

MODIFICATIONS TO CIVIL COMMITMENT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses civil commitment.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "substantial danger" for purposes of civil commitment;
- ▶ provides that an individual may apply for voluntary admission to a mental health facility after an evaluation for temporary commitment;
- ▶ before releasing a patient who cannot be located from civil commitment, requires a court to make a determination that good cause exists to release the patient;
- ▶ clarifies that certain processes for release of a patient from voluntary civil commitment apply to adult patients;
- ▶ extends the maximum period for adult temporary civil commitment;
- ▶ requires a court to order an applicant to consult with the appropriate local mental health authority before the court issues an order of civil commitment;
- ▶ clarifies that a party may be transferred or substituted in accordance with the Utah Rules of Civil Procedure if a civil commitment case is transferred to another court;
- ▶ subject to certain requirements, allows a designated examiner to conduct an evaluation of an individual for civil commitment through telehealth;
- ▶ provides that at a hearing for civil commitment, the court may order assisted outpatient treatment if the individual does not meet the conditions for civil



28 commitment;

29 ▶ requires a court to dismiss commitment proceedings if the individual does not meet
30 the conditions for civil commitment or assisted outpatient treatment; and

31 ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **62A-15-602**, as last amended by Laws of Utah 2021, Chapter 122

39 **62A-15-625**, as last amended by Laws of Utah 2021, Chapter 260

40 **62A-15-626**, as last amended by Laws of Utah 2021, Chapter 262

41 **62A-15-627**, as last amended by Laws of Utah 2018, Chapter 322

42 **62A-15-629**, as last amended by Laws of Utah 2020, Chapter 225

43 **62A-15-631**, as last amended by Laws of Utah 2021, Chapter 122



44
45 *Be it enacted by the Legislature of the state of Utah:*

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

47 **62A-15-602. Definitions.**

48 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of
49 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah
50 Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part
51 12, Essential Treatment and Intervention Act:

52 (1) "Adult" means an individual 18 years [~~of age~~] old or older.

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

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

57 (4) "Commitment to the custody of a local mental health authority" means that an adult
58 is committed to the custody of the local mental health authority that governs the mental health

59 catchment area where the adult resides or is found.

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

64 (6) "Designated examiner" means:

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

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

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

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

77 (9) "Harmful sexual conduct" means the following conduct upon an individual without
78 the individual's consent, including the nonconsensual circumstances described in Subsections
79 [76-5-406\(2\)\(a\)](#) through (l):

80 (a) sexual intercourse;

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

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

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

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

88 (11) "Institution" means a hospital or a health facility licensed under Section [26-21-8](#).

89 (12) "Local substance abuse authority" means the same as that term is defined in

90 Section 62A-15-102 and described in Section 17-43-201.

91 (13) "Mental health facility" means the Utah State Hospital or other facility that
92 provides mental health services under contract with the division, a local mental health
93 authority, a person that contracts with a local mental health authority, or a person that provides
94 acute inpatient psychiatric services to a patient.

95 (14) "Mental health officer" means an individual who is designated by a local mental
96 health authority as qualified by training and experience in the recognition and identification of
97 mental illness, to:

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

100 (15) "Mental illness" means:

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

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

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

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

108 (16) "Patient" means an individual who is:

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

111 (b) undergoing essential treatment and intervention.

112 (17) "Physician" means an individual who is:

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

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

116 (18) "Serious bodily injury" means bodily injury that involves a substantial risk of
117 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
118 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

119 (19) "Substantial danger" means that due to mental illness, an individual is at serious
120 risk of:

- 121 (a) suicide;
- 122 (b) serious bodily self-injury;
- 123 (c) serious bodily injury because the individual is incapable of providing the basic
- 124 necessities of life, including food, clothing, or shelter;
- 125 (d) causing or attempting to cause serious bodily injury to another individual; [or]
- 126 (e) engaging in harmful sexual conduct[-]; or
- 127 (f) if not treated, suffering severe and abnormal mental, emotional, or physical distress

128 that:

- 129 (i) is associated with significant impairment of judgment, reason, or behavior; and
- 130 (ii) causes a substantial deterioration of the individual's previous ability to function
- 131 independently.

132 (20) "Treatment" means psychotherapy, medication, including the administration of

133 psychotropic medication, or other medical treatments that are generally accepted medical or

134 psychosocial interventions for the purpose of restoring the patient to an optimal level of

135 functioning in the least restrictive environment.

136 Section 2. Section **62A-15-625** is amended to read:

137 **62A-15-625. Voluntary admission of adults.**

138 (1) A local mental health authority, a designee of a local mental health authority, or

139 another mental health facility may admit for observation, diagnosis, care, and treatment an

140 adult who:

141 (a) applies for voluntary admission [~~and who~~] after evaluation for temporary

142 commitment under Section [62A-15-629](#); and

143 (b) has a mental illness or exhibits the symptoms of a mental illness.

144 (2) [~~No adult may~~] An adult may not be committed to a local mental health authority

145 against [~~that~~] the adult's will except as provided in this chapter.

146 (3) An adult may be voluntarily admitted to a local mental health authority for

147 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after

148 the requirements of Section [77-18-106](#) have been met.

149 Section 3. Section **62A-15-626** is amended to read:

150 **62A-15-626. Release from commitment.**

151 (1) (a) Subject to Subsection (1)(b), a local mental health authority or the local mental

152 health authority's designee shall release from commitment any ~~[individual]~~ patient who, in the
 153 opinion of the local mental health authority or the local mental health authority's designee, has
 154 recovered or no longer meets the criteria ~~[specified]~~ described in Section 62A-15-631.

155 (b) A local mental health authority's inability to locate a committed ~~[individual]~~ patient
 156 may not be the basis for the ~~[individual's]~~ patient's release, unless the court:

157 (i) orders the release of the ~~[individual]~~ patient after a hearing~~[-];~~ and

158 (ii) makes an individualized determination that good cause exists to release the patient
 159 at a hearing.

160 (2) (a) ~~[A]~~ Except as provided in Section 62A-15-705, a local mental health authority
 161 or the local mental health authority's designee may release from commitment any patient whose
 162 commitment is determined to be no longer advisable ~~[except as provided by Section~~
 163 ~~62A-15-705, but an effort shall be made to].~~

164 (b) A local mental health authority or the local mental health authority's designee shall
 165 assure that any further supportive services required to meet the patient's needs upon release
 166 under Subsection (2)(a) will be provided.

167 (3) ~~[When]~~ If a patient ~~[has been]~~ is committed to a local mental health authority by
 168 judicial process, the local mental health authority shall follow the procedures described in
 169 Sections 62A-15-636 and 62A-15-637.

170 Section 4. Section **62A-15-627** is amended to read:

171 **62A-15-627. Release of voluntary adult -- Exceptions.**

172 (1) ~~[A]~~ Except as provided in Subsection (2), a mental health facility shall immediately
 173 release an adult patient:

174 (a) who is voluntarily admitted, as described in Section 62A-15-625, and who requests
 175 release, verbally or in writing~~[-];~~ or

176 (b) whose release is requested in writing by the patient's legal guardian, parent, spouse,
 177 or adult next of kin~~[-, shall be immediately released except that:].~~

178 (2) (a) An adult patient's release under Subsection (1) may be conditioned upon the
 179 agreement of the patient, if:

180 (i) the request for release is made by an individual other than the patient; or

181 ~~[(b)]~~ (ii) ~~[if]~~ the admitting local mental health authority, ~~[a]~~ the designee of the local
 182 mental health authority, or ~~[a]~~ the admitting mental health facility has cause to believe that

183 release of the patient would be unsafe for the patient or others~~[]~~.

184 (b) (i) An adult patient's release [of that patient] may be postponed for up to 48 hours,
 185 excluding weekends and holidays, [provided that] if the admitting local mental health
 186 authority, the designee of the local mental health authority, or the admitting mental health
 187 facility [shall cause to be instituted] causes involuntary commitment proceedings to be
 188 commenced with the district court within the specified time period.

189 ~~[(2)]~~ (ii) The admitting local mental health authority, the designee of the local mental
 190 health authority, or the admitting mental health facility shall provide written notice of the
 191 postponement and the reasons for the postponement to the patient without undue delay.

192 ~~(3) [No judicial proceedings]~~ A judicial proceeding for involuntary commitment may
 193 not be commenced with respect to a voluntary patient unless the patient ~~[has requested]~~
 194 requests release.

195 Section 5. Section **62A-15-629** is amended to read:

196 **62A-15-629. Temporary commitment -- Requirements and procedures.**

197 (1) An adult shall be temporarily, involuntarily committed to a local mental health
 198 authority upon:

199 (a) a written application that:

200 (i) is completed by a responsible individual who has reason to know, stating a belief
 201 that the adult, due to mental illness, is likely to pose substantial danger to self or others if not
 202 restrained and stating the personal knowledge of the adult's condition or circumstances that
 203 lead to the individual's belief; and

204 (ii) includes a certification by a licensed physician or designated examiner stating that
 205 the physician or designated examiner has examined the adult within a three-day period
 206 immediately preceding ~~[that]~~ the certification, and that the physician or designated examiner is
 207 of the opinion that, due to mental illness, the adult poses a substantial danger to self or others;
 208 or

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

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

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

213 (B) because of the adult's mental illness and conduct, the adult poses a substantial

214 danger to self or others; and
215 (ii) completing a temporary commitment application that:
216 (A) is on a form prescribed by the division;
217 (B) states the peace officer's or mental health officer's belief that the adult poses a
218 substantial danger to self or others;
219 (C) states the specific nature of the danger;
220 (D) provides a summary of the observations upon which the statement of danger is
221 based; and
222 (E) provides a statement of the facts that called the adult to the peace officer's or
223 mental health officer's attention.
224 (2) If at any time a patient committed under this section no longer meets the
225 commitment criteria described in Subsection (1), the local mental health authority or the local
226 mental health authority's designee shall document the change and release the patient.
227 (3) A patient committed under this section may be held for a maximum of ~~[24]~~ 72
228 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:
229 (a) as described in Section 62A-15-631, an application for involuntary commitment is
230 commenced, which may be accompanied by an order of detention described in Subsection
231 62A-15-631(4); or
232 (b) the patient makes a voluntary application for admission.
233 (4) Upon a written application described in Subsection (1)(a) or the observation and
234 belief described in Subsection (1)(b)(i), the adult shall be:
235 (a) taken into a peace officer's protective custody, by reasonable means, if necessary for
236 public safety; and
237 (b) transported for temporary commitment to a facility designated by the local mental
238 health authority, by means of:
239 (i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;
240 (ii) an ambulance, if a peace officer is not necessary for public safety, and
241 transportation arrangements are made by a physician, designated examiner, or mental health
242 officer;
243 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the
244 location where the ~~[individual to be committed]~~ adult is present, if the ~~[individual]~~ adult is not

245 transported by ambulance;

246 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law
247 enforcement authority described in Subsection (4)(b)(iii) and the ~~[individual]~~ adult is not
248 transported by ambulance; or

249 (v) nonemergency secured behavioral health transport as that term is defined in Section
250 [26-8a-102](#).

251 (5) Notwithstanding Subsection (4):

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

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

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

263 (6) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this
264 section.

265 (b) This section does not create a special duty of care.

266 Section 6. Section **62A-15-631** is amended to read:

267 **62A-15-631. Involuntary commitment under court order -- Examination --**
268 **Hearing -- Power of court -- Findings required -- Costs.**

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

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

- 276 (i) name;
- 277 (ii) date of birth; and
- 278 (iii) social security number;

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

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

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

286 (B) is sworn to under oath; and

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

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

290 (2) ~~[(a) Subject to Subsection (2)(b), before]~~ Before issuing a judicial order, the court
 291 ~~[may];~~

292 (a) shall require the applicant to consult with the appropriate local mental health
 293 authority~~[, and the court]~~ at or before the hearing; and

294 (b) may direct a mental health professional from ~~[that]~~ the local mental health authority
 295 to interview the applicant and the proposed patient to determine the existing facts and report
 296 ~~[them]~~ the existing facts to the court.

297 ~~[(b) The consultation described in Subsection (2)(a):]~~

298 ~~[(i) may take place at or before the hearing; and]~~

299 ~~[(ii) is required if the local mental health authority appears at the hearing.]~~

300 ~~[(3) If the court finds from the application, from any other statements under oath, or~~
 301 ~~from any reports from a mental health professional that there is a reasonable basis to believe~~
 302 ~~that the proposed patient has a mental illness that poses a substantial danger to self or others~~
 303 ~~requiring involuntary commitment pending examination and hearing; or, if the proposed patient~~
 304 ~~has refused to submit to an interview with a mental health professional as directed by the court~~
 305 ~~or to go to a treatment facility voluntarily, the]~~

306 (3) The court may issue an order, directed to a mental health officer or peace officer, to

307 immediately place ~~[the]~~ a proposed patient in the custody of a local mental health authority or
308 in a temporary emergency facility, as ~~[provided]~~ described in Section 62A-15-634, to be
309 detained for the purpose of examination~~[-]~~ if:

310 (a) the court finds from the application, any other statements under oath, or any reports
311 from a mental health professional that there is a reasonable basis to believe that the proposed
312 patient has a mental illness that poses a danger to self or others and requires involuntary
313 commitment pending examination and hearing; or

314 (b) the proposed patient refuses to submit to an interview with a mental health
315 professional as directed by the court or to go to a treatment facility voluntarily.

316 (4) ~~(a) [Notice]~~ The court shall provide notice of commencement of proceedings for
317 involuntary commitment, setting forth the allegations of the application and any reported facts,
318 together with a copy of any official order of detention, ~~[shall be provided by the court]~~ to a
319 proposed patient before, or upon, placement of the proposed patient in the custody of a local
320 mental health authority or, with respect to any proposed patient presently in the custody of a
321 local mental health authority whose status is being changed from voluntary to involuntary,
322 upon the filing of an application for that purpose with the court.

323 ~~(b) [A]~~ The place of detention shall maintain a copy of [that] the order of detention
324 ~~[shall be maintained at the place of detention].~~

325 (5) ~~(a) [Notice of commencement of those proceedings shall be provided by the]~~ The
326 court shall provide notice of commencement of proceedings for involuntary commitment 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]~~ the local mental
329 health designee, and any other persons whom the proposed patient or the court ~~[shall designate.~~
330 ~~That]~~ designates.

331 (b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall
332 advise [those] the persons that a hearing may be held within the time provided by law.

333 (c) If the proposed patient [has refused] refuses to permit release of information
334 necessary for provisions of notice under this subsection, the court shall determine the extent of
335 notice [shall be determined by the court].

336 (6) Proceedings for commitment of an individual under ~~[the age of]~~ 18 years old to a
337 local mental health authority may be commenced in accordance with Part 7, Commitment of

338 Persons Under Age 18 to Division of Substance Abuse and Mental Health.

339 (7) (a) The district court may, in ~~[its]~~ the district court's discretion, transfer the case to
340 any other district court within this state, ~~[provided that]~~ if the transfer will not be adverse to the
341 interest of the proposed patient.

342 (b) If a case is transferred under Subsection (7)(a), the parties to the case may be
343 transferred and the local mental health authority may be substituted in accordance with Utah
344 Rules of Civil Procedure, Rule 25.

345 (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance
346 of a judicial order, or after commitment of a proposed patient to a local mental health authority
347 or ~~[its]~~ the local mental health authority's designee under court order for detention or
348 examination, the court shall appoint two designated examiners:

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

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

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

354 (9) The court shall schedule a hearing to be held within 10 calendar days ~~[of]~~ after the
355 day on which the designated examiners are appointed.

356 (10) (a) The designated examiners shall:

357 ~~[(a)]~~ (i) conduct ~~[their]~~ the examinations separately;

358 ~~[(b)]~~ (ii) conduct the examinations at the home of the proposed patient, at a hospital or
359 other medical facility, or at any other suitable place, including through telehealth, that is not
360 likely to have a harmful effect on the proposed patient's health;

361 ~~[(c)]~~ (iii) inform the proposed patient, if not represented by an attorney:

362 ~~[(i)]~~ (A) that the proposed patient does not have to say anything;

363 ~~[(ii)]~~ (B) of the nature and reasons for the examination;

364 ~~[(iii)]~~ (C) that the examination was ordered by the court;

365 ~~[(iv)]~~ (D) that any information volunteered could form part of the basis for the
366 proposed patient's involuntary commitment;

367 ~~[(v)]~~ (E) that findings resulting from the examination will be made available to the
368 court; and

369 [(vi)] (F) that the designated examiner may, under court order, obtain the proposed
370 patient's mental health records; and

371 [(d)] (iv) within 24 hours of examining the proposed patient, report to the court, orally
372 or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment,
373 as described in Section 62A-15-625, or has acceptable programs available to the proposed
374 patient without court proceedings.

375 (b) If [the] a designated examiner reports orally under Subsection (10)(a), the
376 designated examiner shall immediately send a written report to the clerk of the court.

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

380 (12) If the local mental health authority, [its] the local mental health authority's
381 designee, or a medical examiner determines before the court hearing that the conditions
382 justifying the findings leading to a commitment hearing no longer exist, the local mental health
383 authority, [its] the local mental health authority's designee, or the medical examiner shall
384 immediately report [that] the determination to the court.

385 (13) The court may terminate the proceedings and dismiss the application at any time,
386 including [~~prior to~~] before the hearing, if the designated examiners or the local mental health
387 authority or [its] the local mental health authority's designee informs the court that the
388 proposed patient:

389 (a) does not meet the criteria in Subsection (16);

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

391 (c) has acceptable options for treatment programs that are available without court
392 proceedings[-]; or

393 (d) meets the criteria for assisted outpatient treatment described in Section
394 62A-15-630.5.

395 (14) (a) Before the hearing, the court shall provide the proposed patient an opportunity
396 to be represented by counsel [~~shall be afforded to the proposed patient~~], and if neither the
397 proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel
398 sufficient time to consult with the proposed patient before the hearing.

399 (b) In the case of an indigent proposed patient, the county in which the proposed

400 patient resides or is found shall make payment of reasonable attorney fees for counsel, as
401 determined by the court~~[- shall be made by the county in which the proposed patient resides or~~
402 ~~is found]~~.

403 (15) (a) (i) The court shall afford the proposed patient, the applicant, and ~~[all other~~
404 ~~persons]~~ any other person to whom notice is required to be given ~~[shall be afforded]~~ an
405 opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

406 (ii) The court may, in ~~[its]~~ the court's discretion, receive the testimony of any other
407 person.

408 (iii) The court may allow a waiver of the proposed patient's right to appear for good
409 cause, which cause shall be set forth in the record, or an informed waiver by the patient, which
410 shall be included in the record.

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

414 (c) ~~The [hearing shall be conducted]~~ court shall conduct the hearing in as informal a
415 manner as may be consistent with orderly procedure, and in a physical setting that is not likely
416 to have a harmful effect on the mental health of the proposed patient, while preserving the due
417 process rights of the proposed patient.

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

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

424 (A) the detention order;

425 (B) admission notes;

426 (C) the diagnosis;

427 (D) any doctors' orders;

428 (E) progress notes;

429 (F) nursing notes;

430 (G) medication records pertaining to the current commitment; and

431 (H) whether the proposed patient has previously been civilly committed or under an
432 order for assisted outpatient treatment.

433 (ii) ~~[That]~~ The information described in Subsection (15)(e)(i) shall also be supplied to
434 the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing
435 upon request.

436 (16) ~~(a)~~ The court shall order commitment of [a] an adult proposed patient [who is 18
437 years of age or older] to a local mental health authority if, upon completion of the hearing and
438 consideration of the information presented, the court finds by clear and convincing evidence
439 that:

440 ~~[(a)]~~ (i) the proposed patient has a mental illness;

441 ~~[(b)]~~ (ii) because of the proposed patient's mental illness the proposed patient poses a
442 substantial danger to self or others;

443 ~~[(c)]~~ (iii) the proposed patient lacks the ability to engage in a rational decision-making
444 process regarding the acceptance of mental treatment as demonstrated by evidence of inability
445 to weigh the possible risks of accepting or rejecting treatment;

446 ~~[(d)]~~ (iv) there is no appropriate less-restrictive alternative to a court order of
447 commitment; and

448 ~~[(e)]~~ (v) the local mental health authority can provide the proposed patient with
449 treatment that is adequate and appropriate to the proposed patient's conditions and needs. ~~[In~~
450 ~~the absence of the required findings of the court after the hearing, the court shall dismiss the~~
451 ~~proceedings.]~~

452 (b) (i) If, at the hearing, the court determines that the proposed patient has a mental
453 illness but does not meet the other criteria described in Subsection (16)(a), the court may
454 consider whether the proposed patient meets the criteria for assisted outpatient treatment under
455 Section [62A-15-630.5](#).

456 (ii) The court may order the proposed patient to receive assisted outpatient treatment in
457 accordance with Section [62A-15-630.5](#) if, at the hearing, the court finds the proposed patient
458 meets the criteria for assisted outpatient treatment under Section [62A-15-630.5](#).

459 (iii) If the court determines that neither the criteria for commitment under Subsection
460 (16)(a), nor the criteria for assisted outpatient treatment under Section [62A-15-630.5](#) are met,
461 the court shall dismiss the proceedings after the hearing.

462 (17) (a) (i) The order of commitment shall designate the period for which the patient
463 shall be treated.

464 (ii) ~~When~~ If the patient is not under an order of commitment at the time of the
465 hearing, ~~that~~ the patient's treatment period may not exceed six months without ~~benefit of~~ a
466 review hearing.

467 (iii) Upon ~~such~~ a review hearing, to be commenced ~~prior to~~ before the expiration of
468 the previous order of commitment, an order for commitment may be for an indeterminate
469 period, if the court finds by clear and convincing evidence that the ~~required conditions~~ criteria
470 described in Subsection (16) will last for an indeterminate period.

471 (b) (i) The court shall maintain a current list of all patients under ~~its~~ the court's order
472 of commitment~~. That list shall be reviewed~~ and review the list to determine those patients
473 who have been under an order of commitment for the court designated period.

474 (ii) At least two weeks ~~prior to~~ before the expiration of the designated period of any
475 order of commitment still in effect, the court that entered the original order of commitment
476 shall inform the appropriate local mental health authority or ~~its~~ the local mental health
477 authority's designee of the expiration.

478 (iii) ~~The~~ Upon receipt of the information described in Subsection (17)(b)(ii), the local
479 mental health authority or its the local mental health authority's designee shall immediately
480 reexamine the reasons upon which the order of commitment was based.

481 (iv) If, after reexamination under Subsection (17)(b)(iv), the local mental health
482 authority or its the local mental health authority's designee determines that the conditions
483 justifying that commitment no longer exist, it the local mental health authority or the local
484 mental health authority's designee shall discharge the patient from involuntary commitment and
485 immediately report the discharge to the court.~~Otherwise;~~

486 (v) If, after reexamination under Subsection (17)(b)(iv), the local mental health
487 authority or the local mental health authority's designee determines that the conditions
488 justifying commitment continue to exist, the court shall immediately appoint two designated
489 examiners and proceed under Subsections (8) through (14).

490 (c) (i) The local mental health authority or ~~its~~ the local mental health authority's
491 designee responsible for the care of a patient under an order of commitment for an
492 indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order

493 of indeterminate commitment was based.

494 (ii) If the local mental health authority or ~~[its]~~ the local mental health authority's
495 designee determines that the conditions justifying ~~[that]~~ commitment no longer exist, ~~[that]~~ the
496 local mental health authority or ~~[its]~~ the local mental health authority's designee shall discharge
497 the patient from ~~[its]~~ the local mental health authority's or the local mental health authority
498 designee's custody and immediately report the discharge to the court.

499 (iii) If the local mental health authority or ~~[its]~~ the local mental health authority's
500 designee determines that the conditions justifying ~~[that]~~ commitment continue to exist, the
501 local mental health authority or ~~[its]~~ the local mental health authority's designee shall send a
502 written report of ~~[those]~~ the findings to the court.

503 (iv) ~~[The]~~ A patient and the patient's counsel of record shall be notified in writing that
504 the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for
505 ~~[that]~~ the decision to continue, and that the patient has the right to a review hearing by making
506 a request to the court.

507 (v) Upon receiving ~~[the]~~ a request under Subsection (17)(c)(iv), the court shall
508 immediately appoint two designated examiners and proceed under Subsections (8) through
509 (14).

510 (18) (a) Any patient committed as a result of an original hearing or a patient's legally
511 designated representative who is aggrieved by the findings, conclusions, and order of the court
512 entered in the original hearing has the right to a new hearing upon a petition filed with the court
513 within 30 days ~~[of the entry of]~~ after the day on which the court order is entered.

514 (b) The petition ~~[must]~~ shall allege error or mistake in the findings, in which case the
515 court shall appoint three impartial designated examiners previously unrelated to the case to
516 conduct an additional examination of the patient.

517 (c) ~~[The]~~ Except as provided in Subsection (18)(b), the court shall, in all other respects,
518 conduct the new hearing ~~[shall, in all other respects, be conducted]~~ in the manner otherwise
519 permitted.

520 (19) ~~[Costs]~~ The county in which the proposed patient resides or is found shall pay the
521 costs of all proceedings under this section ~~[shall be paid by the county in which the proposed~~
522 patient resides or is found].