

HB0363S01 compared with HB0363

~~{deleted text}~~ shows text that was in HB0363 but was deleted in HB0363S01.

inserted text shows text that was not in HB0363 but was inserted into HB0363S01.

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Representative Steve Eliason proposes the following substitute bill:

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;

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- ▶ requires a local mental health authority to inform an adult who is temporarily civilly committed of the reason for commitment;
- ▶ describes certain rights of an adult who is temporarily civilly committed;
- ▶ 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 commitment;
- ▶ requires a court to dismiss commitment proceedings if the individual does not meet the conditions for civil commitment or assisted outpatient treatment; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

62A-15-602. Definitions.

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

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

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

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

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

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

(6) "Designated examiner" means:

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

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

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

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

(9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections

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76-5-406(2)(a) through (l):

- (a) sexual intercourse;
 - (b) penetration, however slight, of the genital or anal opening of the individual;
 - (c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or
 - (d) any sexual act causing substantial emotional injury or bodily pain.
- (10) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.
- (11) "Institution" means a hospital or a health facility licensed under Section 26-21-8.
- (12) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.
- (13) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.
- (14) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:
- (a) apply for and provide certification for a temporary commitment; or
 - (b) assist in the arrangement of transportation to a designated mental health facility.
- (15) "Mental illness" means:
- (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
 - (b) the same as that term is defined in:
 - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
 - (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.
- (16) "Patient" means an individual who is:
- (a) under commitment to the custody or to the treatment services of a local mental

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health authority; or

(b) undergoing essential treatment and intervention.

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

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

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical

Practice Act.

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

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

(a) suicide;

(b) serious bodily self-injury;

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

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

(e) engaging in harmful sexual conduct~~[-]; or~~

(f) if not treated, suffering severe and abnormal mental, emotional, or physical distress

that:

(i) is associated with significant impairment of judgment, reason, or behavior; and

(ii) causes a substantial deterioration of the individual's previous ability to function independently.

(20) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

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

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

(1) A local mental health authority, a designee of a local mental health authority, or another mental health facility may admit for observation, diagnosis, care, and treatment an adult who:

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(a) applies for voluntary admission [~~and who~~] after evaluation for temporary commitment under Section 62A-15-629; and

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

(2) [~~No adult may~~] An adult may not be committed to a local mental health authority against [~~that~~] the adult's will except as provided in this chapter.

(3) An adult may be voluntarily admitted to a local mental health authority for treatment at the Utah State Hospital as a condition of probation or stay of sentence only after the requirements of Section 77-18-106 have been met.

Section 3. Section ~~{62A-15-626}~~ 62A-15-627 is amended to read:

~~{~~ **62A-15-626. Release from commitment.**

~~—— (1) (a) Subject to Subsection (1)(b), a local mental health authority or the local mental health authority's designee shall release from commitment any [individual] patient who, in the opinion of the local mental health authority or the local mental health authority's designee, has recovered or no longer meets the criteria [specified] described in Section 62A-15-631.~~

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

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

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

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

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

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

~~——~~ Section 4. Section ~~62A-15-627~~ is amended to read:

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

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

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

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

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

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

~~(b)~~ (ii) ~~[if]~~ the admitting local mental health authority, ~~[a]~~ the designee of the local mental health authority, or ~~[a]~~ the admitting mental health facility has cause to believe that release of the patient would be unsafe for the patient or others~~;~~.

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

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

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

Section ~~(5)~~4. Section **62A-15-629** is amended to read:

62A-15-629. Temporary commitment -- Requirements and procedures -- Rights.

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

(a) a written application that:

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

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lead to the individual's belief; and

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

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

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

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

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

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

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

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

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

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

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

(b) the patient makes a voluntary application for admission.

(4) Upon a written application described in Subsection (1)(a) or the observation and

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belief described in Subsection (1)(b)(i), the adult shall be:

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

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

(i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

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

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

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

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

(5) Notwithstanding Subsection (4):

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

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

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

~~+(6)+~~ (6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

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(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice;

(ii) see and communicate with an attorney; and

(iii) see a licensed physician or designated examiner for examination within 48 hours after arrival at the local mental health authority.

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

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

Section ~~6~~5. Section **62A-15-631** is amended to read:

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

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

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

(i) name;

(ii) date of birth; and

(iii) social security number;

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

(ii) a written statement by the applicant that:

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

(B) is sworn to under oath; and

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

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

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

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

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

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

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

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

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

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place ~~[the]~~ a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as ~~[provided]~~ described in Section 62A-15-634, to be detained for the purpose of examination~~[-]~~ if:

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

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

(4) (a) ~~[Notice]~~ The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts,

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together with a copy of any official order of detention, [~~shall be provided by the court~~] to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

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

(5) (a) [~~Notice of commencement of those proceedings shall be provided by the~~] The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or [its] the local mental health designee, and any other persons whom the proposed patient or the court [shall designate. That] designates.

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

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

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

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

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

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

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

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

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

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

(10) (a) The designated examiners shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) does not meet the criteria in Subsection (16);
- (b) has agreed to voluntary commitment, as described in Section 62A-15-625; ~~[or]~~
- (c) has acceptable options for treatment programs that are available without court proceedings~~[-]; or~~
- (d) meets the criteria for assisted outpatient treatment described in Section 62A-15-630.5.

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

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court~~[-, shall be made by the county in which the proposed patient resides or is found]~~.

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

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

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

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

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

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

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

- (A) the detention order;
- (B) admission notes;
- (C) the diagnosis;
- (D) any doctors' orders;
- (E) progress notes;
- (F) nursing notes;
- (G) medication records pertaining to the current commitment; and

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

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

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

- [~~(a)~~] (i) the proposed patient has a mental illness;
- [~~(b)~~] (ii) because of the proposed patient's mental illness the proposed patient poses a

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substantial danger to self or others;

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

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

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

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

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

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

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

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

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

(b) (i) The court shall maintain a current list of all patients under ~~[its]~~ the court's order of commitment~~[- That list shall be reviewed]~~ and review the list to determine those patients

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who have been under an order of commitment for the court designated period.

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

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

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

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

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

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

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

(iv) [~~The~~] A patient and the patient's counsel of record shall be notified in writing that

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the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for ~~[that]~~ the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

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

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

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

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

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