the commitment proceeding, for good cause shown. If that right is waived, the purpose of
956 the waiver shall be made a matter of record at the proceeding.

957 (e) At the time of the commitment proceeding, the appropriate local mental health

958 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
959 commitment proceeding, shall provide the neutral and detached fact finder with the following
960 information, as it relates to the period of current admission:

961 (i) the petition for commitment;

962 (ii) the admission notes;

963 (iii) the child's diagnosis;

964 (iv) physicians' orders;

965 (v) progress notes;

966 (vi) nursing notes; and

967 (vii) medication records.

968 (f) The information described in Subsection (5)(e) shall also be provided to the child's
969 parent or legal guardian upon written request.

970 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
971 duration of the commitment. Any commitment to the physical custody of a local mental health
972 authority may not exceed 180 days. Prior to expiration of the commitment, and if further
973 commitment is sought, a hearing shall be conducted in the same manner as the initial
974 commitment proceeding, in accordance with the requirements of this section.

975 (ii) ~~[When]~~ At the conclusion of the hearing and subsequently in writing, when a
976 decision for commitment is made, the neutral and detached fact finder shall inform the child
977 and [his] the child's parent or legal guardian of that decision[;] and of the reasons for ordering
978 commitment [at the conclusion of the hearing, and also in writing].

979 (iii) The neutral and detached fact finder shall state in writing the basis of [his] the
980 decision, with specific reference to each of the criteria described in Subsection (4), as a matter
981 of record.

982 ~~[(6) Absent the procedures and findings required by this section, a child may be~~
983 ~~temporarily committed to the physical custody of a local mental health authority only in~~
984 ~~accordance with the emergency procedures described in Subsection 62A-15-629(1) or (2). A~~
985 ~~child temporarily committed in accordance with those emergency procedures may be held for a~~
986 ~~maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of~~
987 ~~that time period, the child shall be released unless the procedures and findings required by this~~
988 ~~section have been satisfied.]~~

989 (6) A child may be temporarily committed for a maximum of 72 hours, excluding
990 Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health
991 authority in accordance with the procedures described in Section [62A-15-629](#) and upon
992 satisfaction of the risk factors described in Subsection (4). A child who is temporarily
993 committed shall be released at the expiration of the 72 hours unless the procedures and findings
994 required by this section for the commitment of a child are satisfied.

995 (7) A local mental health authority shall have physical custody of each child committed
996 to it under this section. The parent or legal guardian of a child committed to the physical
997 custody of a local mental health authority under this section, retains legal custody of the child,
998 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
999 when the Division of Child and Family Services or the Division of Juvenile Justice Services
1000 has legal custody of a child, that division shall retain legal custody for purposes of this part.

1001 (8) The cost of caring for and maintaining a child in the physical custody of a local
1002 mental health authority shall be assessed to and paid by the child's parents, according to their
1003 ability to pay. For purposes of this section, the Division of Child and Family Services or the
1004 Division of Juvenile Justice Services shall be financially responsible, in addition to the child's
1005 parents, if the child is in the legal custody of either of those divisions at the time the child is
1006 committed to the physical custody of a local mental health authority under this section, unless
1007 Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services
1008 shall assist those divisions in collecting the costs assessed pursuant to this section.

1009 (9) Whenever application is made for commitment of a minor to a local mental health
1010 authority under any provision of this section by a person other than the child's parent or
1011 guardian, the local mental health authority or its designee shall notify the child's parent or
1012 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
1013 proceeding.

1014 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30
1015 days after any order for commitment. The appeal may be brought on the child's own petition[~~5~~]
1016 or [~~that of his~~] on petition of the child's parent or legal guardian, to the juvenile court in the
1017 district where the child resides or is currently physically located. With regard to a child in the
1018 custody of the Division of Child and Family Services or the Division of Juvenile Justice
1019 Services, the attorney general's office shall handle the appeal, otherwise the appropriate county

1020 attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

1021 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
1022 examiner previously unrelated to the case, to conduct an examination of the child in accordance
1023 with the criteria described in Subsection (4), and file a written report with the court. The court
1024 shall then conduct an appeal hearing to determine whether the findings described in Subsection
1025 (4) exist by clear and convincing evidence.

1026 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
1027 its designee, or the mental health professional who has been in charge of the child's care prior
1028 to commitment, shall provide the court and the designated examiner for the appeal hearing with
1029 the following information, as it relates to the period of current admission:

1030 (i) the original petition for commitment;

1031 (ii) admission notes;

1032 (iii) diagnosis;

1033 (iv) physicians' orders;

1034 (v) progress notes;

1035 (vi) nursing notes; and

1036 (vii) medication records.

1037 (d) Both the neutral and detached fact finder and the designated examiner appointed for
1038 the appeal hearing shall be provided with an opportunity to review the most current
1039 information described in Subsection (10)(c) prior to the appeal hearing.

1040 (e) The child, [his] the child's parent or legal guardian, the person who submitted the
1041 original petition for commitment, and a representative of the appropriate local mental health
1042 authority shall be notified by the court of the date and time of the appeal hearing. Those
1043 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the
1044 court shall review the record and findings of the neutral and detached fact finder, the report of
1045 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,
1046 allow or require the testimony of the neutral and detached fact finder, the designated examiner,
1047 the child, the child's parent or legal guardian, the person who brought the initial petition for
1048 commitment, or any other person whose testimony the court deems relevant. The court may
1049 allow the child to waive [his] the right to appear at the appeal hearing, for good cause shown.
1050 If that waiver is granted, the purpose shall be made a part of the court's record.

1051 (11) Each local mental health authority has an affirmative duty to conduct periodic
1052 evaluations of the mental health and treatment progress of every child committed to its physical
1053 custody under this section, and to release any child who has sufficiently improved so that the
1054 criteria justifying commitment no longer exist.

1055 (12) (a) A local mental health authority or its designee, in conjunction with the child's
1056 current treating mental health professional may release an improved child to a less restrictive
1057 environment, as they determine appropriate. Whenever the local mental health authority or its
1058 designee, and the child's current treating mental health professional, determine that the
1059 conditions justifying commitment no longer exist, the child shall be discharged and released to
1060 ~~[his]~~ the child's parent or legal guardian. With regard to a child who is in the physical custody
1061 of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be
1062 the child's current treating mental health professional.

1063 (b) A local mental health authority or its designee, in conjunction with the child's
1064 current treating mental health professional, is authorized to issue a written order for the
1065 immediate placement of a child not previously released from an order of commitment into a
1066 more restrictive environment, if the local authority or its designee and the child's current
1067 treating mental health professional has reason to believe that the less restrictive environment in
1068 which the child has been placed is exacerbating ~~[his]~~ the child's mental illness, or increasing
1069 the risk of harm to ~~[himself]~~ self or others.

1070 (c) The written order described in Subsection (12)(b) shall include the reasons for
1071 placement in a more restrictive environment and shall authorize any peace officer to take the
1072 child into physical custody and transport ~~[him]~~ the child to a facility designated by the
1073 appropriate local mental health authority in conjunction with the child's current treating mental
1074 health professional. Prior to admission to the more restrictive environment, copies of the order
1075 shall be personally delivered to the child, ~~[his]~~ the child's parent or legal guardian, the
1076 administrator of the more restrictive environment, or ~~[his]~~ the administrator's designee, and the
1077 child's former treatment provider or facility.

1078 (d) If the child has been in a less restrictive environment for more than 30 days and is
1079 aggrieved by the change to a more restrictive environment, the child or ~~[his]~~ the child's
1080 representative may request a review within 30 days of the change, by a neutral and detached
1081 fact finder as described in Subsection (3). The fact finder shall determine whether:

1082 (i) the less restrictive environment in which the child has been placed is exacerbating
1083 ~~[his] the child's~~ mental illness~~[-]~~ or increasing the risk of harm to ~~[himself]~~ self or others; or

1084 (ii) the less restrictive environment in which the child has been placed is not
1085 exacerbating ~~[his] the child's~~ mental illness~~[-]~~ or increasing the risk of harm to ~~[himself]~~ self or
1086 others, in which case the fact finder shall designate that the child remain in the less restrictive
1087 environment.

1088 (e) Nothing in this section prevents a local mental health authority or its designee, in
1089 conjunction with the child's current mental health professional, from discharging a child from
1090 commitment or from placing a child in an environment that is less restrictive than that
1091 designated by the neutral and detached fact finder.

1092 (13) Each local mental health authority or its designee, in conjunction with the child's
1093 current treating mental health professional shall discharge any child who, in the opinion of that
1094 local authority, or its designee, and the child's current treating mental health professional, no
1095 longer meets the criteria specified in Subsection (4), except as provided by Section 78A-6-120.
1096 The local authority and the mental health professional shall assure that any further supportive
1097 services required to meet the child's needs upon release will be provided.

1098 (14) Even though a child has been committed to the physical custody of a local mental
1099 health authority ~~[pursuant to]~~ under this section, the child is still entitled to additional due
1100 process proceedings, in accordance with Section 62A-15-704, before any treatment ~~[which]~~
1101 ~~that~~ may affect a constitutionally protected liberty or privacy interest is administered. Those
1102 treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and
1103 psychosurgery.

1104 Section 14. Section 62A-15-705 is amended to read:

1105 **62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Custody.**

1106 (1) (a) Subject to Subsection (1)(b), commitment proceedings for a child may be
1107 commenced by filing a written application with the juvenile court of the county in which the
1108 child resides or is found, in accordance with the procedures described in Section 62A-15-631.

1109 (b) Commitment proceedings under this section may be commenced only after a
1110 commitment proceeding under Section 62A-15-703 has concluded without the child being
1111 committed.

1112 (2) The juvenile court shall order commitment to the physical custody of a local mental

1113 health authority if, upon completion of the hearing and consideration of the record, it finds by
1114 clear and convincing evidence that:

1115 (a) the child has a mental illness, as defined in [~~Subsection~~] Section 62A-15-602~~(8)~~;

1116 (b) the child demonstrates a risk of harm to himself or others;

1117 (c) the child is experiencing significant impairment in [~~his~~] the child's ability to
1118 perform socially;

1119 (d) the child will benefit from the proposed care and treatment; and

1120 (e) there is no appropriate less restrictive alternative.

1121 (3) The local mental health authority has an affirmative duty to conduct periodic
1122 reviews of children committed to its custody pursuant to this section, and to release any child
1123 who has sufficiently improved so that the local mental health authority or its designee
1124 determines that commitment is no longer appropriate.

1125 Section 15. **Repealer.**

1126 This bill repeals:

1127 Section 62A-15-402, **Rules for substance use disorder peer support specialist**
1128 **training and certification.**

Legislative Review Note
Office of Legislative Research and General Counsel