

CIVIL COMMITMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nelson T. Abbott

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill makes changes concerning involuntary commitment and assisted outpatient treatment.

Highlighted Provisions:

This bill:

- ▶ allows a patient to provide an informed waiver to a court regarding the patient's appearance at a hearing;
- ▶ sets requirements for when a court may involuntarily commit a person originally ordered to assisted outpatient treatment; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-602, as last amended by Laws of Utah 2019, Chapters 189 and 256

62A-15-630.5, as enacted by Laws of Utah 2019, Chapter 256

62A-15-631, as last amended by Laws of Utah 2019, Chapters 256 and 419

REPEALS AND REENACTS:

62A-15-632, as last amended by Laws of Utah 2019, Chapter 419

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

31 Section 1. Section **62A-15-602** is amended to read:

32 **62A-15-602. Definitions.**

33 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of
34 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah
35 Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part
36 12, Essential Treatment and Intervention Act:

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

38 (2) "Approved treatment facility or program" means a treatment provider that meets the
39 standards described in Subsection **62A-15-103(2)(a)(v)**.

40 (3) "Assisted outpatient treatment" means involuntary outpatient mental health
41 treatment ordered under Section **62A-15-630.5**.

42 (4) "Commitment to the custody of a local mental health authority" means that an adult
43 is committed to the custody of the local mental health authority that governs the mental health
44 catchment area where the adult resides or is found.

45 (5) "Community mental health center" means an entity that provides treatment and
46 services to a resident of a designated geographical area, that operates by or under contract with
47 a local mental health authority, and that complies with state standards for community mental
48 health centers.

49 (6) "Designated examiner" means:

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

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

55 (7) "Designee" means a physician who has responsibility for medical functions
56 including admission and discharge, an employee of a local mental health authority, or an
57 employee of a person that has contracted with a local mental health authority to provide mental

58 health services under Section 17-43-304.

59 (8) "Essential treatment" and "essential treatment and intervention" mean court-ordered
60 treatment at a local substance abuse authority or an approved treatment facility or program for
61 the treatment of an adult's substance use disorder.

62 (9) "Harmful sexual conduct" means the following conduct upon an individual without
63 the individual's consent, including the nonconsensual circumstances described in Subsections
64 76-5-406(2)(a) through (l):

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

70 (10) "Informed waiver" means the patient was informed of a right and, after being
71 informed of that right and the patient's right to waive the right, expressly communicated his or
72 her intention to waive that right.

73 [~~(10)~~] (11) "Institution" means a hospital or a health facility licensed under Section
74 26-21-8.

75 [~~(11)~~] (12) "Local substance abuse authority" means the same as that term is defined in
76 Section 62A-15-102 and described in Section 17-43-201.

77 [~~(12)~~] (13) "Mental health facility" means the Utah State Hospital or other facility that
78 provides mental health services under contract with the division, a local mental health
79 authority, a person that contracts with a local mental health authority, or a person that provides
80 acute inpatient psychiatric services to a patient.

81 [~~(13)~~] (14) "Mental health officer" means an individual who is designated by a local
82 mental health authority as qualified by training and experience in the recognition and
83 identification of mental illness, to:

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

86 [~~(14)~~] (15) "Mental illness" means:

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

89 (b) the same as that term is defined in:

90 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
91 published by the American Psychiatric Association; or

92 (ii) the current edition of the International Statistical Classification of Diseases and
93 Related Health Problems.

94 [~~(15)~~] (16) "Patient" means an individual who is:

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

97 (b) undergoing essential treatment and intervention.

98 [~~(16)~~] (17) "Physician" means an individual who is:

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

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

102 [~~(17)~~] (18) "Serious bodily injury" means bodily injury that involves a substantial risk
103 of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
104 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

105 [~~(18)~~] (19) "Substantial danger" means that due to mental illness, an individual is at
106 serious risk of:

107 (a) suicide;

108 (b) serious bodily self-injury;

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

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

112 (e) engaging in harmful sexual conduct.

113 [~~(19)~~] (20) "Treatment" means psychotherapy, medication, including the administration

114 of psychotropic medication, or other medical treatments that are generally accepted medical or
115 psychosocial interventions for the purpose of restoring the patient to an optimal level of
116 functioning in the least restrictive environment.

117 Section 2. Section **62A-15-630.5** is amended to read:

118 **62A-15-630.5. Assisted outpatient treatment proceedings.**

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

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

125 (i) name;

126 (ii) date of birth; and

127 (iii) social security number; and

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

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

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

135 (B) is sworn to under oath; and

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

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

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

142 (i) may take place at or before the hearing; and
143 (ii) is required if the local mental health authority appears at the hearing.
144 (3) If the proposed patient refuses to submit to an interview described in Subsection
145 (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a
146 mental health officer or peace officer, to immediately place the proposed patient into the
147 custody of a local mental health authority or in a temporary emergency facility, as provided in
148 Section [62A-15-634](#), to be detained for the purpose of examination.

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

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

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

156 (c) be provided by the court as soon as practicable to the applicant, any legal guardian,
157 any immediate adult family members, legal counsel for the parties involved, the local mental
158 health authority or its designee, and any other person whom the proposed patient or the court
159 shall designate; and

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

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

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

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

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

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

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

175 (8) The designated examiners shall:

176 (a) conduct their examinations separately;

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

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

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

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

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

184 (iv) that any information volunteered could form part of the basis for the proposed
185 patient to be ordered to receive assisted outpatient treatment; and

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

187 and

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

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

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

198 (11) The court may terminate the proceedings and dismiss the application at any time,
199 including prior to the hearing, if the designated examiners or the local mental health authority
200 or its designee informs the court that the proposed patient [~~is not mentally ill~~] does not meet the
201 criteria in Subsection (14).

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

208 (13) (a) All persons to whom notice is required to be given shall be afforded an
209 opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The
210 court may, in its discretion, receive the testimony of any other individual. The court may allow
211 a waiver of the proposed patient's right to appear [~~only~~] for good cause [~~shown, and that cause~~
212 ~~shall be made a matter of court record~~], which cause shall be set forth in the record, or an
213 informed waiver by the patient, which shall be included in the record.

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

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

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

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

226 (A) the detention order, if any;

227 (B) admission notes, if any;

228 (C) the diagnosis, if any;

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

230 (E) progress notes, if any;

231 (F) nursing notes, if any; and

232 (G) medication records, if any.

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

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

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

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

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

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

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

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

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

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

254 (17) (a) The assisted outpatient treatment order shall designate the period for which the
255 patient shall be treated, which may not exceed [~~six~~] 12 months without a review hearing.

256 [~~(b) An individual identified under Subsection (4) may request a review hearing at any~~
257 ~~time while the assisted outpatient treatment order is in effect.]~~

258 [~~(c)~~] (b) At a review hearing, the court may extend the duration of an assisted
259 outpatient treatment order by up to [~~six~~] 12 months, if:

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

262 (ii) (A) the patient does not appear at the review hearing; [~~and~~]

263 (B) notice of the review hearing was provided to the patient's last known address by the
264 applicant described in Subsection (1) or by a local mental health authority[-]; and

265 (C) the patient has appeared in court or signed an informed waiver within the previous
266 18 months.

267 [~~(d)~~] (c) The court shall maintain a current list of all patients under its order of assisted
268 outpatient treatment.

269 [~~(e)~~] (d) At least two weeks prior to the expiration of the designated period of any
270 assisted outpatient treatment order still in effect, the court that entered the original order shall
271 inform the appropriate local mental health authority or its designee.

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

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

276 (20) As provided in Section 31A-22-651, a health insurance provider may not deny an
277 insured the benefits of the insured's policy solely because the health care that the insured
278 receives is provided under a court order for assisted outpatient treatment.

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

280 **62A-15-631. Involuntary commitment under court order -- Examination --**
281 **Hearing -- Power of court -- Findings required -- Costs.**

282 (1) A responsible individual who has credible knowledge of an adult's mental illness
283 and the condition or circumstances that have led to the adult's need to be involuntarily
284 committed may initiate an involuntary commitment court proceeding by filing, in the district
285 court in the county where the proposed patient resides or is found, a written application that
286 includes:

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

289 (i) name;

290 (ii) date of birth; and

291 (iii) social security number;

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

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

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

299 (B) is sworn to under oath; and

300 (C) states the facts upon which the application is based; and

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

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

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

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

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

310 (3) If the court finds from the application, from any other statements under oath, or
311 from any reports from a mental health professional that there is a reasonable basis to believe
312 that the proposed patient has a mental illness that poses a substantial danger to self or others
313 requiring involuntary commitment pending examination and hearing; or, if the proposed patient
314 has refused to submit to an interview with a mental health professional as directed by the court
315 or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental
316 health officer or peace officer, to immediately place the proposed patient in the custody of a
317 local mental health authority or in a temporary emergency facility as provided in Section
318 [62A-15-634](#) to be detained for the purpose of examination.

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

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

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

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

338 patient.

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

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

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

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

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

350 (10) The designated examiners shall:

351 (a) conduct their examinations separately;

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

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

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

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

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

359 (iv) that any information volunteered could form part of the basis for the proposed
360 patient's involuntary commitment;

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

362 and

363 (vi) that the designated examiner may, under court order, obtain the proposed patient's
364 mental health records; and

365 (d) within 24 hours of examining the proposed patient, report to the court, orally or in

366 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as
367 described in Section 62A-15-625, or has acceptable programs available to the proposed patient
368 without court proceedings. If the designated examiner reports orally, the designated examiner
369 shall immediately send a written report to the clerk of the court.

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

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

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

380 (a) ~~[is not mentally ill]~~ does not meet the criteria in Subsection (16);

381 (b) has agreed to voluntary commitment, as described in Section 62A-15-625; or

382 (c) has acceptable options for treatment programs that are available without court
383 proceedings.

384 (14) Before the hearing, an opportunity to be represented by counsel shall be afforded
385 to the proposed patient, and if neither the proposed patient nor others provide counsel, the court
386 shall appoint counsel and allow counsel sufficient time to consult with the proposed patient
387 before the hearing. In the case of an indigent proposed patient, the payment of reasonable
388 attorney fees for counsel, as determined by the court, shall be made by the county in which the
389 proposed patient resides or is found.

390 (15) (a) The proposed patient, the applicant, and all other persons to whom notice is
391 required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to
392 present and cross-examine witnesses. The court may, in its discretion, receive the testimony of
393 any other person. The court may allow a waiver of the proposed patient's right to appear ~~[only]~~

394 for good cause [~~shown, and that cause shall be made a matter of court record~~], which cause
395 shall be set forth in the record, or an informed waiver by the patient, which shall be included in
396 the record.

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

400 (c) The hearing shall be conducted in as informal a manner as may be consistent with
401 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
402 mental health of the proposed patient, while preserving the due process rights of the proposed
403 patient.

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

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

- 410 (A) the detention order;
- 411 (B) admission notes;
- 412 (C) the diagnosis;
- 413 (D) any doctors' orders;
- 414 (E) progress notes;
- 415 (F) nursing notes;
- 416 (G) medication records pertaining to the current commitment; and
- 417 (H) whether the proposed patient has previously been civilly committed or under an
418 order for assisted outpatient treatment.

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

421 (16) The court shall order commitment of a proposed patient who is 18 years of age or

422 older to a local mental health authority if, upon completion of the hearing and consideration of
423 the information presented, the court finds by clear and convincing evidence that:

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

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

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

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

431 and

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

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

441 (b) The court shall maintain a current list of all patients under its order of commitment.
442 That list shall be reviewed to determine those patients who have been under an order of
443 commitment for the designated period. At least two weeks prior to the expiration of the
444 designated period of any order of commitment still in effect, the court that entered the original
445 order shall inform the appropriate local mental health authority or its designee. The local
446 mental health authority or its designee shall immediately reexamine the reasons upon which the
447 order of commitment was based. If the local mental health authority or its designee determines
448 that the conditions justifying that commitment no longer exist, it shall discharge the patient
449 from involuntary commitment and immediately report the discharge to the court. Otherwise,

450 the court shall immediately appoint two designated examiners and proceed under Subsections
451 (8) through (14).

452 (c) The local mental health authority or its designee responsible for the care of a patient
453 under an order of commitment for an indeterminate period shall, at six-month intervals,
454 reexamine the reasons upon which the order of indeterminate commitment was based. If the
455 local mental health authority or its designee determines that the conditions justifying that
456 commitment no longer exist, that local mental health authority or its designee shall discharge
457 the patient from its custody and immediately report the discharge to the court. If the local
458 mental health authority or its designee determines that the conditions justifying that
459 commitment continue to exist, the local mental health authority or its designee shall send a
460 written report of those findings to the court. The patient and the patient's counsel of record
461 shall be notified in writing that the involuntary commitment will be continued, the reasons for
462 that decision, and that the patient has the right to a review hearing by making a request to the
463 court. Upon receiving the request, the court shall immediately appoint two designated
464 examiners and proceed under Subsections (8) through (14).

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

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

474 Section 4. Section **62A-15-632** is repealed and reenacted to read:

475 **62A-15-632. Circumstances under which conditions justifying initial involuntary**
476 **commitment shall be considered to continue to exist.**

477 **(1) When an individual is involuntarily committed to the custody of a local mental**

478 health authority under Subsection 62A-15-631(16), the conditions justifying commitment
479 under that Subsection shall be considered to continue to exist for purposes of continued
480 treatment under Subsection 62A-15-631(17) or conditional release under Section 62A-15-637
481 if the court finds that:

- 482 (a) the patient is still mentally ill;
- 483 (b) there is no appropriate less restrictive alternative to a court order of involuntary
484 commitment; and
- 485 (c) absent an order of involuntary commitment, the patient will likely pose a substantial
486 danger to self or others.

487 (2) When an individual has been ordered to assisted outpatient treatment under
488 Subsection 62A-15-630.5(14), the individual may be involuntarily committed to the custody of
489 a local mental health authority under Subsection 62A-15-631(16) for purposes of continued
490 treatment under Subsection 62A-15-631(17) or conditional release under Section 62A-15-637,
491 if the court finds that:

- 492 (a) the patient is still mentally ill;
- 493 (b) there is no appropriate less-restrictive alternative to a court order of involuntary
494 commitment; and
- 495 (c) based upon the patient's conduct and statements during the preceding six months, or
496 the patient's failure to comply with treatment recommendations during the preceding six
497 months, the court finds that absent an order of involuntary commitment, the patient is likely to
498 pose a substantial danger to self or others.

499 (3) A patient whose treatment is continued or who is conditionally released under the
500 terms of this section shall be maintained in the least restrictive environment available that can
501 provide the patient with treatment that is adequate and appropriate.