

Representative Jennifer Dailey-Provost proposes the following substitute bill:

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:

This bill provides coordination clauses.

Utah Code Sections Affected:



26 AMENDS:

27 **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 **Utah Code Sections Affected by Coordination Clause:**

34 **62A-15-703**, as last amended by Laws of Utah 2019, Chapter 256

35 **62A-15-705**, as last amended by Laws of Utah 2018, Chapter 322

36

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

38 Section 1. Section **62A-15-629** is amended to read:

39 **62A-15-629. Temporary commitment -- Requirements and procedures.**

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

42 (a) a written application that:

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

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

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

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

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

56 (B) because of the [adult's] individual's mental illness [~~and conduct~~], the [adult]

57 individual poses a substantial danger to self or others; and

58 (ii) completing a temporary commitment application that:

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

60 (B) states the peace officer's or mental health officer's belief that the [~~adult~~] individual

61 poses a substantial danger to self or others;

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

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

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

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

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

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

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

77 (b) A child who is temporarily committed under Subsection [62A-15-703\(6\)](#) and in
78 accordance with the procedures in this section shall be released after commitment as described
79 in Subsection [62A-15-703\(6\)](#).

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

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

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

86 (i) an ambulance, if the [~~adult~~] individual meets any of the criteria described in Section
87 [26-8a-305](#);

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

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

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

97 (v) nonemergency secured behavioral health transport as that term is defined in Section
98 [26-8a-102](#).

99 (5) Notwithstanding Subsection (4):

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

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

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

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

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

114 **Part 7. Commitment of Individuals Under 18 Years Old to Local Mental Health**
115 **Authority**

116 **62A-15-701. Definitions.**

117 As used in this part:

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

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

121 (3) "Designated examiner" means the same as that term is defined in Section
122 62A-15-602.

123 (4) "Inpatient setting" means an acute setting for stabilization or treatment of a
124 psychiatric emergency when the patient poses a substantial danger to self or others.

125 ~~[(3)]~~ (5) "Legal custody" means~~[:]~~ a relationship embodying the following rights and
126 duties:

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

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

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

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

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

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

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

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

137 ~~[(4)]~~ (7) "Physical custody" means a relationship embodying the following rights and
138 duties:

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

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

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

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

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

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

150 (8) "Residential treatment" means the same as that term is defined in Section
151 [62A-2-101](#).

152 (9) "Substantial danger" means the same as that term is defined in Section [62A-15-602](#).
153 Section 3. Section **62A-15-702** is amended to read:

154 **62A-15-702. Treatment and commitment of children -- Due process.**

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

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

163 **62A-15-703. Commitment proceeding outside of juvenile court -- Criteria -- Child**
164 **in physical custody of local mental health authority -- Placement by parent or legal**
165 **guardian.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 212 (i) the petition for commitment;
213 (ii) ~~the~~ admission notes;
214 (iii) the child's diagnosis;
215 (iv) physicians' orders;
216 (v) progress notes;
217 (vi) nursing notes; and
218 (vii) medication records.

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

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

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

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

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

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

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

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

243 child are satisfied.

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

246 (b) (i) The parent or legal guardian of a child committed to the physical custody of a
247 local mental health authority under this section, retains legal custody of the child, unless legal
248 custody ~~[has been]~~ is otherwise modified by a court of competent jurisdiction. ~~[In cases when~~
249 ~~the]~~

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

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

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

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

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

273 (10) (a) ~~[Each]~~ (i) A child committed ~~[pursuant to]~~ under this section is entitled to an

274 appeal within 30 days after ~~[any]~~ the day on which an order for commitment is entered.

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

278 (iii) (A) Except as provided in Subsection (10)(a)(iii)(B), the appropriate county
279 attorney is responsible for appeals brought under this Subsection (10)(a).

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

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

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

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

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

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

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

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

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

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

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

304 (d) Both the neutral and detached fact finder and the designated examiner appointed for

305 the appeal hearing shall be provided with an opportunity to review the most current
 306 information described in Subsection (10)(c) [~~prior to~~] before the time at which the appeal
 307 hearing is held.

308 ~~[(e) The child, the child's parent or legal guardian, the person who submitted the~~
 309 ~~original petition for commitment, and a representative of the appropriate local mental health~~
 310 ~~authority shall be notified by the court of the date and time of the appeal hearing. Those~~
 311 ~~persons shall be afforded an opportunity to appear at the hearing.]~~

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

314 (A) the child;

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

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

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

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

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

323 (B) the designated examiner[;];

324 (C) the child[;];

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

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

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

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

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

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

333 (a) conduct periodic [evaluations] reviews of the mental health and treatment progress
 334 of [every] a child committed to [its] the local mental health authority's physical custody under
 335 this section[, and to release any child who has sufficiently improved so that the criteria

336 ~~justifying commitment no longer exist.]; and~~

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

339 (12) (a) As used in this Subsection (12), "current treating mental health professional"
340 means, if the child is in the physical custody of the State Hospital, the treating psychiatrist or
341 clinical director of the State Hospital.

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

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

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

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

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

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

371 [~~(d)~~] (f) (i) If the child [has been] is in a less restrictive environment for more than 30
 372 days and is aggrieved by the change to a more restrictive environment, the child or the child's
 373 representative may request a review within 30 days [~~of the change~~] after the day on which the
 374 change is made, by a neutral and detached fact finder as described in Subsection (3).

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

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

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

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

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

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

398 be provided.

399 (h) This section does not prevent a local mental health authority or the local mental
400 health authority's designee, in conjunction with the child's current treating mental health
401 professional, from releasing a child from commitment or from placing a child in an
402 environment that is less-restrictive than that designated by the neutral and detached fact finder
403 described in Subsection (12)(f).

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

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

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

412 Section 5. Section **62A-15-705** is amended to read:

413 **62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Child in**
414 **physical custody of local mental health authority.**

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

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

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

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

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

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

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

429 ~~[(e) there is no appropriate less restrictive alternative.]~~
 430 (b) because of the child's mental illness, the child poses a substantial danger to self or
 431 others;

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

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

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

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

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

442 Section 6. **Coordinating H.B. 339 with H.B. 285 -- Superseding amendment.**

443 If this H.B. 339 and H.B. 285, Juvenile Recodification, both pass and become law, the
 444 Legislature intends that, on September 1, 2021, the Office of Legislative Research and General
 445 Counsel prepare the Utah Code database for publication by amending Section [62A-15-705](#) to
 446 read:

447 **"62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Custody.**

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

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

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

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

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

459 ~~[(c) the child is experiencing significant impairment in the child's ability to perform~~

460 socially;]

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

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

463 (b) because of the child's mental illness, the child poses a substantial danger to self or

464 others;

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

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

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

468 (3) The juvenile court may not commit a child under Subsection (2) directly to the

469 Utah State Hospital.

470 [~~(3)~~] (4) [The] A local mental health authority has an affirmative duty to:

471 (a) conduct periodic reviews of [children committed to its custody pursuant to this
472 section, and to release any child who has sufficiently improved so that the local mental health
473 authority or its designee determines that commitment is no longer appropriate.] a child

474 committed to the local mental health authority's physical custody under this section; and

475 (b) release a child from commitment who no longer meets the criteria described in

476 Subsection (2).

477 (5) If a child is committed to the custody of a local mental health authority, or the local

478 mental health authority's designee, by a juvenile court, the local mental health authority, or the

479 local mental health authority's designee, shall give the juvenile court written notice of the

480 intention to release the child not fewer than five days before the day on which the child is

481 released."

482 **Section 7. Coordinating H.B. 339 with H.B. 286 -- Technical amendment.**

483 If this H.B. 339 and H.B. 286, Juvenile Code Recodification Cross References, both

484 pass and become law, the Legislature intends that, on September 1, 2021, the Office of

485 Legislative Research and General Counsel prepare the Utah Code database for publication by

486 amending Subsection [62A-15-703\(12\)\(g\)\(i\)](#) in this bill to read:

487 "[~~(13) Each~~] (g) (i) Except as provided in Section [62A-15-705](#), a local mental health

488 authority or [its] the local mental health authority's designee, in conjunction with the child's

489 current treating mental health professional, shall [~~discharge any~~] release a child from

490 commitment who, in the opinion of [~~that~~] the local mental health authority, or [its] the local

491 mental health authority's designee, and the child's current treating mental health professional,
492 no longer meets the criteria [~~specified~~] described in Subsection (4)[~~except as provided by~~
493 ~~Section 78A-6-120. The~~].".