

1                   **ASSISTED OUTPATIENT TREATMENT FOR MENTAL**  
2   **ILLNESS**

3   2019 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Lincoln Fillmore**

6   House Sponsor: Steve Eliason

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8 **LONG TITLE**

9 **General Description:**

10           This bill creates a process for the provision of assisted outpatient treatment for an  
11 individual with mental illness.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines "assisted outpatient treatment";
- 15           ▶ describes the services provided to an individual receiving assisted outpatient  
16 treatment;
- 17           ▶ describes the process whereby an individual is court ordered to receive assisted  
18 outpatient treatment;
- 19           ▶ requires a designated examiner to consider assisted outpatient treatment when  
20 evaluating a proposed patient for civil commitment; and
- 21           ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23           None

24 **Other Special Clauses:**

25           None

26 **Utah Code Sections Affected:**

27 **AMENDS:**

28           **17-43-301**, as last amended by Laws of Utah 2018, Chapters 68 and 407

29           **62A-15-602**, as last amended by Laws of Utah 2018, Chapter 322

30 **62A-15-618**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,

31 Chapter 8

32 **62A-15-631**, as last amended by Laws of Utah 2018, Chapter 322

33 **62A-15-703**, as last amended by Laws of Utah 2018, Chapter 322

34 ENACTS:

35 **31A-22-650**, Utah Code Annotated 1953

36 **62A-15-630.4**, Utah Code Annotated 1953

37 **62A-15-630.5**, Utah Code Annotated 1953



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

40 Section 1. Section **17-43-301** is amended to read:

41 **17-43-301. Local mental health authorities -- Responsibilities.**

42 (1) As used in this section:

43 (a) "Assisted outpatient treatment" means the same as that term is defined in Section

44 [62A-15-602](#).

45 [~~(a)~~] (b) "Crisis worker" means the same as that term is defined in Section

46 [62A-15-1301](#).

47 [~~(b)~~] (c) "Local mental health crisis line" means the same as that term is defined in

48 Section [63C-18-102](#).

49 [~~(c)~~] (d) "Mental health therapist" means the same as that term is defined in Section

50 [58-60-102](#).

51 [~~(d)~~] (e) "Public funds" means the same as that term is defined in Section [17-43-303](#).

52 [~~(e)~~] (f) "Statewide mental health crisis line" means the same as that term is defined in

53 Section [63C-18-102](#).

54 (2) (a) (i) In each county operating under a county executive-council form of  
55 government under Section [17-52a-203](#), the county legislative body is the local mental health  
56 authority, provided however that any contract for plan services shall be administered by the  
57 county executive.

58 (ii) In each county operating under a council-manager form of government under  
59 Section 17-52a-204, the county manager is the local mental health authority.

60 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the  
61 county legislative body is the local mental health authority.

62 (b) Within legislative appropriations and county matching funds required by this  
63 section, under the direction of the division, each local mental health authority shall:

64 (i) provide mental health services to ~~persons~~ individuals within the county; and

65 (ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to  
66 promote integrated programs that address an individual's substance abuse, mental health, and  
67 physical healthcare needs, as described in Section 62A-15-103.

68 (c) Within legislative appropriations and county matching funds required by this  
69 section, each local mental health authority shall cooperate with the efforts of the Department of  
70 Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with  
71 or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

72 (3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
73 Cooperation Act, two or more counties may join to:

74 (i) provide mental health prevention and treatment services; or

75 (ii) create a united local health department that combines substance abuse treatment  
76 services, mental health services, and local health department services in accordance with  
77 Subsection (4).

78 (b) The legislative bodies of counties joining to provide services may establish  
79 acceptable ways of apportioning the cost of mental health services.

80 (c) Each agreement for joint mental health services shall:

81 (i) (A) designate the treasurer of one of the participating counties or another person as  
82 the treasurer for the combined mental health authorities and as the custodian of money  
83 available for the joint services; and

84 (B) provide that the designated treasurer, or other disbursing officer authorized by the  
85 treasurer, may make payments from the money available for the joint services upon audit of the

86 appropriate auditing officer or officers representing the participating counties;

87 (ii) provide for the appointment of an independent auditor or a county auditor of one of  
88 the participating counties as the designated auditing officer for the combined mental health  
89 authorities;

90 (iii) (A) provide for the appointment of the county or district attorney of one of the  
91 participating counties as the designated legal officer for the combined mental health  
92 authorities; and

93 (B) authorize the designated legal officer to request and receive the assistance of the  
94 county or district attorneys of the other participating counties in defending or prosecuting  
95 actions within their counties relating to the combined mental health authorities; and

96 (iv) provide for the adoption of management, clinical, financial, procurement,  
97 personnel, and administrative policies as already established by one of the participating  
98 counties or as approved by the legislative body of each participating county or interlocal board.

99 (d) An agreement for joint mental health services may provide for:

100 (i) joint operation of services and facilities or for operation of services and facilities  
101 under contract by one participating local mental health authority for other participating local  
102 mental health authorities; and

103 (ii) allocation of appointments of members of the mental health advisory council  
104 between or among participating counties.

105 (4) A county governing body may elect to combine the local mental health authority  
106 with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,  
107 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health  
108 Department Act, to create a united local health department under Section [26A-1-105.5](#). A local  
109 mental health authority that joins with a united local health department shall comply with this  
110 part.

111 (5) (a) Each local mental health authority is accountable to the department, the  
112 Department of Health, and the state with regard to the use of state and federal funds received  
113 from those departments for mental health services, regardless of whether the services are

114 provided by a private contract provider.

115 (b) Each local mental health authority shall comply, and require compliance by its  
116 contract provider, with all directives issued by the department and the Department of Health  
117 regarding the use and expenditure of state and federal funds received from those departments  
118 for the purpose of providing mental health programs and services. The department and  
119 Department of Health shall ensure that those directives are not duplicative or conflicting, and  
120 shall consult and coordinate with local mental health authorities with regard to programs and  
121 services.

122 (6) (a) Each local mental health authority shall:

123 (i) review and evaluate mental health needs and services, including mental health needs  
124 and services for [persons]:

125 (A) an individual incarcerated in a county jail or other county correctional facility; and

126 (B) an individual who is a resident of the county and who is court ordered to receive  
127 assisted outpatient treatment under Section [62A-15-630.5](#);

128 (ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a  
129 plan approved by the county legislative body for mental health funding and service delivery,  
130 either directly by the local mental health authority or by contract;

131 (iii) establish and maintain, either directly or by contract, programs licensed under Title  
132 62A, Chapter 2, Licensure of Programs and Facilities;

133 (iv) appoint, directly or by contract, a full-time or part-time director for mental health  
134 programs and prescribe the director's duties;

135 (v) provide input and comment on new and revised rules established by the division;

136 (vi) establish and require contract providers to establish administrative, clinical,  
137 personnel, financial, procurement, and management policies regarding mental health services  
138 and facilities, in accordance with the rules of the division, and state and federal law;

139 (vii) establish mechanisms allowing for direct citizen input;

140 (viii) annually contract with the division to provide mental health programs and  
141 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and

142 Mental Health Act;

143 (ix) comply with all applicable state and federal statutes, policies, audit requirements,  
144 contract requirements, and any directives resulting from those audits and contract requirements;

145 (x) provide funding equal to at least 20% of the state funds that it receives to fund  
146 services described in the plan;

147 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
148 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title  
149 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
150 Other Local Entities Act; and

151 (xii) take and retain physical custody of minors committed to the physical custody of  
152 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,  
153 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

154 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and  
155 children, which shall include:

156 (i) inpatient care and services;

157 (ii) residential care and services;

158 (iii) outpatient care and services;

159 (iv) 24-hour crisis care and services;

160 (v) psychotropic medication management;

161 (vi) psychosocial rehabilitation, including vocational training and skills development;

162 (vii) case management;

163 (viii) community supports, including in-home services, housing, family support  
164 services, and respite services;

165 (ix) consultation and education services, including case consultation, collaboration  
166 with other county service agencies, public education, and public information; and

167 (x) services to persons incarcerated in a county jail or other county correctional facility.

168 (7) (a) If a local mental health authority provides for a local mental health crisis line  
169 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local

170 mental health authority shall:

171 (i) collaborate with the statewide mental health crisis line described in Section  
172 62A-15-1302;

173 (ii) ensure that each individual who answers calls to the local mental health crisis line:

174 (A) is a mental health therapist or a crisis worker; and

175 (B) meets the standards of care and practice established by the Division of Substance  
176 Abuse and Mental Health, in accordance with Section 62A-15-1302; and

177 (iii) ensure that when necessary, based on the local mental health crisis line's capacity,  
178 calls are immediately routed to the statewide mental health crisis line to ensure that when an  
179 individual calls the local mental health crisis line, regardless of the time, date, or number of  
180 individuals trying to simultaneously access the local mental health crisis line, a mental health  
181 therapist or a crisis worker answers the call without the caller first:

182 (A) waiting on hold; or

183 (B) being screened by an individual other than a mental health therapist or crisis  
184 worker.

185 (b) If a local mental health authority does not provide for a local mental health crisis  
186 line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the  
187 local mental health authority shall use the statewide mental health crisis line as a local crisis  
188 line resource.

189 (8) Before disbursing any public funds, each local mental health authority shall require  
190 that each entity that receives any public funds from a local mental health authority agrees in  
191 writing that:

192 (a) the entity's financial records and other records relevant to the entity's performance  
193 of the services provided to the mental health authority shall be subject to examination by:

194 (i) the division;

195 (ii) the local mental health authority director;

196 (iii) (A) the county treasurer and county or district attorney; or

197 (B) if two or more counties jointly provide mental health services under an agreement

198 under Subsection (3), the designated treasurer and the designated legal officer;

199 (iv) the county legislative body; and

200 (v) in a county with a county executive that is separate from the county legislative  
201 body, the county executive;

202 (b) the county auditor may examine and audit the entity's financial and other records  
203 relevant to the entity's performance of the services provided to the local mental health  
204 authority; and

205 (c) the entity will comply with the provisions of Subsection (5)(b).

206 (9) A local mental health authority may receive property, grants, gifts, supplies,  
207 materials, contributions, and any benefit derived therefrom, for mental health services. If those  
208 gifts are conditioned upon their use for a specified service or program, they shall be so used.

209 (10) Public funds received for the provision of services pursuant to the local mental  
210 health plan may not be used for any other purpose except those authorized in the contract  
211 between the local mental health authority and the provider for the provision of plan services.

212 (11) A local mental health authority shall provide assisted outpatient treatment  
213 services, as described in Section [62A-15-630.4](#), to a resident of the county who has been  
214 ordered under Section [62A-15-630.5](#) to receive assisted outpatient treatment.

215 Section 2. Section **31A-22-650** is enacted to read:

216 **31A-22-650. Insurance coverage for assisted outpatient treatment.**

217 (1) As used in this section, "assisted outpatient treatment" means the same as that term  
218 is defined in Section [62A-15-602](#).

219 (2) A health insurance provider may not deny an insured the benefits of the insured's  
220 policy solely because the health care that the insured receives is provided under a court order  
221 for assisted outpatient treatment, as provided in Section [62A-15-630.5](#).

222 Section 3. Section **62A-15-602** is amended to read:

223 **62A-15-602. Definitions.**

224 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of  
225 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah



226 Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part  
227 12, Essential Treatment and Intervention Act:

228 (1) "Adult" means an individual 18 years of age or older.

229 (2) "Approved treatment facility or program" means a treatment provider that meets the  
230 standards described in Subsection [62A-15-103\(2\)\(a\)\(v\)](#).

231 (3) "Assisted outpatient treatment" means involuntary outpatient mental health  
232 treatment ordered under Section [62A-15-630.5](#).

233 [~~(3)~~] (4) "Commitment to the custody of a local mental health authority" means that an  
234 adult is committed to the custody of the local mental health authority that governs the mental  
235 health catchment area where the adult resides or is found.

236 [~~(4)~~] (5) "Community mental health center" means an entity that provides treatment  
237 and services to a resident of a designated geographical area, that operates by or under contract  
238 with a local mental health authority, and that complies with state standards for community  
239 mental health centers.

240 [~~(5)~~] (6) "Designated examiner" means:

241 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as  
242 specially qualified by training or experience in the diagnosis of mental or related illness; or

243 (b) a licensed mental health professional designated by the division as specially  
244 qualified by training and who has at least five years' continual experience in the treatment of  
245 mental illness.

246 [~~(6)~~] (7) "Designee" means a physician who has responsibility for medical functions  
247 including admission and discharge, an employee of a local mental health authority, or an  
248 employee of a person that has contracted with a local mental health authority to provide mental  
249 health services under Section [17-43-304](#).

250 [~~(7)~~] (8) "Essential treatment" and "essential treatment and intervention" mean  
251 court-ordered treatment at a local substance abuse authority or an approved treatment facility or  
252 program for the treatment of an adult's substance use disorder.

253 [~~(8)~~] (9) "Harmful sexual conduct" means the following conduct upon an individual

254 without the individual's consent, including the nonconsensual circumstances described in  
255 Subsections [76-5-406](#)(1) through (12):

- 256 (a) sexual intercourse;
- 257 (b) penetration, however slight, of the genital or anal opening of the individual;
- 258 (c) any sexual act involving the genitals or anus of the actor or the individual and the  
259 mouth or anus of either individual, regardless of the gender of either participant; or
- 260 (d) any sexual act causing substantial emotional injury or bodily pain.

261 [~~(9)~~] [\(10\)](#) "Institution" means a hospital or a health facility licensed under Section  
262 [26-21-8](#).

263 [~~(10)~~] [\(11\)](#) "Local substance abuse authority" means the same as that term is defined in  
264 Section [62A-15-102](#) and described in Section [17-43-201](#).

265 [~~(11)~~] [\(12\)](#) "Mental health facility" means the Utah State Hospital or other facility that  
266 provides mental health services under contract with the division, a local mental health  
267 authority, a person that contracts with a local mental health authority, or a person that provides  
268 acute inpatient psychiatric services to a patient.

269 [~~(12)~~] [\(13\)](#) "Mental health officer" means an individual who is designated by a local  
270 mental health authority as qualified by training and experience in the recognition and  
271 identification of mental illness, to:

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

274 [~~(13)~~] [\(14\)](#) "Mental illness" means:

- 275 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,  
276 behavioral, or related functioning; or
- 277 (b) the same as that term is defined in:
  - 278 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders  
279 published by the American Psychiatric Association; or
  - 280 (ii) the current edition of the International Statistical Classification of Diseases and  
281 Related Health Problems.

282 [~~(14)~~] (15) "Patient" means an individual who is:

283 (a) under commitment to the custody or to the treatment services of a local mental  
284 health authority; or

285 (b) undergoing essential treatment and intervention.

286 [~~(15)~~] (16) "Physician" means an individual who is:

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

288 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical  
289 Practice Act.

290 [~~(16)~~] (17) "Serious bodily injury" means bodily injury that involves a substantial risk  
291 of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or  
292 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

293 [~~(17)~~] (18) "Substantial danger" means that due to mental illness, an individual is at  
294 serious risk of:

295 (a) suicide;

296 (b) serious bodily self-injury;

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

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

300 (e) engaging in harmful sexual conduct.

301 [~~(18)~~] (19) "Treatment" means psychotherapy, medication, including the administration  
302 of psychotropic medication, or other medical treatments that are generally accepted medical or  
303 psychosocial interventions for the purpose of restoring the patient to an optimal level of  
304 functioning in the least restrictive environment.

305 Section 4. Section **62A-15-618** is amended to read:

306 **62A-15-618. Designated examiners.**

307 (1) A designated examiner, when evaluating a proposed patient for civil commitment,  
308 shall consider whether:

309 (a) a proposed patient has been under a court order for assisted outpatient treatment;

310 (b) the proposed patient complied with the terms of the assisted outpatient treatment  
311 order, if any; and

312 (c) whether assisted outpatient treatment is sufficient to meet the proposed patient's  
313 needs.

314 (2) Designated examiners shall be allowed a reasonable fee by the county legislative  
315 body of the county in which the proposed patient resides or is found, unless they are otherwise  
316 paid.

317 Section 5. Section **62A-15-630.4** is enacted to read:

318 **62A-15-630.4. Assisted outpatient treatment services.**

319 (1) The local mental health authority or its designee shall provide assisted outpatient  
320 treatment, which shall include:

321 (a) case management; and

322 (b) an individualized treatment plan, created with input from the proposed patient  
323 when possible.

324 (2) A court order for assisted outpatient treatment does not create independent  
325 authority to forcibly medicate a patient.

326 Section 6. Section **62A-15-630.5** is enacted to read:

327 **62A-15-630.5. Assisted outpatient treatment proceedings.**

328 (1) A responsible individual who has credible knowledge of an adult's mental illness  
329 and the condition or circumstances that have led to the adult's need for assisted outpatient  
330 treatment may file, in the district court in the county where the proposed patient resides or is  
331 found, a written application that includes:

332 (a) unless the court finds that the information is not reasonably available, the proposed  
333 patient's:

334 (i) name;

335 (ii) date of birth; and

336 (iii) social security number; and

337 (b) (i) a certificate of a licensed physician or a designated examiner stating that within

338 the seven-day period immediately preceding the certification, the physician or designated  
339 examiner examined the proposed patient and is of the opinion that the proposed patient has a  
340 mental illness and should be involuntarily committed; or

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

342 (A) the proposed patient has been requested to, but has refused to, submit to an  
343 examination of mental condition by a licensed physician or designated examiner;

344 (B) is sworn to under oath; and

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

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

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

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

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

353 (3) If the proposed patient refuses to submit to an interview described in Subsection  
354 (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a  
355 mental health officer or peace officer, to immediately place the proposed patient into the  
356 custody of a local mental health authority or in a temporary emergency facility, as provided in  
357 Section [62A-15-634](#), to be detained for the purpose of examination.

358 (4) Notice of commencement of proceedings for assisted outpatient treatment, setting  
359 forth the allegations of the application and any reported facts, together with a copy of any  
360 official order of detention, shall:

361 (a) be provided by the court to a proposed patient before, or upon, placement into the  
362 custody of a local mental health authority or, with respect to any proposed patient presently in  
363 the custody of a local mental health authority;

364 (b) be maintained at the proposed patient's place of detention, if any;

365 (c) be provided by the court as soon as practicable to the applicant, any legal guardian,

366 any immediate adult family members, legal counsel for the parties involved, the local mental  
367 health authority or its designee, and any other person whom the proposed patient or the court  
368 shall designate; and

369 (d) advise that a hearing may be held within the time provided by law.

370 (5) The district court may, in its discretion, transfer the case to any other district court  
371 within this state, provided that the transfer will not be adverse to the interest of the proposed  
372 patient.

373 (6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance  
374 of a judicial order, or after commitment of a proposed patient to a local mental health authority  
375 or its designee under court order for detention in order to complete an examination, the court  
376 shall appoint two designated examiners:

377 (a) who did not sign the assisted outpatient treatment application nor the certification  
378 described in Subsection (1);

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

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

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

384 (8) The designated examiners shall:

385 (a) conduct their examinations separately;

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

389 (c) inform the proposed patient, if not represented by an attorney:

390 (i) that the proposed patient does not have to say anything;

391 (ii) of the nature and reasons for the examination;

392 (iii) that the examination was ordered by the court;

393 (iv) that any information volunteered could form part of the basis for the proposed

394 patient to be ordered to receive assisted outpatient treatment; and

395 (v) that findings resulting from the examination will be made available to the court;

396 and

397 (d) within 24 hours of examining the proposed patient, report to the court, orally or in  
398 writing, whether the proposed patient is mentally ill. If the designated examiner reports orally,  
399 the designated examiner shall immediately send a written report to the clerk of the court.

400 (9) If a designated examiner is unable to complete an examination on the first attempt  
401 because the proposed patient refuses to submit to the examination, the court shall fix a  
402 reasonable compensation to be paid to the examiner.

403 (10) If the local mental health authority, its designee, or a medical examiner determines  
404 before the court hearing that the conditions justifying the findings leading to an assisted  
405 outpatient treatment hearing no longer exist, the local mental health authority, its designee, or  
406 the medical examiner shall immediately report that determination to the court.

407 (11) The court may terminate the proceedings and dismiss the application at any time,  
408 including prior to the hearing, if the designated examiners or the local mental health authority  
409 or its designee informs the court that the proposed patient is not mentally ill.

410 (12) Before the hearing, an opportunity to be represented by counsel shall be afforded  
411 to the proposed patient, and if neither the proposed patient nor others provide counsel, the court  
412 shall appoint counsel and allow counsel sufficient time to consult with the proposed patient  
413 before the hearing. In the case of an indigent proposed patient, the payment of reasonable  
414 attorney fees for counsel, as determined by the court, shall be made by the county in which the  
415 proposed patient resides or is found.

416 (13) (a) All persons to whom notice is required to be given shall be afforded an  
417 opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The  
418 court may, in its discretion, receive the testimony of any other individual. The court may allow  
419 a waiver of the proposed patient's right to appear only for good cause shown, and that cause  
420 shall be made a matter of court record.

421 (b) The court is authorized to exclude all individuals not necessary for the conduct of

422 the proceedings and may, upon motion of counsel, require the testimony of each examiner to be  
423 given out of the presence of any other examiners.

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

427 (d) The court shall consider all relevant historical and material information that is  
428 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah  
429 Rules of Evidence.

430 (e) (i) A local mental health authority or its designee, or the physician in charge of the  
431 proposed patient's care shall, at the time of the hearing, provide the court with the following  
432 information:

433 (A) the detention order, if any;

434 (B) admission notes, if any;

435 (C) the diagnosis, if any;

436 (D) doctor's orders, if any;

437 (E) progress notes, if any;

438 (F) nursing notes, if any; and

439 (G) medication records, if any.

440 (ii) The information described in Subsection (13)(e)(i) shall also be provided to the  
441 proposed patient's counsel:

442 (A) at the time of the hearing; and

443 (B) at any time prior to the hearing, upon request.

444 (14) The court shall order a proposed patient to assisted outpatient treatment if, upon  
445 completion of the hearing and consideration of the information presented, the court finds by  
446 clear and convincing evidence that:

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

448 (b) there is no appropriate less-restrictive alternative to a court order for assisted  
449 outpatient treatment; and



450 (c) (i) the proposed patient lacks the ability to engage in a rational decision-making  
451 process regarding the acceptance of mental health treatment, as demonstrated by evidence of  
452 inability to weigh the possible risks of accepting or rejecting treatment; or

453 (ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse  
454 or deterioration that is likely to result in the proposed patient posing a substantial danger to self  
455 or others.

456 (15) The court may order the applicant or a close relative of the patient to be the  
457 patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the  
458 patient's mental health treatment.

459 (16) In the absence of the findings described in Subsection (14), the court, after the  
460 hearing, shall dismiss the proceedings.

461 (17) (a) The assisted outpatient treatment order shall designate the period for which the  
462 patient shall be treated, which may not exceed six months without a review hearing.

463 (b) An individual identified under Subsection (4) may request a review hearing at any  
464 time while the assisted outpatient treatment order is in effect.

465 (c) At a review hearing, the court may extend the duration of an assisted outpatient  
466 treatment order by up to six months, if:

467 (i) the court finds by clear and convincing evidence that the patient meets the  
468 conditions described in Subsection (14); or

469 (ii) (A) the patient does not appear at the review hearing; and

470 (B) notice of the review hearing was provided to the patient's last known address by the  
471 applicant described in Subsection (1) or by a local mental health authority.

472 (d) The court shall maintain a current list of all patients under its order of assisted  
473 outpatient treatment.

474 (e) At least two weeks prior to the expiration of the designated period of any assisted  
475 outpatient treatment order still in effect, the court that entered the original order shall inform  
476 the appropriate local mental health authority or its designee.

477 (18) Costs of all proceedings under this section shall be paid by the county in which the

478 proposed patient resides or is found.

479 (19) A court may not hold an individual in contempt for failure to comply with an  
480 assisted outpatient treatment order.

481 (20) As provided in Section 31A-22-650, a health insurance provider may not deny an  
482 insured the benefits of the insured's policy solely because the health care that the insured  
483 receives is provided under a court order for assisted outpatient treatment.

484 Section 7. Section **62A-15-631** is amended to read:

485 **62A-15-631. Involuntary commitment under court order -- Examination --**  
486 **Hearing -- Power of court -- Findings required -- Costs.**

487 (1) A responsible [~~person~~] individual who has [~~reason to know~~] credible knowledge of  
488 an adult's mental illness and the condition or circumstances that have led to the adult's need to  
489 be involuntarily committed may initiate an involuntary commitment court proceeding by filing,  
490 in the district court in the county where the proposed patient resides or is found, a written  
491 application that includes:

492 (a) unless the court finds that the information is not reasonably available, the proposed  
493 patient's:

494 (i) name;

495 (ii) date of birth; and

496 (iii) social security number; [~~and~~]

497 (b) (i) a certificate of a licensed physician or a designated examiner stating that within  
498 the seven-day period immediately preceding the certification, the physician or designated  
499 examiner examined the proposed patient and is of the opinion that the proposed patient has a  
500 mental illness and should be involuntarily committed; or

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

502 (A) the proposed patient has been requested to, but has refused to, submit to an  
503 examination of mental condition by a licensed physician or designated examiner;

504 (B) is sworn to under oath; and

505 (C) states the facts upon which the application is based[~~;~~]; and

506            (c) a statement whether the proposed patient has previously been under an assisted  
507 outpatient treatment order, if known by the applicant.

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

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

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

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

515            (3) If the court finds from the application, from any other statements under oath, or  
516 from any reports from a mental health professional that there is a reasonable basis to believe  
517 that the proposed patient has a mental illness that poses a substantial danger to self or others  
518 requiring involuntary commitment pending examination and hearing; or, if the proposed patient  
519 has refused to submit to an interview with a mental health professional as directed by the court  
520 or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental  
521 health officer or peace officer, to immediately place the proposed patient in the custody of a  
522 local mental health authority or in a temporary emergency facility as provided in Section  
523 [62A-15-634](#) to be detained for the purpose of examination.

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

531            (5) Notice of commencement of those proceedings shall be provided by the court as  
532 soon as practicable to the applicant, any legal guardian, any immediate adult family members,  
533 legal counsel for the parties involved, the local mental health authority or its designee, and any

534 other persons whom the proposed patient or the court shall designate. That notice shall advise  
535 those persons that a hearing may be held within the time provided by law. If the proposed  
536 patient has refused to permit release of information necessary for provisions of notice under  
537 this subsection, the extent of notice shall be determined by the court.

538 (6) Proceedings for commitment of an individual under the age of 18 years to a local  
539 mental health authority may be commenced in accordance with Part 7, Commitment of Persons  
540 Under Age 18 to Division of Substance Abuse and Mental Health.

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

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

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

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

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

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

555 (10) The designated examiners shall:

556 (a) conduct their examinations separately;

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

560 (c) inform the proposed patient, if not represented by an attorney:

561 (i) that the proposed patient does not have to say anything;

562 (ii) of the nature and reasons for the examination;  
563 (iii) that the examination was ordered by the court;  
564 (iv) that any information volunteered could form part of the basis for the proposed  
565 patient's involuntary commitment; and  
566 (v) that findings resulting from the examination will be made available to the court;  
567 and

568 (d) within 24 hours of examining the proposed patient, report to the court, orally or in  
569 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as  
570 described in Section 62A-15-625, or has acceptable programs available to the proposed patient  
571 without court proceedings. If the designated examiner reports orally, the designated examiner  
572 shall immediately send a written report to the clerk of the court.

573 (11) If a designated examiner is unable to complete an examination on the first attempt  
574 because the proposed patient refuses to submit to the examination, the court shall fix a  
575 reasonable compensation to be paid to the examiner.

576 (12) If the local mental health authority, its designee, or a medical examiner determines  
577 before the court hearing that the conditions justifying the findings leading to a commitment  
578 hearing no longer exist, the local mental health authority, its designee, or the medical examiner  
579 shall immediately report that determination to the court.

580 (13) The court may terminate the proceedings and dismiss the application at any time,  
581 including prior to the hearing, if the designated examiners or the local mental health authority  
582 or its designee informs the court that the proposed patient:

- 583 (a) is not mentally ill;
- 584 (b) has agreed to voluntary commitment, as described in Section 62A-15-625; or
- 585 (c) has acceptable options for treatment programs that are available without court  
586 proceedings.

587 (14) Before the hearing, an opportunity to be represented by counsel shall be afforded  
588 to ~~every~~ the proposed patient, and if neither the proposed patient nor others provide counsel,  
589 the court shall appoint counsel and allow counsel sufficient time to consult with the proposed

590 patient before the hearing. In the case of an indigent proposed patient, the payment of  
591 reasonable attorney fees for counsel, as determined by the court, shall be made by the county in  
592 which the proposed patient resides or is found.

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

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

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

604 (d) The court shall consider all relevant historical and material information that is  
605 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah  
606 Rules of Evidence.

607 (e) (i) A local mental health authority or its designee, or the physician in charge of the  
608 proposed patient's care shall, at the time of the hearing, provide the court with the following  
609 information:

610 (A) the detention order;

611 (B) admission notes;

612 (C) the diagnosis;

613 (D) any doctors' orders;

614 (E) progress notes;

615 (F) nursing notes; ~~and~~

616 (G) medication records pertaining to the current commitment~~[-]; and~~

617 (H) whether the proposed patient has previously been civilly committed or under an

618 order for assisted outpatient treatment.

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

621 (16) The court shall order commitment of a proposed patient who is 18 years of age or  
622 older to a local mental health authority if, upon completion of the hearing and consideration of  
623 the information presented in accordance with Subsection (15)(d), the court finds by clear and  
624 convincing evidence that:

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

626 (b) because of the proposed patient's mental illness the proposed patient poses a  
627 substantial danger to self or others;

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

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

633 (e) the local mental health authority can provide the proposed patient with treatment  
634 that is adequate and appropriate to the proposed patient's conditions and needs. In the absence  
635 of the required findings of the court after the hearing, the court shall dismiss the proceedings.

636 (17) (a) The order of commitment shall designate the period for which the patient shall  
637 be treated. When the patient is not under an order of commitment at the time of the hearing,  
638 that period may not exceed six months without benefit of a review hearing. Upon such a  
639 review hearing, to be commenced prior to the expiration of the previous order, an order for  
640 commitment may be for an indeterminate period, if the court finds by clear and convincing  
641 evidence that the required conditions in Subsection (16) will last for an indeterminate period.

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

646 order shall inform the appropriate local mental health authority or its designee. The local  
647 mental health authority or its designee shall immediately reexamine the reasons upon which the  
648 order of commitment was based. If the local mental health authority or its designee determines  
649 that the conditions justifying that commitment no longer exist, it shall discharge the patient  
650 from involuntary commitment and immediately report the discharge to the court. Otherwise,  
651 the court shall immediately appoint two designated examiners and proceed under Subsections  
652 (8) through (14).

653 (c) The local mental health authority or its designee responsible for the care of a patient  
654 under an order of commitment for an indeterminate period shall, at six-month intervals,  
655 reexamine the reasons upon which the order of indeterminate commitment was based. If the  
656 local mental health authority or its designee determines that the conditions justifying that  
657 commitment no longer exist, that local mental health authority or its designee shall discharge  
658 the patient from its custody and immediately report the discharge to the court. If the local  
659 mental health authority or its designee determines that the conditions justifying that  
660 commitment continue to exist, the local mental health authority or its designee shall send a  
661 written report of those findings to the court. The patient and the patient's counsel of record  
662 shall be notified in writing that the involuntary commitment will be continued, the reasons for  
663 that decision, and that the patient has the right to a review hearing by making a request to the  
664 court. Upon receiving the request, the court shall immediately appoint two designated  
665 examiners and proceed under Subsections (8) through (14).

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

673 (19) Costs of all proceedings under this section shall be paid by the county in which the



674 proposed patient resides or is found.

675 Section 8. Section **62A-15-703** is amended to read:

676 **62A-15-703. Residential and inpatient settings -- Commitment proceeding --**  
677 **Child in physical custody of local mental health authority.**

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

681 (2) That commitment proceeding shall be initiated by a petition for commitment, and  
682 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant  
683 to the procedures and requirements of this section. If the findings described in Subsection (4)  
684 exist, the proceeding shall result in the transfer of physical custody to the appropriate local  
685 mental health authority, and the child may be placed in an inpatient or residential setting.

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

687 (a) shall be a designated examiner, as defined in Section [62A-15-602](#); and

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

690 (4) Upon determination by a fact finder that the following circumstances clearly exist,  
691 the fact finder may order that the child be committed to the physical custody of a local mental  
692 health authority:

693 (a) the child has a mental illness, as defined in ~~[Subsection]~~ Section [62A-15-602](#)~~[(13)]~~;

694 (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or  
695 others;

696 (c) the child will benefit from care and treatment by the local mental health authority;  
697 and

698 (d) there is no appropriate less-restrictive alternative.

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

702 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of  
703 the appropriate local mental health authority:

704 (i) shall receive informal notice of the date and time of the proceeding; and

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

706 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the  
707 testimony of any other person.

708 (d) The fact finder may allow a child to waive the child's right to be present at the  
709 commitment proceeding, for good cause shown. If that right is waived, the purpose of the  
710 waiver shall be made a matter of record at the proceeding.

711 (e) At the time of the commitment proceeding, the appropriate local mental health  
712 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the  
713 commitment proceeding, shall provide the neutral and detached fact finder with the following  
714 information, as it relates to the period of current admission:

715 (i) the petition for commitment;

716 (ii) the admission notes;

717 (iii) the child's diagnosis;

718 (iv) physicians' orders;

719 (v) progress notes;

720 (vi) nursing notes; and

721 (vii) medication records.

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

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

729 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for

730 commitment is made, the neutral and detached fact finder shall inform the child and the child's  
731 parent or legal guardian of that decision and of the reasons for ordering commitment.

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

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

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

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

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

758 proceeding.

759 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30  
760 days after any order for commitment. The appeal may be brought on the child's own petition or  
761 on petition of the child's parent or legal guardian, to the juvenile court in the district where the  
762 child resides or is currently physically located. With regard to a child in the custody of the  
763 Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney  
764 general's office shall handle the appeal, otherwise the appropriate county attorney's office is  
765 responsible for appeals brought pursuant to this Subsection (10)(a).

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

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

- 775 (i) the original petition for commitment;
- 776 (ii) admission notes;
- 777 (iii) diagnosis;
- 778 (iv) physicians' orders;
- 779 (v) progress notes;
- 780 (vi) nursing notes; and
- 781 (vii) medication records.

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

785 (e) The child, the child's parent or legal guardian, the person who submitted the

786 original petition for commitment, and a representative of the appropriate local mental health  
787 authority shall be notified by the court of the date and time of the appeal hearing. Those  
788 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the  
789 court shall review the record and findings of the neutral and detached fact finder, the report of  
790 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,  
791 allow or require the testimony of the neutral and detached fact finder, the designated examiner,  
792 the child, the child's parent or legal guardian, the person who brought the initial petition for  
793 commitment, or any other person whose testimony the court deems relevant. The court may  
794 allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that  
795 waiver is granted, the purpose shall be made a part of the court's record.

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

800 (12) (a) A local mental health authority or its designee, in conjunction with the child's  
801 current treating mental health professional may release an improved child to a less restrictive  
802 environment, as they determine appropriate. Whenever the local mental health authority or its  
803 designee, and the child's current treating mental health professional, determine that the  
804 conditions justifying commitment no longer exist, the child shall be discharged and released to  
805 the child's parent or legal guardian. With regard to a child who is in the physical custody of the  
806 State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the  
807 child's current treating mental health professional.

808 (b) A local mental health authority or its designee, in conjunction with the child's  
809 current treating mental health professional, is authorized to issue a written order for the  
810 immediate placement of a child not previously released from an order of commitment into a  
811 more restrictive environment, if the local authority or its designee and the child's current  
812 treating mental health professional has reason to believe that the less restrictive environment in  
813 which the child has been placed is exacerbating the child's mental illness, or increasing the risk

814 of harm to self or others.

815 (c) The written order described in Subsection (12)(b) shall include the reasons for  
816 placement in a more restrictive environment and shall authorize any peace officer to take the  
817 child into physical custody and transport the child to a facility designated by the appropriate  
818 local mental health authority in conjunction with the child's current treating mental health  
819 professional. Prior to admission to the more restrictive environment, copies of the order shall  
820 be personally delivered to the child, the child's parent or legal guardian, the administrator of the  
821 more restrictive environment, or the administrator's designee, and the child's former treatment  
822 provider or facility.

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

827 (i) the less restrictive environment in which the child has been placed is exacerbating  
828 the child's mental illness or increasing the risk of harm to self or others; or

829 (ii) the less restrictive environment in which the child has been placed is not  
830 exacerbating the child's mental illness or increasing the risk of harm to self or others, in which  
831 case the fact finder shall designate that the child remain in the less restrictive environment.

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

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

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