

INVOLUNTARY COMMITMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses involuntary civil commitment.

Highlighted Provisions:

This bill:

- ▶ creates, modifies, and repeals definitions;
- ▶ modifies the circumstances under which a child or adult may be temporarily civilly committed;
- ▶ clarifies provisions relating to due process requirements for civil commitment of a child;
- ▶ modifies the circumstances under which a child may be civilly committed;
- ▶ clarifies that a child's parent or legal guardian may consent to the child being placed for treatment that does not require civil commitment; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-629, as last amended by Laws of Utah 2020, Chapter 225



28 [62A-15-701](#), as last amended by Laws of Utah 2003, Chapter 195

29 [62A-15-702](#), as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
30 Chapter 8

31 [62A-15-703](#), as last amended by Laws of Utah 2019, Chapter 256

32 [62A-15-705](#), as last amended by Laws of Utah 2018, Chapter 322

33

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

35 Section 1. Section [62A-15-629](#) is amended to read:

36 **[62A-15-629. Temporary commitment -- Requirements and procedures.](#)**

37 (1) An ~~[adult]~~ individual shall be temporarily, involuntarily committed to a local
38 mental health authority upon:

39 (a) a written application that:

40 (i) is completed by ~~[a]~~ another responsible individual who has reason to know, stating a
41 belief that the ~~[adult]~~ individual, due to mental illness, is likely to pose substantial danger to
42 self or others if not ~~[restrained]~~ committed and stating the personal knowledge of the ~~[adult's]~~
43 individual's condition or circumstances that lead to the other individual's belief; and

44 (ii) includes a certification by a licensed physician or designated examiner stating that
45 the physician or designated examiner has examined the ~~[adult]~~ individual within a three-day
46 period immediately preceding that certification, and that the physician or designated examiner
47 is of the opinion that, due to mental illness, the ~~[adult]~~ individual poses a substantial danger to
48 self or others; or

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

50 (i) observing an ~~[adult's]~~ individual's conduct that gives the peace officer or mental
51 health officer probable cause to believe that:

52 (A) the ~~[adult]~~ individual has a mental illness; and

53 (B) because of the ~~[adult's]~~ individual's mental illness ~~[and conduct]~~, the ~~[adult]~~
54 individual poses a substantial danger to self or others; and

55 (ii) completing a temporary commitment application that:

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

57 (B) states the peace officer's or mental health officer's belief that the ~~[adult]~~ individual
58 poses a substantial danger to self or others;

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

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

62 (E) provides a statement of the facts that called the [~~adult~~] individual to the peace
63 officer's or mental health officer's attention.

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

67 (3) [~~A~~] (a) Except as provided in Subsection (3)(b), a patient committed under this
68 section may be held for a maximum of 24 hours after commitment, excluding Saturdays,
69 Sundays, and legal holidays, unless:

70 [~~a~~] (i) as described in Section 62A-15-631, an application for involuntary
71 commitment is commenced, which may be accompanied by an order of detention described in
72 Subsection 62A-15-631(4); or

73 [~~b~~] (ii) the patient makes a voluntary application for admission.

74 (b) A child who is temporarily committed under Subsection 62A-15-703(6) and in
75 accordance with the procedures in this section shall be released after commitment as described
76 in Subsection 62A-15-703(6).

77 (4) Upon a written application described in Subsection (1)(a) or the observation and
78 belief described in Subsection (1)(b)(i), the [~~adult~~] individual shall be:

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

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

83 (i) an ambulance, if the [~~adult~~] individual meets any of the criteria described in Section
84 26-8a-305;

85 (ii) an ambulance, if a peace officer is not necessary for public safety, and
86 transportation arrangements are made by a physician, designated examiner, or mental health
87 officer;

88 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the
89 location where the individual to be committed is present, if the individual is not transported by

90 ambulance;

91 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law
92 enforcement authority described in Subsection (4)(b)(iii) and the individual is not transported
93 by ambulance; or

94 (v) nonemergency secured behavioral health transport as that term is defined in Section
95 [26-8a-102](#).

96 (5) Notwithstanding Subsection (4):

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

99 (b) if an officer has probable cause to believe, based on the officer's experience and
100 de-escalation training that taking an individual into protective custody or transporting an
101 individual for temporary commitment would increase the risk of substantial danger to the
102 individual or others, a peace officer may exercise discretion to not take the individual into
103 custody or transport the individual, as permitted by policies and procedures established by the
104 officer's law enforcement agency and any applicable federal or state statute, or case law; and

105 (c) if an officer exercises discretion under Subsection (4)(b) to not take an individual
106 into protective custody or transport an individual, the officer shall document in the officer's
107 report the details and circumstances that led to the officer's decision.

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

110 Section 2. Section **62A-15-701** is amended to read:

111 **Part 7. Commitment of Individuals Under 18 Years Old to Local Mental Health**

112 **Authority**

113 **62A-15-701. Definitions.**

114 As used in this part:

115 (1) "Child" means ~~[a person]~~ an individual under 18 years ~~[of age]~~ old.

116 (2) "Commit" and "commitment" mean the transfer of physical custody in accordance
117 with the requirements of this part.

118 (3) "Designated examiner" means the same as that term is defined in Section
119 [62A-15-602](#).

120 (4) "Inpatient setting" means an acute setting for stabilization or treatment of a

121 psychiatric emergency when the patient poses a substantial danger to self or others.

122 ~~[(3)]~~ (5) "Legal custody" means~~[:]~~ a relationship embodying the following rights and
 123 duties:

124 ~~[(a) the right to determine where and with whom the child shall live;]~~

125 ~~[(b) the right to participate in all treatment decisions and to consent or withhold~~
 126 ~~consent for treatment in which a constitutionally protected liberty or privacy interest may be~~
 127 ~~affected, including antipsychotic medication, electroshock therapy, and psychosurgery; and]~~

128 ~~[(c) the right to authorize surgery or other extraordinary medical care.]~~

129 (a) the right to physical custody of the minor;

130 (b) the right and duty to protect, train, and discipline the minor;

131 (c) the right to determine where and with whom the minor shall live; and

132 (d) the right, in an emergency, to authorize surgery or other extraordinary care.

133 (6) "Mental illness" means the same as that term is defined in Section [62A-15-602](#).

134 ~~[(4)]~~ (7) "Physical custody" means a relationship embodying the following rights and
 135 duties:

136 (a) ~~[placement of]~~ the right to place a child in ~~[any residential or]~~ an inpatient setting or
 137 in residential treatment;

138 ~~[(b) the right to physical custody of a child;]~~

139 ~~[(c)]~~ (b) the right and duty to protect the child; and

140 ~~[(d)]~~ (c) the duty to provide, or [insure] ensure that the child is provided with, adequate
 141 food, clothing, shelter, and ordinary medical care.

142 ~~[(5) "Residential" means any out-of-home placement made by a local mental health~~
 143 ~~authority, but does not include out-of-home respite care.]~~

144 ~~[(6) "Respite care" means temporary, periodic relief provided to parents or guardians~~
 145 ~~from the daily care of children with serious emotional disorders for the limited time periods~~
 146 ~~designated by the division.]~~

147 (8) "Residential treatment" means the same as that term is defined in Section
 148 [62A-2-101](#).

149 (9) "Substantial danger" means the same as that term is defined in Section [62A-15-602](#).

150 Section 3. Section **62A-15-702** is amended to read:

151 **62A-15-702. Treatment and commitment of children -- Due process.**

152 A child is entitled to due process proceedings, in accordance with the requirements of
153 this part, [~~whenever~~] if the child [~~:(1) may receive or receives services through the public~~
154 ~~mental health system and~~] is placed, by a local mental health authority, in a physical setting
155 where his liberty interests are restricted [~~, including residential and inpatient placements; or (2)~~
156 ~~receives treatment in which~~] or receives treatment that may affect a constitutionally protected
157 privacy or liberty interest [~~may be affected~~], including the administration of antipsychotic
158 medication, electroshock therapy, [~~and~~] or psychosurgery.

159 Section 4. Section **62A-15-703** is amended to read:

160 **62A-15-703. Commitment proceeding outside of juvenile court -- Criteria -- Child**
161 **in physical custody of local mental health authority -- Placement by parent or legal**
162 **guardian.**

163 (1) A child may [~~receive services from~~] be committed to the physical custody of a local
164 mental health authority [~~in an inpatient or residential setting~~] only after a commitment
165 proceeding[;] for the purpose of transferring physical custody [~~, has been~~] to the local mental
166 health authority is conducted in accordance with the requirements of this section.

167 (2) [~~That~~] A commitment proceeding for the purpose described in Subsection (1) shall
168 be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted
169 by a neutral and detached fact finder, [~~pursuant to~~] in accordance with the procedures and
170 requirements of this section. [~~If the findings described in Subsection (4) exist, the proceeding~~
171 ~~shall result in the transfer of physical custody to the appropriate local mental health authority,~~
172 ~~and the child may be placed in an inpatient or residential setting.~~]

173 (3) The neutral and detached fact finder who conducts the inquiry described in
174 Subsection (2):

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

176 (b) may not profit, financially or otherwise, from the commitment or physical
177 placement of the child [~~in that setting~~].

178 (4) [~~Upon determination by a fact finder that the following circumstances clearly exist,~~
179 If the neutral and detached fact finder determines by clear and convincing evidence that the
180 following circumstances exist, the fact finder [~~may~~] shall order that the child be committed to
181 the physical custody of a local mental health authority:

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

183 (b) ~~[the child demonstrates a reasonable fear of the risk of]~~ because of the child's
184 mental illness, the child poses a substantial danger to self or others;

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

187 ~~[(d)]~~ (c) there is no appropriate less-restrictive alternative~~[-]~~ to an order of
188 commitment; and

189 (d) the local mental health authority can provide the child with treatment that is
190 adequate and appropriate to the child's condition and needs.

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

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

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

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

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

200 (d) (i) The neutral and detached fact finder may allow a child to waive the child's right
201 to be present at the commitment proceeding, for good cause shown. ~~[If that right is waived,]~~

202 (ii) If the child's waiver is granted under this Subsection (5)(d), the purpose of the
203 waiver shall be made a matter of record at the proceeding.

204 (e) At the time of the commitment proceeding, the appropriate local mental health
205 authority, ~~[its]~~ the local mental health authority's designee, or the psychiatrist who ~~[has been]~~ is
206 in charge of the child's care ~~[prior to]~~ before the day on which the commitment proceeding
207 begins, shall provide the neutral and detached fact finder with the following information, as ~~[it]~~
208 the information relates to the period of current admission:

209 (i) the petition for commitment;

210 (ii) ~~[the]~~ admission notes;

211 (iii) the child's diagnosis;

212 (iv) physicians' orders;

213 (v) progress notes;

214 (vi) nursing notes; and
215 (vii) medication records.

216 (f) The local mental health authority, the local mental health authority's designee, or the
217 psychiatrist described in Subsection (5)(e) shall provide the information described in
218 Subsection (5)(e) [~~shall also be provided~~] to the child's parent or legal guardian upon written
219 request.

220 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
221 duration of the commitment. [~~Any~~]

222 (ii) (A) A commitment to the physical custody of a local mental health authority may
223 not exceed 180 days. [~~Prior to expiration of the commitment, and if~~]

224 (B) Before the day on which the commitment expires, and if further commitment of the
225 child is sought, a hearing shall be conducted in the same manner as the initial commitment
226 proceeding, in accordance with the requirements of this section.

227 [~~(ii)~~] (iii) At the conclusion of the hearing described in Subsection (5)(g)(ii)(B) and
228 subsequently in writing, when a decision for commitment is made, the neutral and detached
229 fact finder shall inform the child and the child's parent or legal guardian of [~~that~~] the decision
230 for commitment and [~~of~~] the reasons for ordering commitment.

231 [~~(iii)~~] (iv) The neutral and detached fact finder shall state in writing the basis of the
232 decision for commitment, with specific reference to each of the criteria described in Subsection
233 (4), as a matter of record.

234 (6) [~~A~~] (a) A child may be temporarily committed for a maximum of 72 hours,
235 excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental
236 health authority in accordance with the procedures described in Section 62A-15-629 and upon
237 satisfaction of the [~~risk factors~~] criteria described in Subsection (4).

238 (b) A child who is temporarily committed shall be released at the expiration of the 72
239 hours unless the procedures and findings required by this section for the commitment of [~~a~~] the
240 child are satisfied.

241 (7) (a) A local mental health authority shall have physical custody of [~~each~~] a child
242 committed to [~~it~~] the local mental health authority under this section.

243 (b) (i) The parent or legal guardian of a child committed to the physical custody of a
244 local mental health authority under this section, retains legal custody of the child, unless legal

245 custody ~~[has been]~~ is otherwise modified by a court of competent jurisdiction. ~~[In cases when~~
246 ~~the]~~

247 (ii) If the Division of Child and Family Services or the Division of Juvenile Justice
248 Services has legal custody of a child, that division shall retain legal custody of the child for
249 purposes of this part.

250 (8) (a) The cost of caring for and maintaining a child in the physical custody of a local
251 mental health authority shall be assessed to and paid by the child's parents, according to ~~[their]~~
252 the parents' ability to pay. ~~[For purposes of this section,]~~

253 (b) (i) If a child is in the legal custody of the Division of Child and Family Services or
254 the Division of Juvenile Justice Services ~~[shall be financially responsible, in addition to the~~
255 ~~child's parents, if the child is in the legal custody of either of those divisions at the time the~~
256 ~~child is committed to the physical custody of a local mental health authority under this section,]~~
257 at the time the child is committed to the physical custody of a local mental health authority
258 under this section, that division, in addition to the child's parents, is financially responsible for
259 the cost of caring for and maintaining the child in physical custody, unless Medicaid regulation
260 or contract provisions specify otherwise.

261 (ii) The Office of Recovery Services shall assist ~~[those divisions]~~ the Division of Child
262 and Family Services and the Division of Juvenile Justice Services in collecting the costs
263 assessed ~~[pursuant to]~~ under this section.

264 (9) Whenever application is made for commitment of a minor to a local mental health
265 authority under ~~[any provision of]~~ this section by a person other than the child's parent or
266 guardian, the local mental health authority or ~~[its]~~ the local mental health authority's designee
267 shall notify the child's parent or guardian~~[- The parents]~~ of the application and the child's
268 parent or guardian shall be provided sufficient time to prepare and appear at any scheduled
269 proceeding.

270 (10) (a) ~~[Each]~~ (i) A child committed ~~[pursuant to]~~ under this section is entitled to an
271 appeal within 30 days after ~~[any]~~ the day on which an order for commitment is entered.

272 (ii) The appeal may be brought on the child's own petition or on petition of the child's
273 parent or legal guardian, to the juvenile court in the district where the child resides or is
274 currently physically located. ~~[With regard to a]~~

275 (iii) (A) Except as provided in Subsection (10)(a)(iii)(B), the appropriate county

276 attorney is responsible for appeals brought under this Subsection (10)(a).

277 (B) If the child is in the custody of the Division of Child and Family Services or the
278 Division of Juvenile Justice Services, the attorney general's office shall handle the appeal[;
279 otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to
280 this Subsection (10)(a)].

281 (b) (i) Upon receipt of the petition for appeal, the juvenile court shall appoint a
282 designated examiner previously unrelated to the case, to conduct an examination of the child in
283 accordance with the criteria described in Subsection (4), and file a written report with the
284 juvenile court. [~~The court shall then~~]

285 (ii) Upon receipt of the report from the designated examiner, the juvenile court shall
286 conduct an appeal hearing to determine whether the findings described in Subsection (4) exist
287 by clear and convincing evidence.

288 (c) [~~Prior to the time of~~] Before the time at which the appeal hearing is held, the
289 appropriate local mental health authority, [~~its~~] the local mental health authority's designee, or
290 the mental health professional who [~~has been~~] is in charge of the child's care [~~prior to~~] before
291 the day on which the child's commitment is ordered, shall provide the court and the designated
292 examiner for the appeal hearing with the [~~following~~] information described in Subsection
293 (5)(e), as [~~it~~] the information relates to the period of current admission[~~;~~].

294 [~~(i) the original petition for commitment;~~]

295 [~~(ii) admission notes;~~]

296 [~~(iii) diagnosis;~~]

297 [~~(iv) physicians' orders;~~]

298 [~~(v) progress notes;~~]

299 [~~(vi) nursing notes; and~~]

300 [~~(vii) medication records.~~]

301 (d) Both the neutral and detached fact finder and the designated examiner appointed for
302 the appeal hearing shall be provided with an opportunity to review the most current
303 information described in Subsection (10)(c) [~~prior to~~] before the time at which the appeal
304 hearing is held.

305 [~~(e) The child, the child's parent or legal guardian, the person who submitted the~~
306 ~~original petition for commitment, and a representative of the appropriate local mental health~~

307 ~~authority shall be notified by the court of the date and time of the appeal hearing. Those~~
 308 ~~persons shall be afforded an opportunity to appear at the hearing.]~~

309 (e) (i) The juvenile court shall notify and provide the following persons an opportunity
 310 to appear at the appeal hearing:

311 (A) the child;

312 (B) the child's parent or legal guardian;

313 (C) the person who submitted the original petition for commitment of the child; and

314 (D) a representative of the appropriate local mental health authority.

315 (ii) In reaching [its] the juvenile court's decision, the juvenile court shall review the
 316 record and findings of the neutral and detached fact finder[;] and the report of the designated
 317 examiner appointed [pursuant to] under Subsection (10)(b), and may, in [its] the juvenile
 318 court's discretion, allow or require the testimony of:

319 (A) the neutral and detached fact finder[;];

320 (B) the designated examiner[;];

321 (C) the child[;];

322 (D) the child's parent or legal guardian[;];

323 (E) the person who brought the initial petition for commitment[;]; or

324 (F) any other person whose testimony the court deems relevant.

325 (iii) (A) The juvenile court may allow the child to waive the right to appear at the
 326 appeal hearing, for good cause shown.

327 (B) If [that] the child's waiver is granted under this Subsection (10)(e)(iii), the purpose
 328 of the waiver shall be made a part of the court's record.

329 (11) [Each] A local mental health authority has an affirmative duty to:

330 (a) conduct periodic [evaluations] reviews of the mental health and treatment progress
 331 of [every] a child committed to [its] the local mental health authority's physical custody under
 332 this section[; and to release any child who has sufficiently improved so that the criteria
 333 justifying commitment no longer exist.]; and

334 (b) release a child from commitment who no longer meets the criteria described in
 335 Subsection (4).

336 (12) (a) As used in this Subsection (12), "current treating mental health professional"
 337 means, if the child is in the physical custody of the State Hospital, the treating psychiatrist or

338 clinical director of the State Hospital.

339 (b) A local mental health authority or ~~[its]~~ the local mental health authority's designee,
340 in conjunction with the child's current treating mental health professional, may release an
341 improved child to a less restrictive environment, as ~~[they]~~ the local mental health authority or
342 the local mental health authority's designee and the mental health professional determine
343 appropriate. ~~[Whenever]~~

344 (c) If the local mental health authority or ~~[its]~~ the local mental health authority's
345 designee, and the child's current treating mental health professional, determine that the
346 conditions justifying commitment no longer exist, the ~~[child shall be discharged and released]~~
347 local mental health authority shall release the child to the child's parent or legal guardian. ~~[With~~
348 ~~regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or~~
349 ~~clinical director of the State Hospital shall be the child's current treating mental health~~
350 ~~professional.]~~

351 ~~[(b)]~~ (d) A local mental health authority or ~~[its]~~ the local mental health authority's
352 designee, in conjunction with the child's current treating mental health professional, is
353 authorized to issue a written order for the immediate placement of a child not previously
354 released from an order of commitment into a more restrictive environment, if the local mental
355 health authority or [its] the local mental health authority's designee and the child's current
356 treating mental health professional ~~[has]~~ have reason to believe that the less restrictive
357 environment in which the child ~~[has been]~~ is placed is exacerbating the child's mental illness,
358 or increasing the risk of harm to self or others.

359 ~~[(e)]~~ (e) The written order described in Subsection (12)~~[(b)]~~(d) shall:

360 (i) include the reasons for placement in a more restrictive environment and shall
361 authorize any peace officer to take the child into physical custody and transport the child to a
362 facility designated by the appropriate local mental health authority in conjunction with the
363 child's current treating mental health professional~~[- Prior to admission]; and~~

364 (ii) be personally delivered before the day on which the child is admitted to the more
365 restrictive environment, ~~[copies of the order shall be personally delivered]~~ to the child, the
366 child's parent or legal guardian, the administrator of the more restrictive environment, or the
367 administrator's designee, and the child's former treatment provider or facility.

368 ~~[(d)]~~ (f) (i) If the child ~~[has been]~~ is in a less restrictive environment for more than 30

369 days and is aggrieved by the change to a more restrictive environment, the child or the child's
370 representative may request a review within 30 days ~~[of the change]~~ after the day on which the
371 change is made, by a neutral and detached fact finder as described in Subsection (3).

372 (ii) The neutral and detached fact finder described in Subsection (12)(f)(i) shall
373 determine whether~~[-(i)]~~ the less restrictive environment in which the child ~~[has been]~~ is placed
374 is exacerbating the child's mental illness or increasing the risk of harm to self or others~~[-or]~~.

375 ~~[(ii) the less restrictive environment in which the child has been placed is not~~
376 ~~exacerbating the child's mental illness or increasing the risk of harm to self or others, in which~~
377 ~~case the]~~

378 (iii) If the neutral and detached fact finder makes the determination described in
379 Subsection (12)(f)(ii), the fact finder shall designate that the child remain in the less restrictive
380 environment.

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

385 ~~[(13) Each]~~ (g) (i) Except as provided in Section [78A-6-120](#), a local mental health
386 authority or [its] the local mental health authority's designee, in conjunction with the child's
387 current treating mental health professional, shall [discharge any] release a child from
388 commitment who, in the opinion of ~~[that]~~ the local mental health authority, or [its] the local
389 mental health authority's designee, and the child's current treating mental health professional,
390 no longer meets the criteria [specified] described in Subsection (4)~~[-except as provided by~~
391 ~~Section [78A-6-120](#). The]~~.

392 (ii) Before the day on which the child is released under Subsection (12)(g)(i), the local
393 mental health authority and the child's current treating mental health professional shall [assure]
394 ensure that any further supportive services required to meet the child's needs upon release will
395 be provided.

396 (h) This section does not prevent a local mental health authority or the local mental
397 health authority's designee, in conjunction with the child's current treating mental health
398 professional, from releasing a child from commitment or from placing a child in an
399 environment that is less-restrictive than that designated by the neutral and detached fact finder

400 described in Subsection (12)(f).

401 ~~[(14) Even though a child has been]~~

402 (13) A child who is committed to the physical custody of a local mental health
 403 authority under this section, ~~[the child is still]~~ is entitled to additional due process proceedings,
 404 in accordance with Section [62A-15-704](#), before any treatment that may affect a constitutionally
 405 protected liberty or privacy interest is administered~~[- Those treatments include, but are not~~
 406 ~~limited to]~~, including antipsychotic medication, electroshock therapy, ~~[and]~~ or psychosurgery.

407 (14) This section does not prohibit a child's parent or legal guardian from otherwise
 408 placing a child in treatment that does not require commitment under this section.

409 Section 5. Section [62A-15-705](#) is amended to read:

410 **[62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Child in](#)**
 411 **[physical custody of local mental health authority.](#)**

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

415 (b) Commitment proceedings under this section may be commenced only after a
 416 commitment proceeding under Section [62A-15-703](#) ~~[has concluded]~~ concludes without the
 417 child being committed.

418 (2) The juvenile court shall order commitment to the physical custody of a local mental
 419 health authority if, upon completion of the hearing and consideration of the record, ~~[it]~~ the
 420 juvenile court finds by clear and convincing evidence that:

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

422 ~~[(b) the child demonstrates a risk of harm to himself or others;]~~

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

425 ~~[(d) the child will benefit from the proposed care and treatment; and]~~

426 ~~[(e) there is no appropriate less restrictive alternative.]~~

427 (b) because of the child's mental illness, the child poses a substantial danger to self or
 428 others;

429 (c) there is no appropriate less restrictive alternative to an order of commitment; and

430 (d) the local mental health authority can provide the child with treatment that is

431 adequate and appropriate to the child's condition and needs.

432 (3) ~~[The]~~ A local mental health authority has an affirmative duty to:

433 (a) conduct periodic reviews of ~~[children committed to its custody pursuant to this~~
434 ~~section, and to release any child who has sufficiently improved so that the local mental health~~
435 ~~authority or its designee determines that commitment is no longer appropriate.]~~ a child
436 committed to the local mental health authority's physical custody under this section; and

437 (b) release a child from commitment who no longer meets the criteria described in
438 Subsection (2).