

**HEALTH AND HUMAN SERVICES RECODIFICATION -  
PREVENTION, SUPPORTS, SUBSTANCE USE AND MENTAL  
HEALTH**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jacob L. Anderegg**

House Sponsor: Raymond P. Ward

---

---

**LONG TITLE**

**General Description:**

This bill recodifies portions of the Utah Health Code and Utah Human Services Code.

**Highlighted Provisions:**

This bill:

- ▶ recodifies provisions regarding:
  - substance use and mental health;
  - long term services and supports, aging, and disabilities; and
  - public health and prevention; and
- ▶ makes technical and corresponding changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

AMENDS:

**26B-5-101**, as enacted by Laws of Utah 2022, Chapter 255

**26B-6-101**, as enacted by Laws of Utah 2022, Chapter 255

**26B-7-101**, as enacted by Laws of Utah 2022, Chapter 255

ENACTS:

**26B-6-501**, Utah Code Annotated 1953

**26B-6-601**, Utah Code Annotated 1953

**26B-7-324**, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

**26B-5-102**, (Renumbered from 62A-15-103, as last amended by Laws of Utah 2022, Chapters 187, 255, and 415)

**26B-5-103**, (Renumbered from 62A-15-104, as last amended by Laws of Utah 2022, Chapter 255)

**26B-5-104**, (Renumbered from 62A-15-105, as last amended by Laws of Utah 2009, Chapter 75)

**26B-5-105**, (Renumbered from 62A-15-105.2, as enacted by Laws of Utah 2012, Chapter 305)

**26B-5-106**, (Renumbered from 62A-15-107, as last amended by Laws of Utah 2009, Chapter 75)

**26B-5-107**, (Renumbered from 62A-15-108, as last amended by Laws of Utah 2009, Chapter 75)

**26B-5-108**, (Renumbered from 62A-15-110, as last amended by Laws of Utah 2005, Chapter 71)

**26B-5-109**, (Renumbered from 62A-15-113, as enacted by Laws of Utah 2017, Chapter 315)

**26B-5-110**, (Renumbered from 62A-15-103.1, as enacted by Laws of Utah 2019, Chapter 440)

**26B-5-111**, (Renumbered from 62A-15-115, as enacted by Laws of Utah 2018, Chapter 414)

**26B-5-112**, (Renumbered from 62A-15-116, as last amended by Laws of Utah 2020, Chapter 303)

56           **26B-5-113**, (Renumbered from 62A-15-117, as enacted by Laws of Utah 2019, Chapter  
57   446)  
58           **26B-5-114**, (Renumbered from 62A-15-118, as enacted by Laws of Utah 2020, Chapter  
59   303)  
60           **26B-5-115**, (Renumbered from 62A-15-119, as renumbered and amended by Laws of  
61   Utah 2020, Chapter 29)  
62           **26B-5-116**, (Renumbered from 62A-15-121, as enacted by Laws of Utah 2021, Chapter  
63   277)  
64           **26B-5-117**, (Renumbered from 62A-15-122, as enacted by Laws of Utah 2021, Chapter  
65   278)  
66           **26B-5-118**, (Renumbered from 62A-15-124, as enacted by Laws of Utah 2022, Chapter  
67   149)  
68           **26B-5-119**, (Renumbered from 62A-15-615, as renumbered and amended by Laws of  
69   Utah 2002, Fifth Special Session, Chapter 8)  
70           **26B-5-201**, (Renumbered from 62A-15-202, as last amended by Laws of Utah 2022,  
71   Chapter 155)  
72           **26B-5-202**, (Renumbered from 62A-15-203, as renumbered and amended by Laws of  
73   Utah 2002, Fifth Special Session, Chapter 8)  
74           **26B-5-203**, (Renumbered from 62A-15-204, as last amended by Laws of Utah 2022,  
75   Chapter 155)  
76           **26B-5-204**, (Renumbered from 62A-15-301, as renumbered and amended by Laws of  
77   Utah 2002, Fifth Special Session, Chapter 8)  
78           **26B-5-205**, (Renumbered from 62A-15-401, as last amended by Laws of Utah 2022,  
79   Chapter 447)  
80           **26B-5-206**, (Renumbered from 62A-15-403, as renumbered and amended by Laws of  
81   Utah 2022, Chapter 211)  
82           **26B-5-207**, (Renumbered from 62A-15-501, as last amended by Laws of Utah 2009,

83 Chapter 81)  
84 **26B-5-208**, (Renumbered from 62A-15-502, as last amended by Laws of Utah 2005,  
85 Chapter 2)  
86 **26B-5-209**, (Renumbered from 62A-15-503, as last amended by Laws of Utah 2020,  
87 Chapter 230)  
88 **26B-5-210**, (Renumbered from 62A-15-504, as renumbered and amended by Laws of  
89 Utah 2002, Fifth Special Session, Chapter 8)  
90 **26B-5-301**, (Renumbered from 62A-15-602, as last amended by Laws of Utah 2022,  
91 Chapters 187 and 374)  
92 **26B-5-302**, (Renumbered from 62A-15-601, as renumbered and amended by Laws of  
93 Utah 2002, Fifth Special Session, Chapter 8)  
94 **26B-5-303**, (Renumbered from 62A-15-603, as last amended by Laws of Utah 2018,  
95 Chapter 322)  
96 **26B-5-304**, (Renumbered from 62A-15-613, as last amended by Laws of Utah 2021,  
97 Chapter 344)  
98 **26B-5-305**, (Renumbered from 62A-15-614, as renumbered and amended by Laws of  
99 Utah 2002, Fifth Special Session, Chapter 8)  
100 **26B-5-306**, (Renumbered from 62A-15-610, as last amended by Laws of Utah 2011,  
101 Chapter 366)  
102 **26B-5-307**, (Renumbered from 62A-15-644, as last amended by Laws of Utah 2011,  
103 Chapter 366)  
104 **26B-5-308**, (Renumbered from 62A-15-639, as renumbered and amended by Laws of  
105 Utah 2002, Fifth Special Session, Chapter 8)  
106 **26B-5-309**, (Renumbered from 62A-15-640, as renumbered and amended by Laws of  
107 Utah 2002, Fifth Special Session, Chapter 8)  
108 **26B-5-310**, (Renumbered from 62A-15-641, as last amended by Laws of Utah 2017,  
109 Chapter 408)

110           **26B-5-311**, (Renumbered from 62A-15-642, as renumbered and amended by Laws of  
111 Utah 2002, Fifth Special Session, Chapter 8)  
112           **26B-5-312**, (Renumbered from 62A-15-643, as renumbered and amended by Laws of  
113 Utah 2002, Fifth Special Session, Chapter 8)  
114           **26B-5-313**, (Renumbered from 62A-15-1002, as renumbered and amended by Laws of  
115 Utah 2002, Fifth Special Session, Chapter 8)  
116           **26B-5-314**, (Renumbered from 62A-15-1003, as renumbered and amended by Laws of  
117 Utah 2002, Fifth Special Session, Chapter 8)  
118           **26B-5-315**, (Renumbered from 62A-15-1004, as renumbered and amended by Laws of  
119 Utah 2002, Fifth Special Session, Chapter 8)  
120           **26B-5-316**, (Renumbered from 62A-15-607, as last amended by Laws of Utah 2008,  
121 Chapter 3)  
122           **26B-5-317**, (Renumbered from 62A-15-617, as renumbered and amended by Laws of  
123 Utah 2002, Fifth Special Session, Chapter 8)  
124           **26B-5-318**, (Renumbered from 62A-15-619, as last amended by Laws of Utah 2011,  
125 Chapter 366)  
126           **26B-5-319**, (Renumbered from 62A-15-604, as last amended by Laws of Utah 2015,  
127 Chapter 121)  
128           **26B-5-320**, (Renumbered from 62A-15-621, as renumbered and amended by Laws of  
129 Utah 2002, Fifth Special Session, Chapter 8)  
130           **26B-5-321**, (Renumbered from 62A-15-622, as renumbered and amended by Laws of  
131 Utah 2002, Fifth Special Session, Chapter 8)  
132           **26B-5-322**, (Renumbered from 62A-15-623, as renumbered and amended by Laws of  
133 Utah 2002, Fifth Special Session, Chapter 8)  
134           **26B-5-323**, (Renumbered from 62A-15-624, as renumbered and amended by Laws of  
135 Utah 2002, Fifth Special Session, Chapter 8)  
136           **26B-5-324**, (Renumbered from 62A-15-608, as last amended by Laws of Utah 2011,

137 Chapter 366)  
138       **26B-5-325**, (Renumbered from 62A-15-609, as renumbered and amended by Laws of  
139 Utah 2002, Fifth Special Session, Chapter 8)  
140       **26B-5-326**, (Renumbered from 62A-15-611, as last amended by Laws of Utah 2018,  
141 Chapter 330)  
142       **26B-5-327**, (Renumbered from 62A-15-612, as last amended by Laws of Utah 2021,  
143 Chapter 382)  
144       **26B-5-330**, (Renumbered from 62A-15-628, as last amended by Laws of Utah 2018,  
145 Chapter 322)  
146       **26B-5-331**, (Renumbered from 62A-15-629, as last amended by Laws of Utah 2022,  
147 Chapters 341 and 374)  
148       **26B-5-332**, (Renumbered from 62A-15-631, as last amended by Laws of Utah 2022,  
149 Chapter 374)  
150       **26B-5-333**, (Renumbered from 62A-15-632, as repealed and reenacted by Laws of Utah  
151 2021, Chapter 122)  
152       **26B-5-334**, (Renumbered from 62A-15-634, as renumbered and amended by Laws of  
153 Utah 2002, Fifth Special Session, Chapter 8)  
154       **26B-5-335**, (Renumbered from 62A-15-635, as last amended by Laws of Utah 2018,  
155 Chapter 322)  
156       **26B-5-336**, (Renumbered from 62A-15-636, as renumbered and amended by Laws of  
157 Utah 2002, Fifth Special Session, Chapter 8)  
158       **26B-5-337**, (Renumbered from 62A-15-637, as last amended by Laws of Utah 2019,  
159 Chapter 419)  
160       **26B-5-338**, (Renumbered from 62A-15-638, as renumbered and amended by Laws of  
161 Utah 2002, Fifth Special Session, Chapter 8)  
162       **26B-5-339**, (Renumbered from 62A-15-618, as last amended by Laws of Utah 2019,  
163 Chapters 256 and 419)

164           **26B-5-340**, (Renumbered from 62A-15-630, as last amended by Laws of Utah 2008,  
165 Chapter 3)  
166           **26B-5-341**, (Renumbered from 62A-15-626, as last amended by Laws of Utah 2021,  
167 Chapter 262)  
168           **26B-5-342**, (Renumbered from 62A-15-620, as renumbered and amended by Laws of  
169 Utah 2002, Fifth Special Session, Chapter 8)  
170           **26B-5-350**, (Renumbered from 62A-15-630.4, as enacted by Laws of Utah 2019,  
171 Chapter 256)  
172           **26B-5-351**, (Renumbered from 62A-15-630.5, as last amended by Laws of Utah 2021,  
173 Chapter 122)  
174           **26B-5-360**, (Renumbered from 62A-15-625, as last amended by Laws of Utah 2021,  
175 Chapter 260)  
176           **26B-5-361**, (Renumbered from 62A-15-627, as last amended by Laws of Utah 2022,  
177 Chapter 374)  
178           **26B-5-362**, (Renumbered from 62A-15-646, as renumbered and amended by Laws of  
179 Utah 2002, Fifth Special Session, Chapter 8)  
180           **26B-5-363**, (Renumbered from 62A-15-616, as last amended by Laws of Utah 2011,  
181 Chapter 366)  
182           **26B-5-364**, (Renumbered from 62A-15-633, as renumbered and amended by Laws of  
183 Utah 2002, Fifth Special Session, Chapter 8)  
184           **26B-5-365**, (Renumbered from 62A-15-801, as renumbered and amended by Laws of  
185 Utah 2002, Fifth Special Session, Chapter 8)  
186           **26B-5-366**, (Renumbered from 62A-15-802, as renumbered and amended by Laws of  
187 Utah 2002, Fifth Special Session, Chapter 8)  
188           **26B-5-367**, (Renumbered from 62A-15-647, as renumbered and amended by Laws of  
189 Utah 2002, Fifth Special Session, Chapter 8)  
190           **26B-5-370**, (Renumbered from 62A-15-901, as renumbered and amended by Laws of

191 Utah 2002, Fifth Special Session, Chapter 8)  
192       **26B-5-371**, (Renumbered from 62A-15-902, as last amended by Laws of Utah 2011,  
193 Chapter 366)  
194       **26B-5-372**, (Renumbered from 62A-15-605.5, as renumbered and amended by Laws of  
195 Utah 2002, Fifth Special Session, Chapter 8)  
196       **26B-5-380**, (Renumbered from 62A-1-108.5, as last amended by Laws of Utah 2021,  
197 Chapter 262)  
198       **26B-5-401**, (Renumbered from 62A-15-701, as last amended by Laws of Utah 2003,  
199 Chapter 195)  
200       **26B-5-402**, (Renumbered from 62A-15-702, as renumbered and amended by Laws of  
201 Utah 2002, Fifth Special Session, Chapter 8)  
202       **26B-5-403**, (Renumbered from 62A-15-703, as last amended by Laws of Utah 2021,  
203 Chapter 262)  
204       **26B-5-404**, (Renumbered from 62A-15-704, as last amended by Laws of Utah 2008,  
205 Chapter 382)  
206       **26B-5-405**, (Renumbered from 62A-15-705, as last amended by Laws of Utah 2021,  
207 Chapter 261)  
208       **26B-5-406**, (Renumbered from 62A-15-706, as last amended by Laws of Utah 2011,  
209 Chapter 366)  
210       **26B-5-407**, (Renumbered from 62A-15-707, as last amended by Laws of Utah 2008,  
211 Chapter 382)  
212       **26B-5-408**, (Renumbered from 62A-15-708, as renumbered and amended by Laws of  
213 Utah 2002, Fifth Special Session, Chapter 8)  
214       **26B-5-409**, (Renumbered from 62A-15-709, as renumbered and amended by Laws of  
215 Utah 2002, Fifth Special Session, Chapter 8)  
216       **26B-5-410**, (Renumbered from 62A-15-710, as renumbered and amended by Laws of  
217 Utah 2002, Fifth Special Session, Chapter 8)

218           **26B-5-411**, (Renumbered from 62A-15-711, as renumbered and amended by Laws of  
219 Utah 2002, Fifth Special Session, Chapter 8)  
220           **26B-5-412**, (Renumbered from 62A-15-712, as last amended by Laws of Utah 2013,  
221 Chapter 167)  
222           **26B-5-413**, (Renumbered from 62A-15-713, as last amended by Laws of Utah 2005,  
223 Chapter 71)  
224           **26B-5-501**, (Renumbered from 62A-15-1202, as last amended by Laws of Utah 2018,  
225 Chapter 77)  
226           **26B-5-502**, (Renumbered from 62A-15-1201, as enacted by Laws of Utah 2017,  
227 Chapter 408)  
228           **26B-5-503**, (Renumbered from 62A-15-1203, as last amended by Laws of Utah 2018,  
229 Chapter 77)  
230           **26B-5-504**, (Renumbered from 62A-15-1204, as enacted by Laws of Utah 2017,  
231 Chapter 408)  
232           **26B-5-505**, (Renumbered from 62A-15-1205, as last amended by Laws of Utah 2018,  
233 Chapter 77)  
234           **26B-5-506**, (Renumbered from 62A-15-1205.5, as enacted by Laws of Utah 2018,  
235 Chapter 77)  
236           **26B-5-507**, (Renumbered from 62A-15-1206, as enacted by Laws of Utah 2017,  
237 Chapter 408)  
238           **26B-5-508**, (Renumbered from 62A-15-1207, as last amended by Laws of Utah 2018,  
239 Chapter 77)  
240           **26B-5-509**, (Renumbered from 62A-15-1207.5, as enacted by Laws of Utah 2018,  
241 Chapter 77)  
242           **26B-5-510**, (Renumbered from 62A-15-1208, as enacted by Laws of Utah 2017,  
243 Chapter 408)  
244           **26B-5-511**, (Renumbered from 62A-15-1209, as enacted by Laws of Utah 2017,

245 Chapter 408)  
246       **26B-5-601**, (Renumbered from 62A-17-102, as enacted by Laws of Utah 2013, Chapter  
247 24)  
248       **26B-5-602**, (Renumbered from 62A-17-103, as last amended by Laws of Utah 2017,  
249 Chapter 22)  
250       **26B-5-603**, (Renumbered from 62A-17-104, as enacted by Laws of Utah 2013, Chapter  
251 24)  
252       **26B-5-604**, (Renumbered from 62A-17-105, as enacted by Laws of Utah 2013, Chapter  
253 24)  
254       **26B-5-605**, (Renumbered from 62A-17-106, as enacted by Laws of Utah 2013, Chapter  
255 24)  
256       **26B-5-606**, (Renumbered from 62A-15-1802, as enacted by Laws of Utah 2020,  
257 Chapter 304)  
258       **26B-5-607**, (Renumbered from 62A-15-1803, as enacted by Laws of Utah 2020,  
259 Chapter 304)  
260       **26B-5-608**, (Renumbered from 62A-15-1804, as enacted by Laws of Utah 2020,  
261 Chapter 304)  
262       **26B-5-609**, (Renumbered from 62A-15-1402, as enacted by Laws of Utah 2018,  
263 Chapter 84)  
264       **26B-5-610**, (Renumbered from 62A-15-1302, as last amended by Laws of Utah 2020,  
265 Chapter 303)  
266       **26B-5-611**, (Renumbered from 62A-15-1101, as last amended by Laws of Utah 2022,  
267 Chapter 149)  
268       **26B-5-612**, (Renumbered from 26-1-43, as enacted by Laws of Utah 2022, Chapter 253  
269 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 189)  
270       **26B-6-102**, (Renumbered from 62A-3-102, as last amended by Laws of Utah 1990,  
271 Chapter 181)

272           **26B-6-103**, (Renumbered from 62A-3-103, as last amended by Laws of Utah 1992,  
273 Chapter 104)  
274           **26B-6-104**, (Renumbered from 62A-3-104, as last amended by Laws of Utah 2012,  
275 Chapter 347)  
276           **26B-6-105**, (Renumbered from 62A-3-104.1, as last amended by Laws of Utah 2018,  
277 Chapter 256)  
278           **26B-6-106**, (Renumbered from 62A-3-104.2, as last amended by Laws of Utah 1998,  
279 Chapter 254)  
280           **26B-6-107**, (Renumbered from 62A-3-104.3, as last amended by Laws of Utah 2015,  
281 Chapter 255)  
282           **26B-6-108**, (Renumbered from 62A-3-105, as last amended by Laws of Utah 2013,  
283 Chapter 110)  
284           **26B-6-109**, (Renumbered from 62A-3-106, as enacted by Laws of Utah 1988, Chapter  
285 1)  
286           **26B-6-110**, (Renumbered from 62A-3-106.5, as last amended by Laws of Utah 2008,  
287 Chapter 382)  
288           **26B-6-111**, (Renumbered from 62A-3-107, as last amended by Laws of Utah 2010,  
289 Chapter 286)  
290           **26B-6-112**, (Renumbered from 62A-3-107.5, as enacted by Laws of Utah 1996,  
291 Chapter 299)  
292           **26B-6-113**, (Renumbered from 62A-3-108, as last amended by Laws of Utah 1998,  
293 Chapter 254)  
294           **26B-6-114**, (Renumbered from 62A-3-109, as last amended by Laws of Utah 2008,  
295 Chapters 91 and 382)  
296           **26B-6-201**, (Renumbered from 62A-3-301, as last amended by Laws of Utah 2022,  
297 Chapter 430)  
298           **26B-6-202**, (Renumbered from 62A-3-302, as last amended by Laws of Utah 2017,

299 Chapter 176)  
300 **26B-6-203**, (Renumbered from 62A-3-303, as last amended by Laws of Utah 2017,  
301 Chapter 176)  
302 **26B-6-204**, (Renumbered from 62A-3-304, as last amended by Laws of Utah 2008,  
303 Chapter 91)  
304 **26B-6-205**, (Renumbered from 62A-3-305, as last amended by Laws of Utah 2022,  
305 Chapters 274, 335, and 415)  
306 **26B-6-206**, (Renumbered from 62A-3-307, as repealed and reenacted by Laws of Utah  
307 2008, Chapter 91)  
308 **26B-6-207**, (Renumbered from 62A-3-308, as last amended by Laws of Utah 2008,  
309 Chapter 91)  
310 **26B-6-208**, (Renumbered from 62A-3-309, as last amended by Laws of Utah 2013,  
311 Chapter 237)  
312 **26B-6-209**, (Renumbered from 62A-3-311, as last amended by Laws of Utah 2008,  
313 Chapters 91 and 382)  
314 **26B-6-210**, (Renumbered from 62A-3-311.1, as last amended by Laws of Utah 2022,  
315 Chapter 415)  
316 **26B-6-211**, (Renumbered from 62A-3-311.5, as enacted by Laws of Utah 2008,  
317 Chapter 91)  
318 **26B-6-212**, (Renumbered from 62A-3-312, as last amended by Laws of Utah 2022,  
319 Chapter 415)  
320 **26B-6-213**, (Renumbered from 62A-3-314, as last amended by Laws of Utah 2007,  
321 Chapter 176)  
322 **26B-6-214**, (Renumbered from 62A-3-315, as last amended by Laws of Utah 2017,  
323 Chapter 176)  
324 **26B-6-215**, (Renumbered from 62A-3-316, as enacted by Laws of Utah 2002, Chapter  
325 108)

326           **26B-6-216**, (Renumbered from 62A-3-317, as last amended by Laws of Utah 2017,  
327 Chapter 176)  
328           **26B-6-217**, (Renumbered from 62A-3-320, as last amended by Laws of Utah 2017,  
329 Chapter 176)  
330           **26B-6-218**, (Renumbered from 62A-3-321, as last amended by Laws of Utah 2017,  
331 Chapter 176)  
332           **26B-6-219**, (Renumbered from 62A-3-322, as enacted by Laws of Utah 2018, Third  
333 Special Session, Chapter 1)  
334           **26B-6-301**, (Renumbered from 62A-14-102, as last amended by Laws of Utah 2013,  
335 Chapter 364)  
336           **26B-6-302**, (Renumbered from 62A-14-103, as enacted by Laws of Utah 1999, Chapter  
337 69)  
338           **26B-6-303**, (Renumbered from 62A-14-104, as last amended by Laws of Utah 2009,  
339 Chapter 75)  
340           **26B-6-304**, (Renumbered from 62A-14-105, as last amended by Laws of Utah 2022,  
341 Chapter 441)  
342           **26B-6-305**, (Renumbered from 62A-14-107, as enacted by Laws of Utah 1999, Chapter  
343 69)  
344           **26B-6-306**, (Renumbered from 62A-14-108, as last amended by Laws of Utah 2022,  
345 Chapter 255)  
346           **26B-6-307**, (Renumbered from 62A-14-109, as last amended by Laws of Utah 2012,  
347 Chapter 347)  
348           **26B-6-308**, (Renumbered from 62A-14-110, as enacted by Laws of Utah 1999, Chapter  
349 69)  
350           **26B-6-309**, (Renumbered from 62A-14-111, as enacted by Laws of Utah 1999, Chapter  
351 69)  
352           **26B-6-401**, (Renumbered from 62A-5-101, as last amended by Laws of Utah 2020,

353 Chapter 444)  
354       **26B-6-402**, (Renumbered from 62A-5-102, as last amended by Laws of Utah 2020,  
355 Chapter 444)  
356       **26B-6-403**, (Renumbered from 62A-5-103, as last amended by Laws of Utah 2011,  
357 Chapter 366)  
358       **26B-6-404**, (Renumbered from 62A-5-104, as last amended by Laws of Utah 2012,  
359 Chapter 369)  
360       **26B-6-405**, (Renumbered from 62A-5-105, as last amended by Laws of Utah 2013,  
361 Chapter 167)  
362       **26B-6-406**, (Renumbered from 62A-5-106, as enacted by Laws of Utah 1988, Chapter  
363 1)  
364       **26B-6-407**, (Renumbered from 62A-5-103.1, as last amended by Laws of Utah 2013,  
365 Chapter 125)  
366       **26B-6-408**, (Renumbered from 62A-5-103.2, as last amended by Laws of Utah 2009,  
367 Chapter 29)  
368       **26B-6-409**, (Renumbered from 62A-5-103.3, as enacted by Laws of Utah 2011,  
369 Chapter 169)  
370       **26B-6-410**, (Renumbered from 62A-5-103.5, as last amended by Laws of Utah 2017,  
371 Chapter 181)  
372       **26B-6-411**, (Renumbered from 62A-5-109, as last amended by Laws of Utah 2008,  
373 Chapter 3)  
374       **26B-6-412**, (Renumbered from 62A-5-110, as last amended by Laws of Utah 2018,  
375 Chapter 88)  
376       **26B-6-413**, (Renumbered from 62A-5-402, as last amended by Laws of Utah 2005,  
377 Chapter 61)  
378       **26B-6-502**, (Renumbered from 62A-5-201, as last amended by Laws of Utah 2017,  
379 Chapter 211)

380           **26B-6-503**, (Renumbered from 62A-5-202, as last amended by Laws of Utah 2009,  
381 Chapter 75)  
382           **26B-6-504**, (Renumbered from 62A-5-203, as last amended by Laws of Utah 1991,  
383 Chapter 207)  
384           **26B-6-505**, (Renumbered from 62A-5-205, as last amended by Laws of Utah 1991,  
385 Chapter 207)  
386           **26B-6-506**, (Renumbered from 62A-5-206, as last amended by Laws of Utah 2016,  
387 Chapter 300)  
388           **26B-6-507**, (Renumbered from 62A-5-206.6, as last amended by Laws of Utah 2018,  
389 Chapter 404)  
390           **26B-6-508**, (Renumbered from 62A-5-207, as last amended by Laws of Utah 2011,  
391 Chapter 366)  
392           **26B-6-509**, (Renumbered from 62A-5-208, as last amended by Laws of Utah 1991,  
393 Chapter 207)  
394           **26B-6-510**, (Renumbered from 62A-5-211, as enacted by Laws of Utah 2017, Chapter  
395 211)  
396           **26B-6-602**, (Renumbered from 62A-5-302, as last amended by Laws of Utah 2011,  
397 Chapter 366)  
398           **26B-6-603**, (Renumbered from 62A-5-305, as last amended by Laws of Utah 2011,  
399 Chapter 366)  
400           **26B-6-604**, (Renumbered from 62A-5-308, as last amended by Laws of Utah 2021,  
401 Chapter 261)  
402           **26B-6-605**, (Renumbered from 62A-5-309, as last amended by Laws of Utah 2021,  
403 Chapter 261)  
404           **26B-6-606**, (Renumbered from 62A-5-310, as last amended by Laws of Utah 2011,  
405 Chapter 366)  
406           **26B-6-607**, (Renumbered from 62A-5-311, as last amended by Laws of Utah 2011,

407 Chapter 366)  
408       **26B-6-608**, (Renumbered from 62A-5-312, as last amended by Laws of Utah 2011,  
409 Chapter 366)  
410       **26B-6-609**, (Renumbered from 62A-5-313, as last amended by Laws of Utah 2011,  
411 Chapter 366)  
412       **26B-6-610**, (Renumbered from 62A-5-315, as last amended by Laws of Utah 2004,  
413 Chapter 114)  
414       **26B-6-611**, (Renumbered from 62A-5-316, as last amended by Laws of Utah 2011,  
415 Chapter 366)  
416       **26B-6-612**, (Renumbered from 62A-5-317, as last amended by Laws of Utah 2011,  
417 Chapter 366)  
418       **26B-6-613**, (Renumbered from 62A-5-318, as last amended by Laws of Utah 2011,  
419 Chapter 366)  
420       **26B-6-701**, (Renumbered from 62A-5-501, as enacted by Laws of Utah 2022, Chapter  
421 220)  
422       **26B-6-702**, (Renumbered from 62A-5-502, as enacted by Laws of Utah 2022, Chapter  
423 220)  
424       **26B-6-703**, (Renumbered from 62A-5-503, as enacted by Laws of Utah 2022, Chapter  
425 220)  
426       **26B-6-704**, (Renumbered from 62A-5-504, as enacted by Laws of Utah 2022, Chapter  
427 220)  
428       **26B-6-705**, (Renumbered from 62A-5-505, as enacted by Laws of Utah 2022, Chapter  
429 220)  
430       **26B-6-801**, (Renumbered from 62A-5b-102, as last amended by Laws of Utah 2019,  
431 Chapter 190)  
432       **26B-6-802**, (Renumbered from 62A-5b-103, as last amended by Laws of Utah 2019,  
433 Chapter 190)

434           **26B-6-803**, (Renumbered from 62A-5b-104, as last amended by Laws of Utah 2019,  
435 Chapter 190)  
436           **26B-6-804**, (Renumbered from 62A-5b-105, as last amended by Laws of Utah 2019,  
437 Chapter 190)  
438           **26B-6-805**, (Renumbered from 62A-5b-106, as last amended by Laws of Utah 2019,  
439 Chapter 190)  
440           **26B-6-806**, (Renumbered from 62A-6-102, as enacted by Laws of Utah 1988, Chapter  
441 1)  
442           **26B-6-807**, (Renumbered from 62A-6-103, as enacted by Laws of Utah 1988, Chapter  
443 1)  
444           **26B-6-808**, (Renumbered from 62A-6-104, as enacted by Laws of Utah 1988, Chapter  
445 1)  
446           **26B-6-809**, (Renumbered from 62A-6-105, as enacted by Laws of Utah 1988, Chapter  
447 1)  
448           **26B-6-810**, (Renumbered from 62A-6-106, as enacted by Laws of Utah 1988, Chapter  
449 1)  
450           **26B-6-811**, (Renumbered from 62A-6-107, as enacted by Laws of Utah 1988, Chapter  
451 1)  
452           **26B-6-812**, (Renumbered from 62A-6-108, as enacted by Laws of Utah 1988, Chapter  
453 1)  
454           **26B-6-813**, (Renumbered from 62A-6-109, as enacted by Laws of Utah 1988, Chapter  
455 1)  
456           **26B-6-814**, (Renumbered from 62A-6-110, as enacted by Laws of Utah 1988, Chapter  
457 1)  
458           **26B-6-815**, (Renumbered from 62A-6-111, as enacted by Laws of Utah 1988, Chapter  
459 1)  
460           **26B-6-816**, (Renumbered from 62A-6-112, as enacted by Laws of Utah 1988, Chapter

461 1)  
462 **26B-6-817**, (Renumbered from 62A-6-113, as enacted by Laws of Utah 1988, Chapter  
463 1)  
464 **26B-6-818**, (Renumbered from 62A-6-114, as enacted by Laws of Utah 1988, Chapter  
465 1)  
466 **26B-6-819**, (Renumbered from 62A-6-115, as enacted by Laws of Utah 1988, Chapter  
467 1)  
468 **26B-6-820**, (Renumbered from 62A-6-116, as enacted by Laws of Utah 1988, Chapter  
469 1)  
470 **26B-6-821**, (Renumbered from 62A-5b-107, as renumbered and amended by Laws of  
471 Utah 2007, Chapter 22)  
472 **26B-7-102**, (Renumbered from 26-10-3, as enacted by Laws of Utah 1981, Chapter  
473 126)  
474 **26B-7-103**, (Renumbered from 26-10-4, as enacted by Laws of Utah 1981, Chapter  
475 126)  
476 **26B-7-104**, (Renumbered from 26-10-5.5, as last amended by Laws of Utah 2016,  
477 Chapter 144)  
478 **26B-7-105**, (Renumbered from 26-10-10, as last amended by Laws of Utah 2018,  
479 Chapters 58, 281, and 415)  
480 **26B-7-106**, (Renumbered from 26-10-14, as enacted by Laws of Utah 2019, Chapter  
481 124)  
482 **26B-7-107**, (Renumbered from 26-10-15, as enacted by Laws of Utah 2021, Chapter  
483 161)  
484 **26B-7-108**, (Renumbered from 26-1-23.5, as renumbered and amended by Laws of  
485 Utah 1991, Chapter 112)  
486 **26B-7-109**, (Renumbered from 26-1-26, as enacted by Laws of Utah 1981, Chapter  
487 126)

488           **26B-7-110**, (Renumbered from 26-1-36, as last amended by Laws of Utah 2013,  
489 Chapters 43 and 167)  
490           **26B-7-111**, (Renumbered from 26-1-38, as last amended by Laws of Utah 2015,  
491 Chapter 180)  
492           **26B-7-112**, (Renumbered from 26-1-42, as enacted by Laws of Utah 2020, Chapter  
493 211)  
494           **26B-7-113**, (Renumbered from 26-7-1, as last amended by Laws of Utah 2011, Chapter  
495 297)  
496           **26B-7-114**, (Renumbered from 26-7-2, as last amended by Laws of Utah 2011, Chapter  
497 192)  
498           **26B-7-115**, (Renumbered from 26-7-4, as enacted by Laws of Utah 2008, Chapter 72)  
499           **26B-7-116**, (Renumbered from 26-7-7, as last amended by Laws of Utah 2015, Chapter  
500 451)  
501           **26B-7-117**, (Renumbered from 26-7-8, as last amended by Laws of Utah 2018, Chapter  
502 281)  
503           **26B-7-118**, (Renumbered from 26-7-9, as last amended by Laws of Utah 2019, Chapter  
504 186)  
505           **26B-7-119**, (Renumbered from 26-7-11, as enacted by Laws of Utah 2020, Chapter  
506 429)  
507           **26B-7-201**, (Renumbered from 26-6-2, as last amended by Laws of Utah 2021, Chapter  
508 437)  
509           **26B-7-202**, (Renumbered from 26-6-3, as last amended by Laws of Utah 2021, Chapter  
510 437)  
511           **26B-7-203**, (Renumbered from 26-6-3.5, as last amended by Laws of Utah 2006,  
512 Chapter 116)  
513           **26B-7-204**, (Renumbered from 26-6-4, as last amended by Laws of Utah 2006, Chapter  
514 185)

515           **26B-7-205**, (Renumbered from 26-6-5, as last amended by Laws of Utah 1993, Chapter  
516   179)  
517           **26B-7-206**, (Renumbered from 26-6-6, as last amended by Laws of Utah 2008, Chapter  
518   3)  
519           **26B-7-207**, (Renumbered from 26-6-7, as last amended by Laws of Utah 1996, Chapter  
520   211)  
521           **26B-7-208**, (Renumbered from 26-6-8, as last amended by Laws of Utah 1996, Chapter  
522   211)  
523           **26B-7-209**, (Renumbered from 26-6-9, as repealed and reenacted by Laws of Utah  
524   1996, Chapter 211)  
525           **26B-7-210**, (Renumbered from 26-6-11, as enacted by Laws of Utah 1981, Chapter  
526   126)  
527           **26B-7-211**, (Renumbered from 26-6-15, as enacted by Laws of Utah 1981, Chapter  
528   126)  
529           **26B-7-212**, (Renumbered from 26-6-16, as enacted by Laws of Utah 1981, Chapter  
530   126)  
531           **26B-7-213**, (Renumbered from 26-6-17, as last amended by Laws of Utah 2019,  
532   Chapter 349)  
533           **26B-7-214**, (Renumbered from 26-6-18, as last amended by Laws of Utah 2019,  
534   Chapter 349)  
535           **26B-7-215**, (Renumbered from 26-6-19, as last amended by Laws of Utah 2019,  
536   Chapter 349)  
537           **26B-7-216**, (Renumbered from 26-6-20, as last amended by Laws of Utah 2019,  
538   Chapter 349)  
539           **26B-7-217**, (Renumbered from 26-6-27, as last amended by Laws of Utah 2022,  
540   Chapters 169, 335, 415, and 430)  
541           **26B-7-218**, (Renumbered from 26-6-28, as last amended by Laws of Utah 2007,

542 Chapter 38)  
543 **26B-7-219**, (Renumbered from 26-6-29, as renumbered and amended by Laws of Utah  
544 1996, Chapter 201)  
545 **26B-7-220**, (Renumbered from 26-6-30, as last amended by Laws of Utah 2003,  
546 Chapter 171)  
547 **26B-7-221**, (Renumbered from 26-6-31, as enacted by Laws of Utah 2012, Chapter  
548 150)  
549 **26B-7-222**, (Renumbered from 26-6-32, as last amended by Laws of Utah 2022,  
550 Chapter 169)  
551 **26B-7-223**, (Renumbered from 26-6-42, as last amended by Laws of Utah 2022,  
552 Chapter 5 and further amended by Revisor Instructions, Laws of Utah 2022,  
553 Chapter 5)  
554 **26B-7-224**, (Renumbered from 26-7-14, as last amended by Laws of Utah 2022,  
555 Chapter 430)  
556 **26B-7-225**, (Renumbered from 26-8d-102, as enacted by Laws of Utah 2018, Chapter  
557 104)  
558 **26B-7-226**, (Renumbered from 26-8d-103, as enacted by Laws of Utah 2018, Chapter  
559 104)  
560 **26B-7-227**, (Renumbered from 26-5-1, as enacted by Laws of Utah 1981, Chapter 126)  
561 **26B-7-301**, (Renumbered from 26-23b-102, as last amended by Laws of Utah 2022,  
562 Chapter 255)  
563 **26B-7-302**, (Renumbered from 26-1-12, as last amended by Laws of Utah 1991,  
564 Chapter 112)  
565 **26B-7-303**, (Renumbered from 26-6b-1, as last amended by Laws of Utah 2008,  
566 Chapter 382)  
567 **26B-7-304**, (Renumbered from 26-6b-3, as last amended by Laws of Utah 2021,  
568 Chapter 437)

569           **26B-7-305**, (Renumbered from 26-6b-3.1, as last amended by Laws of Utah 2011,  
570 Chapter 297)  
571           **26B-7-306**, (Renumbered from 26-6b-3.2, as enacted by Laws of Utah 2006, Chapter  
572 185)  
573           **26B-7-307**, (Renumbered from 26-6b-3.3, as last amended by Laws of Utah 2008,  
574 Chapter 115)  
575           **26B-7-308**, (Renumbered from 26-6b-3.4, as last amended by Laws of Utah 2008,  
576 Chapters 3 and 115)  
577           **26B-7-309**, (Renumbered from 26-6b-4, as last amended by Laws of Utah 2008,  
578 Chapter 115)  
579           **26B-7-310**, (Renumbered from 26-6b-5, as last amended by Laws of Utah 2019,  
580 Chapter 349)  
581           **26B-7-311**, (Renumbered from 26-6b-6, as last amended by Laws of Utah 2008,  
582 Chapter 115)  
583           **26B-7-312**, (Renumbered from 26-6b-7, as enacted by Laws of Utah 1996, Chapter  
584 211)  
585           **26B-7-313**, (Renumbered from 26-6b-8, as last amended by Laws of Utah 2006,  
586 Chapter 185)  
587           **26B-7-314**, (Renumbered from 26-6b-9, as last amended by Laws of Utah 2006,  
588 Chapter 185)  
589           **26B-7-315**, (Renumbered from 26-6b-10, as enacted by Laws of Utah 1996, Chapter  
590 211)  
591           **26B-7-316**, (Renumbered from 26-23b-103, as enacted by Laws of Utah 2002, Chapter  
592 155)  
593           **26B-7-317**, (Renumbered from 26-23b-104, as last amended by Laws of Utah 2021,  
594 Chapter 437)  
595           **26B-7-318**, (Renumbered from 26-23b-105, as enacted by Laws of Utah 2002, Chapter

596 155)  
597 **26B-7-319**, (Renumbered from 26-23b-106, as enacted by Laws of Utah 2002, Chapter  
598 155)  
599 **26B-7-320**, (Renumbered from 26-23b-107, as enacted by Laws of Utah 2002, Chapter  
600 155)  
601 **26B-7-321**, (Renumbered from 26-23b-108, as last amended by Laws of Utah 2021,  
602 Chapter 437)  
603 **26B-7-322**, (Renumbered from 26-23b-109, as enacted by Laws of Utah 2002, Chapter  
604 155)  
605 **26B-7-323**, (Renumbered from 26-23b-110, as last amended by Laws of Utah 2011,  
606 Chapter 55)  
607 **26B-7-401**, (Renumbered from 26-15a-102, as last amended by Laws of Utah 2008,  
608 Chapter 382)  
609 **26B-7-402**, (Renumbered from 26-15-2, as last amended by Laws of Utah 2021,  
610 Chapter 227)  
611 **26B-7-403**, (Renumbered from 26-15-3, as last amended by Laws of Utah 2022,  
612 Chapter 415)  
613 **26B-7-404**, (Renumbered from 26-15-4, as enacted by Laws of Utah 1981, Chapter  
614 126)  
615 **26B-7-405**, (Renumbered from 26-15-7, as enacted by Laws of Utah 1981, Chapter  
616 126)  
617 **26B-7-406**, (Renumbered from 26-15-8, as last amended by Laws of Utah 2011,  
618 Chapter 297)  
619 **26B-7-407**, (Renumbered from 26-15-13, as last amended by Laws of Utah 2016,  
620 Chapter 303)  
621 **26B-7-408**, (Renumbered from 26-31-201, as last amended by Laws of Utah 2011,  
622 Chapter 297 and renumbered and amended by Laws of Utah 2011, Chapter 90)

623           **26B-7-409**, (Renumbered from 26-51-201, as enacted by Laws of Utah 2008, Chapter  
624   38)  
625           **26B-7-410**, (Renumbered from 26-15a-104, as last amended by Laws of Utah 2008,  
626   Chapter 382)  
627           **26B-7-411**, (Renumbered from 26-15a-105, as last amended by Laws of Utah 2014,  
628   Chapter 327)  
629           **26B-7-412**, (Renumbered from 26-15a-106, as last amended by Laws of Utah 2020,  
630   Chapter 189)  
631           **26B-7-413**, (Renumbered from 26-15-5, as last amended by Laws of Utah 2020,  
632   Chapter 189)  
633           **26B-7-414**, (Renumbered from 26-15-9, as enacted by Laws of Utah 1981, Chapter  
634   126)  
635           **26B-7-415**, (Renumbered from 26-15b-105, as last amended by Laws of Utah 2020,  
636   Fifth Special Session, Chapter 4)  
637           **26B-7-416**, (Renumbered from 26-15c-105, as enacted by Laws of Utah 2021, Chapter  
638   417)  
639           **26B-7-501**, (Renumbered from 26-62-102, as last amended by Laws of Utah 2020,  
640   Chapters 302 and 347)  
641           **26B-7-502**, (Renumbered from 26-15-11, as last amended by Laws of Utah 1994,  
642   Chapter 281)  
643           **26B-7-503**, (Renumbered from 26-38-3, as last amended by Laws of Utah 2009,  
644   Chapter 383)  
645           **26B-7-504**, (Renumbered from 26-43-102, as enacted by Laws of Utah 1998, Chapter  
646   73)  
647           **26B-7-505**, (Renumbered from 26-57-103, as last amended by Laws of Utah 2021, First  
648   Special Session, Chapter 12)  
649           **26B-7-506**, (Renumbered from 26-62-103, as enacted by Laws of Utah 2018, Chapter

650 231)  
651 **26B-7-507**, (Renumbered from 26-62-201, as last amended by Laws of Utah 2020,  
652 Chapter 347)  
653 **26B-7-508**, (Renumbered from 26-62-202, as last amended by Laws of Utah 2020,  
654 Sixth Special Session, Chapter 18)  
655 **26B-7-509**, (Renumbered from 26-62-203, as enacted by Laws of Utah 2018, Chapter  
656 231)  
657 **26B-7-510**, (Renumbered from 26-62-204, as enacted by Laws of Utah 2018, Chapter  
658 231)  
659 **26B-7-511**, (Renumbered from 26-62-205, as last amended by Laws of Utah 2021,  
660 Chapter 348)  
661 **26B-7-512**, (Renumbered from 26-62-206, as enacted by Laws of Utah 2020, Chapter  
662 347)  
663 **26B-7-513**, (Renumbered from 26-62-207, as enacted by Laws of Utah 2020, Chapter  
664 302)  
665 **26B-7-514**, (Renumbered from 26-62-301, as last amended by Laws of Utah 2020,  
666 Chapter 347)  
667 **26B-7-515**, (Renumbered from 26-62-302, as renumbered and amended by Laws of  
668 Utah 2018, Chapter 231)  
669 **26B-7-516**, (Renumbered from 26-62-303, as enacted by Laws of Utah 2018, Chapter  
670 231)  
671 **26B-7-517**, (Renumbered from 26-62-304, as last amended by Laws of Utah 2022,  
672 Chapter 274)  
673 **26B-7-518**, (Renumbered from 26-62-305, as last amended by Laws of Utah 2022,  
674 Chapter 274)  
675 **26B-7-519**, (Renumbered from 26-62-306, as last amended by Laws of Utah 2021,  
676 Chapter 348)

26B-7-520, (Renumbered from 26-62-307, as renumbered and amended by Laws of Utah 2018, Chapter 231)

26B-7-521, (Renumbered from 26-62-401, as last amended by Laws of Utah 2021, Chapter 348)

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

62A-17-102, as enacted by Laws of Utah 2013, Chapter 24

---

---

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

Section 1. Section 26B-5-101 is amended to read:

**CHAPTER 5. HEALTH CARE - SUBSTANCE USE AND MENTAL HEALTH**

**Part 1. General Provisions**

**26B-5-101. Chapter definitions.**

~~[Reserved.]~~

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section 26B-1-202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

704 (i) serious danger to the individual's health or well-being; or

705 (ii) a danger to the health or well-being of others; or

706 (b) a mental health condition that, in the opinion of a mental health therapist or the  
707 therapist's designee, requires direct professional observation or intervention.

708 (7) "Mental health crisis response training" means community-based training that  
709 educates laypersons and professionals on the warning signs of a mental health crisis and how to  
710 respond.

711 (8) "Mental health crisis services" means an array of services provided to an individual  
712 who experiences a mental health crisis, which may include:

713 (a) direct mental health services;

714 (b) on-site intervention provided by a mobile crisis outreach team;

715 (c) the provision of safety and care plans;

716 (d) prolonged mental health services for up to 90 days after the day on which an  
717 individual experiences a mental health crisis;

718 (e) referrals to other community resources;

719 (f) local mental health crisis lines; and

720 (g) the statewide mental health crisis line.

721 (9) "Mental health therapist" means the same as that term is defined in Section  
722 [58-60-102](#).

723 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and  
724 mental health professionals that, in coordination with local law enforcement and emergency  
725 medical service personnel, provides mental health crisis services.

726 (11) "Office" means the Office of Substance Use and Mental Health created in Section  
727 [26B-5-102](#).

728 (12) (a) "Public funds" means federal money received from the department, and state  
729 money appropriated by the Legislature to the department, a county governing body, or a local  
730 substance abuse authority, or a local mental health authority for the purposes of providing

substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section [26B-5-610](#).

(16) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

Section 2. Section **26B-5-102**, which is renumbered from Section 62A-15-103 is renumbered and amended to read:

~~[62A-15-103].~~      **26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.**

(1) (a) The ~~[division]~~ Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance ~~[abuse]~~ use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance ~~[abuse]~~ use;

(iii) promote or establish programs for the prevention of substance ~~[abuse]~~ use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance ~~[abuse]~~ use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance ~~[abuse]~~ use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section [~~62A-15-1002~~] 26B-5-313;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance [~~abuse~~] use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance [~~abuse~~] use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance [~~abuse~~] use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance [~~abuse~~] use authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities

to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance ~~abuse~~ use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance ~~abuse~~ use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance ~~abuse~~ use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or

866 money;

867 (d) ensure that the requirements of this part are met and applied uniformly by local  
868 substance abuse authorities and local mental health authorities across the state;

869 (e) require each local substance abuse authority and each local mental health authority,  
870 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to  
871 the division on or before May 15 of each year;

872 (f) conduct an annual program audit and review of each local substance abuse authority  
873 and each local substance abuse authority's contract provider, and each local mental health  
874 authority and each local mental health authority's contract provider, including:

875 (i) a review and determination regarding whether:

876 (A) public funds allocated to the local substance abuse authority or the local mental  
877 health authorities are consistent with services rendered by the authority or the authority's  
878 contract provider, and with outcomes reported by the authority's contract provider; and

879 (B) each local substance abuse authority and each local mental health authority is  
880 exercising sufficient oversight and control over public funds allocated for substance use  
881 disorder and mental health programs and services; and

882 (ii) items determined by the division to be necessary and appropriate;

883 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,  
884 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

885 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer  
886 supports services to an individual with:

887 (A) a substance use disorder;

888 (B) a mental health disorder; or

889 (C) a substance use disorder and a mental health disorder;

890 (ii) certify a person to carry out, as needed, the division's duty to train and certify an  
891 adult as a peer support specialist;

892 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

893 Rulemaking Act, that:

894 (A) establish training and certification requirements for a peer support specialist;

895 (B) specify the types of services a peer support specialist is qualified to provide;

896 (C) specify the type of supervision under which a peer support specialist is required to  
897 operate; and

898 (D) specify continuing education and other requirements for maintaining or renewing  
899 certification as a peer support specialist; and

900 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

901 Rulemaking Act, that:

902 (A) establish the requirements for a person to be certified to carry out, as needed, the  
903 division's duty to train and certify an adult as a peer support specialist; and

904 (B) specify how the division shall provide oversight of a person certified to train and  
905 certify a peer support specialist;

906 (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze  
907 and provide recommendations to the Legislature regarding:

908 (i) pretrial services and the resources needed to reduce recidivism;

909 (ii) county jail and county behavioral health early-assessment resources needed for an  
910 individual convicted of a class A or class B misdemeanor; and

911 (iii) the replacement of federal dollars associated with drug interdiction law  
912 enforcement task forces that are reduced;

913 (j) establish performance goals and outcome measurements for a mental health or  
914 substance use treatment program that is licensed under Chapter 2, ~~[Licensure of]~~ Part 1, Human  
915 Services Programs and Facilities, and contracts with the department, including goals and  
916 measurements related to employment and reducing recidivism of individuals receiving mental  
917 health or substance use treatment who are involved with the criminal justice system;

918 (k) annually, on or before November 30, submit a written report to the Judiciary  
919 Interim Committee, the Health and Human Services Interim Committee, and the Law

Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism, including data on:

(i) individuals who participate in a mental health or substance use treatment program while incarcerated and are convicted of another offense within two years after release from incarceration;

(ii) individuals who are ordered by a criminal court or the Board of Pardons and Parole to participate in a mental health or substance use treatment program and are convicted of another offense while participating in the treatment program or within two years after the day on which the treatment program ends;

(iii) the type of treatment provided to, and employment of, the individuals described in Subsections (2)(l)(i) and (ii); and

(iv) cost savings associated with recidivism reduction and the reduction in the number of inmates in the state;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j);

947 and

948 (ii) a description of the services provided and the contact information for the mental  
949 health and substance use treatment programs described in Subsection (2)(j) and residential,  
950 vocational and life skills programs, as defined in Section 13-53-102; and

951 (p) consult and coordinate with the Division of Child and Family Services to develop  
952 and manage the operation of a program designed to reduce substance ~~[abuse]~~ use during  
953 pregnancy and by parents of a newborn child that includes:

954 (i) providing education and resources to health care providers and individuals in the  
955 state regarding prevention of substance ~~[abuse]~~ use during pregnancy;

956 (ii) providing training to health care providers in the state regarding screening of a  
957 pregnant woman or pregnant minor to identify a substance ~~[abuse]~~ use disorder; and

958 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn  
959 child in need of substance ~~[abuse]~~ use treatment services to a facility that has the capacity to  
960 provide the treatment services.

961 (3) In addition to the responsibilities described in Subsection (2), the division shall,  
962 within funds appropriated by the Legislature for this purpose, implement and manage the  
963 operation of a firearm safety and suicide prevention program, in consultation with the Bureau  
964 of Criminal Identification created in Section 53-10-201, including:

965 (a) coordinating with local mental health and substance abuse authorities, a nonprofit  
966 behavioral health advocacy group, and a representative from a Utah-based nonprofit  
967 organization with expertise in the field of firearm use and safety that represents firearm owners,  
968 to:

969 (i) produce and periodically review and update a firearm safety brochure and other  
970 educational materials with information about the safe handling and use of firearms that  
971 includes:

972 (A) information on safe handling, storage, and use of firearms in a home environment;

973 (B) information about at-risk individuals and individuals who are legally prohibited

974 from possessing firearms;

975 (C) information about suicide prevention awareness; and

976 (D) information about the availability of firearm safety packets;

977 (ii) procure cable-style gun locks for distribution under this section;

978 (iii) produce a firearm safety packet that includes the firearm safety brochure and the

979 cable-style gun lock described in this Subsection (3); and

980 (iv) create a suicide prevention education course that:

981 (A) provides information for distribution regarding firearm safety education;

982 (B) incorporates current information on how to recognize suicidal behaviors and

983 identify individuals who may be suicidal; and

984 (C) provides information regarding crisis intervention resources;

985 (b) distributing, free of charge, the firearm safety packet to the following persons, who

986 shall make the firearm safety packet available free of charge:

987 (i) health care providers, including emergency rooms;

988 (ii) mobile crisis outreach teams;

989 (iii) mental health practitioners;

990 (iv) other public health suicide prevention organizations;

991 (v) entities that teach firearm safety courses;

992 (vi) school districts for use in the seminar, described in Section [53G-9-702](#), for parents

993 of students in the school district; and

994 (vii) firearm dealers to be distributed in accordance with Section [76-10-526](#);

995 (c) creating and administering a rebate program that includes a rebate that offers

996 between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms

997 dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

998 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

999 making rules that establish procedures for:

1000 (i) producing and distributing the suicide prevention education course and the firearm

1001 safety brochures and packets;

1002 (ii) procuring the cable-style gun locks for distribution; and

1003 (iii) administering the rebate program; and

1004 (e) reporting to the Health and Human Services Interim Committee regarding  
1005 implementation and success of the firearm safety program and suicide prevention education  
1006 course at or before the November meeting each year.

1007 (4) (a) The division may refuse to contract with and may pursue legal remedies against  
1008 any local substance abuse authority or local mental health authority that fails, or has failed, to  
1009 expend public funds in accordance with state law, division policy, contract provisions, or  
1010 directives issued in accordance with state law.

1011 (b) The division may withhold funds from a local substance abuse authority or local  
1012 mental health authority if the authority's contract provider of substance ~~[abuse]~~ use or mental  
1013 health programs or services fails to comply with state and federal law or policy.

1014 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority  
1015 or local mental health authority, the division shall review and determine whether the local  
1016 substance abuse authority or local mental health authority is complying with the oversight and  
1017 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and  
1018 17-43-309.

1019 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and  
1020 liability described in Section 17-43-303 and to the responsibility and liability described in  
1021 Section 17-43-203.

1022 (6) In carrying out the division's duties and responsibilities, the division may not  
1023 duplicate treatment or educational facilities that exist in other divisions or departments of the  
1024 state, but shall work in conjunction with those divisions and departments in rendering the  
1025 treatment or educational services that those divisions and departments are competent and able  
1026 to provide.

1027 (7) The division may accept in the name of and on behalf of the state donations, gifts,

devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 3. Section **26B-5-103**, which is renumbered from Section 62A-15-104 is renumbered and amended to read:

1055           ~~[62A-15-104].~~           **26B-5-103. Director -- Qualifications.**

1056           (1) The executive director shall appoint a director within the division to carry out all or  
1057 part of the duties and responsibilities described in this part.

1058           (2) The director appointed under Subsection (1) shall have a bachelor's degree from an  
1059 accredited university or college, be experienced in administration, and be knowledgeable in  
1060 matters concerning substance ~~[abuse]~~ use and mental health.

1061           Section 4. Section **26B-5-104**, which is renumbered from Section 62A-15-105 is  
1062 renumbered and amended to read:

1063           ~~[62A-15-105].~~           **26B-5-104. Authority and responsibilities of division.**

1064           The division shall set policy for its operation and for programs funded with state and  
1065 federal money under Sections 17-43-201, 17-43-301, 17-43-304, and ~~[62A-15-110]~~ 26B-5-108.  
1066 The division shall:

1067           (1) in establishing rules, seek input from local substance abuse authorities, local mental  
1068 health authorities, consumers, providers, advocates, division staff, and other interested parties  
1069 as determined by the division;

1070           (2) establish, by rule, minimum standards for local substance abuse authorities and  
1071 local mental health authorities;

1072           (3) establish, by rule, procedures for developing policies that ensure that local  
1073 substance abuse authorities and local mental health authorities are given opportunity to  
1074 comment and provide input on any new policy of the division or proposed changes in existing  
1075 rules of the division;

1076           (4) provide a mechanism for review of its existing policy, and for consideration of  
1077 policy changes that are proposed by local substance abuse authorities or local mental health  
1078 authorities;

1079           (5) develop program policies, standards, rules, and fee schedules for the division; and

1080           (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1081 make rules approving the form and content of substance abuse treatment, educational series,

screening, and assessment that are described in Section 41-6a-501.

Section 5. Section **26B-5-105**, which is renumbered from Section 62A-15-105.2 is renumbered and amended to read:

~~[62A-15-105.2].~~      **26B-5-105.** **Employment first emphasis on the provision of services.**

(1) As used in this section, "recipient" means an individual who is:

(a) undergoing treatment for a substance [~~abuse~~] use problem; or

(b) suffers from a mental illness.

(2) When providing services to a recipient, the division shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law and memorandums of understanding between the division and other state entities that provide services to a recipient, give priority to providing services that assist an eligible recipient in obtaining and retaining meaningful and gainful employment that enables the recipient to earn sufficient income to:

(a) purchase goods and services;

(b) establish self-sufficiency; and

(c) exercise economic control of the recipient's life.

(3) The division shall develop a written plan to implement the policy described in Subsection (2) that includes:

(a) assessing the strengths and needs of a recipient;

(b) customizing strength-based approaches to obtaining employment;

(c) expecting, encouraging, providing, and rewarding:

(i) integrated employment in the workplace at competitive wages and benefits; and

(ii) self-employment;

(d) developing partnerships with potential employers;

(e) maximizing appropriate employment training opportunities;

(f) coordinating services with other government agencies and community resources;

(g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (2); and

(h) arranging sub-minimum wage work or volunteer work for an eligible recipient when employment at market rates cannot be obtained.

(4) The division shall, on an annual basis:

(a) set goals to implement the policy described in Subsection (2) and the plan described in Subsection (3);

(b) determine whether the goals for the previous year have been met; and

(c) modify the plan described in Subsection (3) as needed.

Section 6. Section **26B-5-106**, which is renumbered from Section 62A-15-107 is renumbered and amended to read:

~~[62A-15-107].~~      **26B-5-106. Authority to assess fees.**

The division may, with the approval of the Legislature and the executive director, establish fee schedules and assess fees for services rendered by the division.

Section 7. Section **26B-5-107**, which is renumbered from Section 62A-15-108 is renumbered and amended to read:

~~[62A-15-108].~~      **26B-5-107. Formula for allocation of funds to local substance abuse authorities and local mental health authorities.**

(1) (a) The division shall establish, by rule, formulas for allocating funds to local substance abuse authorities and local mental health authorities through contracts, to provide substance ~~[abuse]~~ use prevention and treatment services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and mental health services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3, Local Mental Health Authorities.

(b) The formulas shall provide for allocation of funds based on need. Determination of need shall be based on population unless the division establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need.

(c) The formulas shall include a differential to compensate for additional costs of providing services in rural areas.

(2) The formulas established under Subsection (1) apply to all state and federal funds appropriated by the Legislature to the division for local substance abuse authorities and local mental health authorities, but does not apply to:

(a) funds that local substance abuse authorities and local mental health authorities receive from sources other than the division;

(b) funds that local substance abuse authorities and local mental health authorities receive from the division to operate specific programs within their jurisdictions which are available to all residents of the state;

(c) funds that local substance abuse authorities and local mental health authorities receive from the division to meet needs that exist only within their local areas; and

(d) funds that local substance abuse authorities and local mental health authorities receive from the division for research projects.

Section 8. Section **26B-5-108**, which is renumbered from Section 62A-15-110 is renumbered and amended to read:

~~[62A-15-110].~~      **26B-5-108. Contracts for substance use and mental health services -- Provisions -- Responsibilities.**

(1) If the division contracts with a local substance abuse authority or a local mental health authority to provide substance ~~[abuse]~~ use or mental health programs and services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, or Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:

(a) that an independent auditor shall conduct any audit of the local substance abuse authority or its contract provider's programs or services and any audit of the local mental health authority or its contract provider's programs or services, pursuant to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and

1163 Other Local Entities Act;

1164 (b) in addition to the requirements described in Title 51, Chapter 2a, Accounting  
1165 Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the  
1166 division:

1167 (i) shall prescribe guidelines and procedures, in accordance with those formulated by  
1168 the state auditor pursuant to Section [67-3-1](#), for auditing the compensation and expenses of  
1169 officers, directors, and specified employees of the private contract provider, to assure the state  
1170 that no personal benefit is gained from travel or other expenses; and

1171 (ii) may prescribe specific items to be addressed by that audit, depending upon the  
1172 particular needs or concerns relating to the local substance abuse authority, local mental health  
1173 authority, or contract provider at issue;

1174 (c) the local substance abuse authority or its contract provider and the local mental  
1175 health authority and its contract provider shall invite and include all funding partners in its  
1176 auditor's pre- and exit conferences;

1177 (d) each member of the local substance abuse authority and each member of the local  
1178 mental health authority shall annually certify that he has received and reviewed the independent  
1179 audit and has participated in a formal interview with the provider's executive officers;

1180 (e) requested information and outcome data will be provided to the division in the  
1181 manner and within the time lines defined by the division; and

1182 (f) all audit reports by state or county persons or entities concerning the local substance  
1183 abuse authority or its contract provider, or the local mental health authority or its contract  
1184 provider shall be provided to the executive director of the department, the local substance  
1185 abuse authority or local mental health authority, and members of the contract provider's  
1186 governing board.

1187 (2) Each contract between the division and a local substance abuse authority or a local  
1188 mental health authority shall authorize the division to withhold funds, otherwise allocated  
1189 under Section [~~62A-15-108~~] [26B-5-107](#), to cover the costs of audits, attorney fees, and other

expenditures associated with reviewing the expenditure of public funds by a local substance abuse authority or its contract provider or a local mental health authority or its contract provider, if there has been an audit finding or judicial determination that public funds have been misused by the local substance abuse authority or its contract provider or the local mental health authority or its contract provider.

Section 9. Section **26B-5-109**, which is renumbered from Section 62A-15-113 is renumbered and amended to read:

**~~[62A-15-113].~~      26B-5-109. Local plan program funding.**

(1) To facilitate the distribution of newly appropriated funds beginning from fiscal year 2018 for prevention, treatment, and recovery support services that reduce recidivism or reduce the per capita number of incarcerated offenders with a substance use disorder or a mental health disorder, the division shall:

(a) form an application review and fund distribution committee that includes:

(i) one representative of the Utah Sheriffs' Association;

(ii) one representative of the Statewide Association of Prosecutors of Utah;

(iii) two representatives from the division; and

(iv) two representatives from the Utah Association of Counties; and

(b) require the application review and fund distribution committee to:

(i) establish a competitive application process for funding of a local plan, as described in Sections ~~17-43-201~~(5)(b) and ~~17-43-301~~(6)(a)(ii);

(ii) establish criteria in accordance with Subsection (1) for the evaluation of an application;

(iii) ensure that the committee members' affiliate groups approve of the application process and criteria;

(iv) evaluate applications; and

(v) distribute funds to programs implemented by counties, local mental health authorities, or local substance abuse authorities.

(2) Demonstration of matching county funds is not a requirement to receive funds, but the application review committee may take into consideration the existence of matching funds when determining which programs to fund.

Section 10. Section **26B-5-110**, which is renumbered from Section 62A-15-103.1 is renumbered and amended to read:

~~[62A-15-103.1].~~      **26B-5-110. Suicide Prevention Education Program --**  
**Definitions -- Grant requirements.**

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section **53-10-201** within the Department of Public Safety.

(2) There is created a Suicide Prevention Education Program to fund suicide prevention education opportunities for federally licensed firearms dealers who operate a retail establishment open to the public and the dealers' employees.

(3) The division, in conjunction with the bureau, shall provide a grant to an employer described in Subsection (2) in accordance with the criteria provided in Subsection ~~[62A-15-1101(7)(b)]~~ **26B-5-611(8)(b)**.

(4) An employer may apply for a grant of up to \$2,500 under the program.

Section 11. Section **26B-5-111**, which is renumbered from Section 62A-15-115 is renumbered and amended to read:

~~[62A-15-115].~~      **26B-5-111. Mental health crisis response training.**

(1) The division shall award grants to communities to conduct mental health crisis response training.

(2) For the application and award of the grants described in Subsection (1), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that determine:

(a) the requirements and process for a community to apply for a grant; and

(b) the substantive mental health crisis response programs that qualify for the award of a grant.

Section 12. Section **26B-5-112**, which is renumbered from Section 62A-15-116 is renumbered and amended to read:

~~[62A-15-116].~~      **26B-5-112. Mobile crisis outreach team expansion.**

(1) ~~[The]~~ In consultation with the Behavioral Health Crisis Response Commission, established in Section [63C-18-202](#), the division shall award grants for the development of:

(a) five mobile crisis outreach teams:

(i) in counties of the second, third, fourth, fifth, or sixth class; or

(ii) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and

(b) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or sixth class.

(2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

(3) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed mobile crisis outreach team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

(4) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(5) ~~[The]~~ In consultation with the Behavioral Health Crisis Response Commission, established in Section [63C-18-202](#), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 13. Section **26B-5-113**, which is renumbered from Section 62A-15-117 is renumbered and amended to read:

~~[62A-15-117].~~      **26B-5-113. Medicaid reimbursement for school-based health**

1271 **services -- Report to Legislature.**

1272 (1) As used in this section, "individualized education program" or "IEP" means a  
1273 written statement for a student with a disability that is developed, reviewed, and revised in  
1274 accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

1275 (2) The division shall coordinate with the State Board of Education, the Department of  
1276 Health, and stakeholders to address and develop recommendations related to:

1277 (a) the expansion of Medicaid reimbursement for school-based health services,  
1278 including how to expand Medicaid-eligible school-based services beyond the services for  
1279 students with IEPs; and

1280 (b) other areas concerning Medicaid reimbursement for school-based health services,  
1281 including the time threshold for medically necessary IEP services.

1282 ~~[(3) The division, the State Board of Education, and the Department of Health shall~~  
1283 ~~jointly report the recommendations described in Subsection (2) to the Education Interim~~  
1284 ~~Committee on or before August 15, 2019;]~~

1285 Section 14. Section **26B-5-114**, which is renumbered from Section 62A-15-118 is  
1286 renumbered and amended to read:

1287 ~~[62A-15-118].~~ **26B-5-114. Behavioral Health Receiving Center Grant**  
1288 **Program.**

1289 (1) As used in this section:

1290 (a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility  
1291 that is responsible for, and provides mental health crisis services to, an individual experiencing  
1292 a mental health crisis.

1293 (b) "Project" means a behavioral health receiving center project described in  
1294 Subsection (2)(a).

1295 (2) (a) (i) Before July 1, 2020, the division shall issue a request for proposals in  
1296 accordance with this section to award a grant to one or more counties of the first or second  
1297 class, as classified in Section 17-50-501, to, except as provided in Subsection (2)(a)(ii),

1298 develop and implement a behavioral health receiving center.

1299       (ii) A grant awarded under Subsection (2)(a)(i) may not be used to purchase land for  
1300 the behavioral health receiving center.

1301       (b) The division shall award all grants under this section before December 31, 2020.

1302       (3) The purpose of a project is to:

1303       (a) increase access to mental health crisis services for individuals in the state who are  
1304 experiencing a mental health crisis; and

1305       (b) reduce the number of individuals in the state who are incarcerated or in a hospital  
1306 emergency room while experiencing a mental health crisis.

1307       (4) An application for a grant under this section shall:

1308       (a) identify the population to which the behavioral health receiving center will provide  
1309 mental health crisis services;

1310       (b) identify the type of mental health crisis services the behavioral health receiving  
1311 center will provide;

1312       (c) explain how the population described in Subsection (4)(a) will benefit from the  
1313 provision of mental health crisis services;

1314       (d) provide details regarding:

1315       (i) how the proposed project plans to provide mental health crisis services;

1316       (ii) how the proposed project will ensure that consideration is given to the capacity of  
1317 the behavioral health receiving center;

1318       (iii) how the proposed project will ensure timely and effective provision of mental  
1319 health crisis services;

1320       (iv) the cost of the proposed project;

1321       (v) any existing or planned contracts or partnerships between the applicant and other  
1322 individuals or entities to develop and implement the proposed project;

1323       (vi) any plan to use funding sources in addition to a grant under this section for the  
1324 proposed project;

- 1325 (vii) the sustainability of the proposed project; and  
1326 (viii) the methods the proposed project will use to:  
1327 (A) protect the privacy of each individual who receives mental health crisis services  
1328 from the behavioral health receiving center;  
1329 (B) collect nonidentifying data relating to the proposed project; and  
1330 (C) provide transparency on the costs and operation of the proposed project; and  
1331 (e) provide other information requested by the division to ensure that the proposed  
1332 project satisfies the criteria described in Subsection (5).  
1333 (5) In evaluating an application for the grant, the division shall consider:  
1334 (a) the extent to which the proposed project will fulfill the purposes described in  
1335 Subsection (3);  
1336 (b) the extent to which the population described in Subsection (4)(a) is likely to benefit  
1337 from the proposed project;  
1338 (c) the cost of the proposed project;  
1339 (d) the extent to which any existing or planned contracts or partnerships between the  
1340 applicant and other individuals or entities to develop and implement the project, or additional  
1341 funding sources available to the applicant for the proposed project, are likely to benefit the  
1342 proposed project; and  
1343 (e) the viability and innovation of the proposed project.  
1344 (6) Before June 30, 2021, the division shall report to the Health and Human Services  
1345 Interim Committee regarding:  
1346 (a) each county awarded a grant under this section; and  
1347 (b) the details of each project.  
1348 (7) Before June 30, 2023, the division shall report to the Health and Human Services  
1349 Interim Committee regarding:  
1350 (a) data gathered in relation to each project;  
1351 (b) knowledge gained relating to the provision of mental health crisis services in a

behavioral health receiving center;

(c) recommendations for the future use of mental health crisis services in behavioral health receiving centers; and

(d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center.

Section 15. Section **26B-5-115**, which is renumbered from Section 62A-15-119 is renumbered and amended to read:

~~[62A-15-119].~~        **26B-5-115. Safety Net Initiative.**

(1) As used in this section, "individuals in underserved communities" means individuals living in culturally isolated communities in the state who may lack access to public assistance and other government services.

(2) There is created within the division the Safety Net Initiative to:

(a) implement strategies to increase awareness and reduce risk factors in order to improve the safety and well-being of individuals in underserved communities;

(b) coordinate with government agencies, nonprofit organizations, and interested individuals to provide open communication with individuals in underserved communities; and

(c) coordinate efforts to give individuals in underserved communities needed access to public assistance and other government services.

(3) The division may employ or contract with individuals, entities, and support staff as necessary to administer the duties required by this section.

Section 16. Section **26B-5-116**, which is renumbered from Section 62A-15-121 is renumbered and amended to read:

~~[62A-15-121].~~        **26B-5-116. Suicide technical assistance program.**

(1) As used in this section, "technical assistance" means training for the prevention of suicide.

(2) (a) Before July 1, 2021, and each subsequent July 1, the division shall solicit applications from health care organizations to receive technical assistance provided by the

1379 division.

1380 (b) The division shall approve at least one but not more than six applications each year.

1381 (c) The division shall determine which applicants receive the technical assistance

1382 before December 31 of each year.

1383 (3) An application for technical assistance under this section shall:

1384 (a) identify the population to whom the health care organization will provide suicide  
1385 prevention services;

1386 (b) identify how the health care organization plans to implement the skills and  
1387 knowledge gained from the technical assistance;

1388 (c) identify the health care organization's current resources used for the prevention of  
1389 suicide;

1390 (d) explain how the population described in Subsection (3)(a) will benefit from the  
1391 health care organization receiving technical assistance;

1392 (e) provide details regarding:

1393 (i) how the health care organization will provide timely and effective suicide  
1394 prevention services;

1395 (ii) any existing or planned contracts or partnerships between the health care  
1396 organization and other persons that are related to suicide prevention;

1397 (iii) the methods the health care organization will use to:

1398 (A) protect the privacy of each individual to whom the health care organization  
1399 provides suicide prevention services; and

1400 (B) collect non-identifying data; and

1401 (f) provide other information requested by the division for the division to evaluate the  
1402 application.

1403 (4) In evaluating an application for technical assistance, the division shall consider:

1404 (a) the extent to which providing technical assistance to the health care organization  
1405 will fulfill the purpose of preventing suicides in the state;

(b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the health care organization receiving the technical assistance;

(c) the cost of providing the technical assistance to the health care organization; and

(d) the extent to which any of the following are likely to benefit the health care organization's ability to assist in preventing suicides in the state:

(i) existing or planned contracts or partnerships between the applicant and other persons to develop and implement other initiatives; or

(ii) additional funding sources available to the applicant for suicide prevention services.

(5) Before June 30, 2022, and each subsequent June 30, the division shall submit a written report to the Health and Human Services Interim Committee regarding each health care organization the division provided technical assistance to in the preceding year under this section.

(6) Before June 30, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to providing technical assistance to a health care organization;

(b) knowledge gained relating to providing technical assistance;

(c) recommendations for the future regarding how the state can better prevent suicides; and

(d) obstacles encountered when providing technical assistance.

Section 17. Section **26B-5-117**, which is renumbered from Section 62A-15-122 is renumbered and amended to read:

~~[62A-15-122].~~ **26B-5-117. Early childhood mental health support grant program.**

(1) As used in this section:

(a) "Child care" means the child care services defined in Section **35A-3-102** for a child

1433 during early childhood.

1434 (b) "Child care provider" means a person who provides child care or mental health  
1435 support or interventions to a child during early childhood.

1436 (c) "Early childhood" means the time during which a child is zero to six years old.

1437 (d) "Project" means a project to provide education and training to child care providers  
1438 regarding evidence-based best practices for delivery of mental health support and interventions  
1439 during early childhood.

1440 (2) On or before July 1, 2021, the division shall issue a request for proposals in  
1441 accordance with this section to award a grant to a public or nonprofit entity to implement a  
1442 project.

1443 (3) The purpose of a project is to facilitate education about early childhood mental  
1444 health support and interventions.

1445 (4) An application for a grant under this section shall provide details regarding:

1446 (a) the education and training regarding early childhood mental health support and  
1447 interventions that the proposed project will provide to child care providers;

1448 (b) how the proposed project plans to provide the education and training to child care  
1449 providers;

1450 (c) the number of child care providers served by the proposed project;

1451 (d) how the proposed project will ensure the education and training is effectively  
1452 provided to child care providers;

1453 (e) the cost of the proposed project; and

1454 (f) the sustainability of the proposed project.

1455 (5) In evaluating a project proposal for a grant under this section, the division shall  
1456 consider:

1457 (a) the extent to which the proposed project will fulfill the purpose described in  
1458 Subsection (3);

1459 (b) the extent to which child care providers that will be served by the proposed project

1460 are likely to benefit from the proposed project;

1461 (c) the cost of the proposed project; and

1462 (d) the viability of the proposed project.

1463 [~~(6) Before June 30, 2022, the division shall report to the Health and Human Services~~  
1464 ~~Interim Committee regarding:~~]

1465 [~~(a) each entity awarded a grant under this section; and]~~

1466 [~~(b) the details of each project.]~~

1467 [(7)] (6) Before June 30, 2024, the division shall report to the Health and Human  
1468 Services Interim Committee regarding:

1469 (a) any knowledge gained from providing the education and training regarding early  
1470 childhood mental health support to child care providers;

1471 (b) data gathered in relation to each project;

1472 (c) recommendations for the future use of the education and training provided to child  
1473 care providers; and

1474 (d) obstacles encountered in providing the education and training to child care  
1475 providers.

1476 Section 18. Section **26B-5-118**, which is renumbered from Section 62A-15-124 is  
1477 renumbered and amended to read:

1478 ~~[62A-15-124].~~ **26B-5-118. Collaborative care grant program.**

1479 (1) As used in this section:

1480 (a) "Applicant" means a small primary health care practice that applies for a grant  
1481 under this section.

1482 (b) "Care manager" means an individual who plans, directs, and coordinates health care  
1483 services for a patient.

1484 (c) "Collaborative care model" means a formal collaborative arrangement between a  
1485 primary care physician, a mental health professional, and a care manager, to provide integrated  
1486 physical and behavioral health services.

(d) "Mental health professional" means an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing Act, or a psychiatrist.

(e) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(f) "Primary care physician" means a physician that provides health services related to family medicine, internal medicine, pediatrics, obstetrics, gynecology, or geriatrics.

(g) "Program" means a program described in Subsection (2)(a).

(h) "Psychiatrist" means a physician who is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(i) "Small primary health care practice" means a medical practice of primary health care physicians that:

(i) includes 10 or fewer primary care physicians; or

(ii) is primarily based in a county of the third through sixth class, as classified in Section [17-50-501](#).

(2) (a) Before July 1, 2022, the division shall solicit applications from small primary health care practices for a grant to support or implement a program to provide integrated physical and behavioral health services under a collaborative care model.

(b) A grant under this section may be used to:

(i) hire and train staff to administer a program;

(ii) identify and formalize contractual relationships with mental health professionals and case managers to implement a program; or

(iii) purchase or upgrade software and other resources necessary to support or implement a program.

(c) The division shall approve at least one but not more than six applications each year.

(d) The division shall determine which applicants receive a grant under this section before December 31, 2022.

(3) An application for a grant under this section shall:

(a) identify the population to whom the applicant will provide services under a program;

(b) identify the small primary health care practice's current resources that are used to provide integrated physical and behavioral health services;

(c) explain how the population described in Subsection (3)(a) will benefit from the program;

(d) provide details regarding:

(i) how the applicant will provide timely and effective services under the program;

(ii) any existing or planned contracts or partnerships between the applicant and other persons that are related to a collaborative care model;

(iii) the methods the applicant will use to:

(A) protect the privacy of each individual to whom the applicant provides services under the program; and

(B) collect non-identifying data; and

(e) provide other information requested by the division for the division to evaluate the application.

(4) In evaluating an application for a grant under this section, the division shall consider:

(a) the extent to which providing the grant to the applicant will fulfill the purpose of providing increased integrated physical and behavioral health services; and

(b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the applicant receiving the grant.

(5) Before July 1, 2023, the division shall submit a written report to the Health and Human Services Interim Committee regarding each applicant the division provided a grant to

in the preceding year under this section.

(6) Before July 1, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:

(a) data gathered and knowledge gained in relation to providing grants to an applicant; and

(b) recommendations for how the state can better implement integrated physical and behavioral health services.

Section 19. Section **26B-5-119**, which is renumbered from Section 62A-15-615 is renumbered and amended to read:

~~[62A-15-615].~~      **26B-5-119. Forms.**

The division shall furnish the clerks of the ~~[district courts]~~ court with forms, blanks, warrants, and certificates, to enable ~~[the district court]~~ judges, with regularity and facility, to comply with the provisions of this chapter.

Section 20. Section **26B-5-201**, which is renumbered from Section 62A-15-202 is renumbered and amended to read:

**Part 2. Substance Use Disorder Intervention, Prevention, and Education**

~~[62A-15-202].~~      **26B-5-201. Definitions.**

As used in this part:

(1) "Juvenile substance ~~[abuse]~~ use offender" means any minor who has committed a drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with Section **78A-6-103**.

(2) "Local substance abuse authority" means a county legislative body designated to provide substance abuse services in accordance with Section **17-43-201**.

(3) "Minor" means the same as that term is defined in Section **80-1-102**.

(4) "Teen substance ~~[abuse]~~ use school" means any school established by the local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse

1568 offenders and their parents or legal guardians.

1569 Section 21. Section **26B-5-202**, which is renumbered from Section 62A-15-203 is  
1570 renumbered and amended to read:

1571 ~~[62A-15-203].~~ **26B-5-202. Teen substance use schools -- Establishment.**

1572 The division or a local substance abuse authority, in cooperation with the Board of  
1573 Juvenile Court Judges, may establish teen substance ~~[abuse]~~ use schools in the districts of the  
1574 juvenile court.

1575 Section 22. Section **26B-5-203**, which is renumbered from Section 62A-15-204 is  
1576 renumbered and amended to read:

1577 ~~[62A-15-204].~~ **26B-5-203. Court order to attend substance use school --**  
1578 **Assessments.**

1579 (1) In addition to any other disposition ordered by the juvenile court under Section  
1580 ~~80-6-701~~, the court may order:

1581 (a) a minor and the minor's parent or legal guardian to attend a teen substance ~~[abuse]~~  
1582 use school; and

1583 (b) payment of an assessment in addition to any other fine imposed.

1584 (2) All assessments collected shall be forwarded to the county treasurer of the county  
1585 where the minor resides, to be used exclusively for the operation of a teen substance ~~[abuse]~~  
1586 use program.

1587 Section 23. Section **26B-5-204**, which is renumbered from Section 62A-15-301 is  
1588 renumbered and amended to read:

1589 ~~[62A-15-301].~~ **26B-5-204. Commitment of minor to secure drug or alcohol**  
1590 **facility or program -- Procedures -- Review.**

1591 (1) ~~[For purposes of this part]~~ As used in this section:

1592 (a) "Approved treatment facility or program" means a public or private secure,  
1593 inpatient facility or program that is licensed or operated by the department ~~[or by the~~  
1594 ~~Department of Health]~~ to provide drug or alcohol treatment or rehabilitation.

(b) "Drug or alcohol addiction" means that the person has a physical or psychological dependence on drugs or alcohol in a manner not prescribed by a physician.

(2) The parent or legal guardian of a minor under ~~[the age of]~~ 18 old years may submit that child, without the child's consent, to an approved treatment facility or program for treatment or rehabilitation of drug or alcohol addiction, upon application to a facility or program, and after a careful diagnostic inquiry is made by a neutral and detached fact finder, in accordance with the requirements of this section.

(3) The neutral fact finder who conducts the inquiry:

(a) shall be either a physician, psychologist, marriage and family therapist, psychiatric and mental health nurse specialist, or social worker licensed to practice in this state, who is trained and practicing in the area of substance ~~[abuse]~~ use; and

(b) may not profit, financially or otherwise, from the commitment of the child and may not be employed by the proposed facility or program.

(4) The review by a neutral fact finder may be conducted on the premises of the proposed treatment facility or program.

(5) The inquiry conducted by the neutral fact finder shall include a private interview with the child, and an evaluation of the child's background and need for treatment.

(6) The child may be committed to the approved treatment facility or program if it is determined by the neutral fact finder that:

(a) the child is addicted to drugs or alcohol and because of that addiction poses a serious risk of harm to himself or others;

(b) the proposed treatment or rehabilitation is in the child's best interest; and

(c) there is no less restrictive alternative that would be equally as effective, from a clinical standpoint, as the proposed treatment facility or program.

(7) Any approved treatment facility or program that receives a child under this section shall conduct a periodic review, at intervals not to exceed 30 days, to determine whether the criteria described in Subsection (6) continue to exist.

(8) A minor committed under this section shall be released from the facility or program upon the request of his parent or legal guardian.

(9) Commitment of a minor under this section terminates when the minor reaches the age of 18 years old.

(10) Nothing in this section requires a program or facility to accept any person for treatment or rehabilitation.

(11) The parent or legal guardian who requests commitment of a minor under this section is responsible to pay any fee associated with the review required by this section and any necessary charges for commitment, treatment, or rehabilitation for a minor committed under this section.

(12) The child shall be released from commitment unless the report of the neutral fact finder is submitted to the juvenile court within 72 hours of commitment and approved by the court.

Section 24. Section **26B-5-205**, which is renumbered from Section 62A-15-401 is renumbered and amended to read:

~~[62A-15-401]~~. **26B-5-205. Alcohol training and education seminar.**

(1) As used in this ~~[part]~~ section:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

1649 (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

1650 (d) "Seminar provider" means a person other than the division who provides an alcohol  
1651 training and education seminar meeting the requirements of this section.

1652 (2) (a) This section applies to:

1653 (i) a retail manager as defined in Section 32B-1-701;

1654 (ii) retail staff as defined in Section 32B-1-701; and

1655 (iii) an individual who, as defined by division rule:

1656 (A) directly supervises the sale of beer to a customer for consumption off the premises  
1657 of an off-premise beer retailer; or

1658 (B) sells beer to a customer for consumption off the premises of an off-premise beer  
1659 retailer.

1660 (b) If the individual does not have a valid record that the individual has completed an  
1661 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

1662 (i) (A) complete an alcohol training and education seminar within 30 days of the  
1663 following if the individual is described in Subsection (2)(a)(i) or (ii):

1664 (I) if the individual is an employee, the day the individual begins employment;

1665 (II) if the individual is an independent contractor, the day the individual is first hired;

1666 or

1667 (III) if the individual holds an ownership interest in the licensee, the day that the  
1668 individual first engages in an activity that would result in that individual being required to  
1669 complete an alcohol training and education seminar; or

1670 (B) complete an alcohol training and education seminar within the time periods  
1671 specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A)  
1672 or (B); and

1673 (ii) pay a fee:

1674 (A) to the seminar provider; and

1675 (B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i) or (ii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iii)(A) or (B).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is

1703 actively engaged online;

1704 (iv) a seminar provider to provide technical support, such as requiring a telephone  
1705 number, email, or other method of communication that allows an individual taking the online  
1706 course or test to receive assistance if the individual is unable to participate online because of  
1707 technical difficulties;

1708 (v) a test to meet quality standards, including randomization of test questions and  
1709 maximum time limits to take a test;

1710 (vi) a seminar provider to have a system to reduce fraud as to who completes an online  
1711 course or test, such as requiring a distinct online certificate with information printed on the  
1712 certificate that identifies the person taking the online course or test, or requiring measures to  
1713 inhibit duplication of a certificate;

1714 (vii) measures for the division to audit online courses or tests;

1715 (viii) measures to allow an individual taking an online course or test to provide an  
1716 evaluation of the online course or test;

1717 (ix) a seminar provider to track the Internet protocol address or similar electronic  
1718 location of an individual who takes an online course or test;

1719 (x) an individual who takes an online course or test to use an e-signature; or

1720 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the  
1721 certificate does not accurately reflect the individual who took the online course or test.

1722 (3) (a) A licensee may not permit an individual who is not in compliance with  
1723 Subsection (2) to:

1724 (i) serve or supervise the serving of an alcoholic product to a customer for  
1725 consumption on the premises of the licensee;

1726 (ii) engage in any activity that would constitute managing operations at the premises of  
1727 a licensee that engages in the retail sale of an alcoholic product for consumption on the  
1728 premises of the licensee;

1729 (iii) directly supervise the sale of beer to a customer for consumption off the premises

1730 of an off-premise beer retailer; or  
1731 (iv) sell beer to a customer for consumption off the premises of an off-premise beer  
1732 retailer.

1733 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-1-702](#).  
1734 (4) The division shall:  
1735 (a) (i) provide alcohol training and education seminars; or  
1736 (ii) certify one or more seminar providers;  
1737 (b) establish the curriculum for an alcohol training and education seminar that includes  
1738 the following subjects:  
1739 (i) (A) alcohol as a drug; and  
1740 (B) alcohol's effect on the body and behavior;  
1741 (ii) recognizing the problem drinker or signs of intoxication;  
1742 (iii) an overview of state alcohol laws related to responsible beverage sale or service,  
1743 as determined in consultation with the Department of Alcoholic Beverage Services;  
1744 (iv) dealing with the problem customer, including ways to terminate sale or service;  
1745 and  
1746 (v) for those supervising or engaging in the retail sale of an alcoholic product for  
1747 consumption on the premises of a licensee, alternative means of transportation to get the  
1748 customer safely home;  
1749 (c) recertify each seminar provider every three years;  
1750 (d) monitor compliance with the curriculum described in Subsection (4)(b);  
1751 (e) maintain for at least five years a record of every person who has completed an  
1752 alcohol training and education seminar;  
1753 (f) provide the information described in Subsection (4)(e) on request to:  
1754 (i) the Department of Alcoholic Beverage Services;  
1755 (ii) law enforcement; or  
1756 (iii) a person licensed by the state or a local government to sell an alcoholic product;

1757 (g) provide the Department of Alcoholic Beverage Services on request a list of any  
1758 seminar provider certified by the division; and

1759 (h) establish a fee amount for each person attending an alcohol training and education  
1760 seminar that is sufficient to offset the division's cost of administering this section.

1761 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah  
1762 Administrative Rulemaking Act:

1763 (a) define what constitutes under this section an individual who:

1764 (i) manages operations at the premises of a licensee engaged in the retail sale of an  
1765 alcoholic product for consumption on the premises of the licensee;

1766 (ii) supervises the serving of an alcoholic product to a customer for consumption on the  
1767 premises of a licensee;

1768 (iii) serves an alcoholic product to a customer for consumption on the premises of a  
1769 licensee;

1770 (iv) directly supervises the sale of beer to a customer for consumption off the premises  
1771 of an off-premise beer retailer; or

1772 (v) sells beer to a customer for consumption off the premises of an off-premise beer  
1773 retailer;

1774 (b) establish criteria for certifying and recertifying a seminar provider; and

1775 (c) establish guidelines for the manner in which an instructor provides an alcohol  
1776 education and training seminar.

1777 (6) A seminar provider shall:

1778 (a) obtain recertification by the division every three years;

1779 (b) ensure that an instructor used by the seminar provider:

1780 (i) follows the curriculum established under this section; and

1781 (ii) conducts an alcohol training and education seminar in accordance with the  
1782 guidelines established by rule;

1783 (c) ensure that any information provided by the seminar provider or instructor of a

1784 seminar provider is consistent with:

1785       (i) the curriculum established under this section; and

1786       (ii) this section;

1787       (d) provide the division with the names of all persons who complete an alcohol training

1788 and education seminar provided by the seminar provider;

1789       (e) (i) collect a fee for each person attending an alcohol training and education seminar

1790 in accordance with Subsection (2); and

1791       (ii) forward to the division the portion of the fee that is equal to the amount described

1792 in Subsection (4)(h); and

1793       (f) issue a record to an individual that completes an alcohol training and education

1794 seminar provided by the seminar provider.

1795       (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,

1796 Administrative Procedures Act, the division finds that a seminar provider violates this section

1797 or that an instructor of the seminar provider violates this section, the division may:

1798       (i) suspend the certification of the seminar provider for a period not to exceed 90 days;

1799       (ii) revoke the certification of the seminar provider;

1800       (iii) require the seminar provider to take corrective action regarding an instructor; or

1801       (iv) prohibit the seminar provider from using an instructor until such time that the

1802 seminar provider establishes to the satisfaction of the division that the instructor is in

1803 compliance with Subsection (6)(b).

1804       (b) The division may certify a seminar provider whose certification is revoked:

1805       (i) no sooner than 90 days from the date the certification is revoked; and

1806       (ii) if the seminar provider establishes to the satisfaction of the division that the

1807 seminar provider will comply with this section.

1808       Section 25. Section **26B-5-206**, which is renumbered from Section 62A-15-403 is

1809 renumbered and amended to read:

1810       ~~[62A-15-403].~~       **26B-5-206. Drinking while pregnant prevention media and**

1811 **education campaign.**

1812 (1) As used in this section:

1813 (a) "Advisory council" means the Utah Substance Use and Mental Health Advisory  
1814 Council created in Section 63M-7-301.

1815 (b) "Restricted account" means the Drinking While Pregnant Prevention Media and  
1816 Education Campaign Restricted Account created in Section 32B-2-308.

1817 (2) The advisory council shall:

1818 (a) provide ongoing oversight of each media and education campaign funded through  
1819 the restricted account;

1820 (b) create a drinking while pregnant prevention workgroup consistent with guidelines  
1821 the advisory council proposes related to the workgroup's membership and duties;

1822 (c) create guidelines for how money appropriated for a media and education campaign  
1823 can be used;

1824 (d) include in the guidelines created under this Subsection (2) that a media and  
1825 education campaign funded through the restricted account shall be:

1826 (i) carefully researched;

1827 (ii) developed for target groups; and

1828 (iii) appropriate for target groups; and

1829 (e) approve or deny each plan the division submits in accordance with Subsection (3).

1830 (3) (a) Subject to appropriation from the Legislature and in accordance with this  
1831 section, the division shall expend money from the restricted account to direct and fund one or  
1832 more media and education campaigns designed to reduce the consumption of alcohol while  
1833 pregnant.

1834 (b) Before the division expends money from the restricted account for a media and  
1835 education campaign, the division shall, in cooperation with the drinking while pregnant  
1836 prevention workgroup created in accordance with Subsection (2), prepare and submit a plan to  
1837 the advisory council that:

(i) describes the media and education campaign; and  
(ii) details how the division intends to use money from the restricted account to fund the media and education campaign.

(c) If the advisory council approves the plan described in Subsection (3)(b), the division shall conduct the media and education campaign in accordance with the guidelines described in Subsection (2).

(4) The division shall submit to the Health and Human Services Interim Committee and the advisory council annually by no later than October 1, a written report detailing:

(a) the use of the money for the media and education campaigns conducted in accordance with Subsection (3); and

(b) the impact and result of the use of the money during the previous fiscal year ending June 30.

Section 26. Section **26B-5-207**, which is renumbered from Section 62A-15-501 is renumbered and amended to read:

~~[62A-15-501].~~      **26B-5-207. DUI -- Legislative policy -- Rehabilitation treatment and evaluation -- Use of victim impact panels.**

The Legislature finds that drivers impaired by alcohol or drugs constitute a major problem in this state and that the problem demands a comprehensive detection, intervention, education, and treatment program including emergency services, outpatient treatment, detoxification, residential care, inpatient care, medical and psychological care, social service care, vocational rehabilitation, and career counseling through public and private agencies. It is the policy of this state to provide those programs at the expense of persons convicted of driving while under the influence of intoxicating liquor or drugs. It is also the policy of this state to utilize victim impact panels to assist persons convicted of driving under the influence of intoxicating liquor or drugs to gain a full understanding of the severity of their offense.

Section 27. Section **26B-5-208**, which is renumbered from Section 62A-15-502 is renumbered and amended to read:

~~[62A-15-502].~~ **26B-5-208. Penalty for DUI conviction -- Amounts.**

(1) Courts of record and not of record may at sentencing assess against the defendant, in addition to any fine, an amount that will fully compensate agencies that treat the defendant for their costs in each case where a defendant is convicted of violating:

(a) Section ~~41-6a-502~~ or ~~41-6a-517~~;

(b) a criminal prohibition resulting from a plea bargain after an original charge of violating Section ~~41-6a-502~~; or

(c) an ordinance that complies with the requirements of Subsection ~~41-6a-510~~(1).

(2) The fee assessed shall be collected by the court or an entity appointed by the court.

Section 28. Section **26B-5-209**, which is renumbered from Section ~~62A-15-503~~ is renumbered and amended to read:

~~[62A-15-503].~~ **26B-5-209. Assessments for DUI -- Use of money for rehabilitation programs, including victim impact panels -- Rulemaking power granted.**

(1) (a) Assessments imposed under Section [~~62A-15-502~~] 26B-5-208 may, pursuant to court order:

(i) be collected by the clerk of the court in which the person was convicted; or

(ii) be paid directly to the licensed alcohol or drug treatment program.

(b) Assessments collected by the court under Subsection (1)(a)(i) shall be forwarded to a special nonlapsing account created by the county treasurer of the county in which the fee is collected.

(2) Assessments under Subsection (1) shall be used exclusively for the operation of licensed alcohol or drug rehabilitation programs and education, assessment, supervision, and other activities related to and supporting the rehabilitation of persons convicted of driving while under the influence of intoxicating liquor or drugs. A requirement of the rehabilitation program shall be participation with a victim impact panel or program providing a forum for victims of alcohol or drug related offenses and defendants to share experiences on the impact of alcohol or drug related incidents in their lives. The [~~Division of Substance Abuse and~~

~~Mental Health~~ division shall establish guidelines to implement victim impact panels where, in the judgment of the licensed alcohol or drug program, appropriate victims are available, and shall establish guidelines for other programs where such victims are not available.

(3) None of the assessments shall be maintained for administrative costs by the division.

Section 29. Section **26B-5-210**, which is renumbered from Section 62A-15-504 is renumbered and amended to read:

~~[62A-15-504].~~      **26B-5-210. Policy -- Alternatives to incarceration.**

It is the policy of this state to provide adequate and appropriate health and social services as alternatives to incarceration for public intoxication.

Section 30. Section **26B-5-301**, which is renumbered from Section 62A-15-602 is renumbered and amended to read:

### **Part 3. Utah State Hospital and Other Mental Health Facilities**

~~[62A-15-602].~~      **26B-5-301. Definitions.**

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~~] Part 4, Commitment of Persons Under Age 18, and Part 5, Essential Treatment and Intervention:

(1) "Adult" means an individual 18 years old or older.

(2) "Approved treatment facility or program" means a mental health or substance use treatment provider that meets the goals and measurements described in Subsection ~~[62A-15-103]~~ 26B-5-110(2)(j).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section ~~[62A-15-630.5]~~ 26B-5-351.

(4) "Attending physician" means a physician licensed to practice medicine in this state who has primary responsibility for the care and treatment of the declarant.

1919 (5) "Attorney-in-fact" means an adult properly appointed under this part to make  
 1920 mental health treatment decisions for a declarant under a declaration for mental health  
 1921 treatment.

1922 [~~(4)~~] (6) "Commitment to the custody of a local mental health authority" means that an  
 1923 adult is committed to the custody of the local mental health authority that governs the mental  
 1924 health catchment area where the adult resides or is found.

1925 [~~(5)~~] (7) "Community mental health center" means an entity that provides treatment  
 1926 and services to a resident of a designated geographical area, that operates by or under contract  
 1927 with a local mental health authority, and that complies with state standards for community  
 1928 mental health centers.

1929 [~~(6)~~] (8) "Designated examiner" means:

1930 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as  
 1931 specially qualified by training or experience in the diagnosis of mental or related illness; or

1932 (b) a licensed mental health professional designated by the division as specially  
 1933 qualified by training and who has at least five years' continual experience in the treatment of  
 1934 mental illness.

1935 [~~(7)~~] (9) "Designee" means a physician who has responsibility for medical functions  
 1936 including admission and discharge, an employee of a local mental health authority, or an  
 1937 employee of a person that has contracted with a local mental health authority to provide mental  
 1938 health services under Section 17-43-304.

1939 [~~(8)~~] (10) "Essential treatment" and "essential treatment and intervention" mean  
 1940 court-ordered treatment at a local substance abuse authority or an approved treatment facility or  
 1941 program for the treatment of an adult's substance use disorder.

1942 [~~(9)~~] (11) "Harmful sexual conduct" means the following conduct upon an individual  
 1943 without the individual's consent, including the nonconsensual circumstances described in  
 1944 Subsections 76-5-406(2)(a) through (l):

1945 (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)]~~ (12) "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.

(13) "Incapable" means that, in the opinion of the court in a guardianship proceeding under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

~~[(11)]~~ (14) "Institution" means a hospital or a health facility licensed under Section ~~[26-21-8]~~ [26B-2-206](#).

~~[(12)]~~ (15) "Local substance abuse authority" means the same as that term is defined in Section ~~[62A-15-102]~~ [26B-5-101](#) and described in Section [17-43-201](#).

~~[(13)]~~ (16) "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)]~~ (17) "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)]~~ (18) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional,

1973 behavioral, or related functioning; or

1974 (b) the same as that term is defined in:

1975 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders

1976 published by the American Psychiatric Association; or

1977 (ii) the current edition of the International Statistical Classification of Diseases and

1978 Related Health Problems.

1979 (19) "Mental health treatment" means convulsive treatment, treatment with

1980 psychoactive medication, or admission to and retention in a facility for a period not to exceed

1981 17 days.

1982 [~~(16)~~] (20) "Patient" means an individual who is:

1983 (a) under commitment to the custody or to the treatment services of a local mental

1984 health authority; or

1985 (b) undergoing essential treatment and intervention.

1986 [~~(17)~~] (21) "Physician" means an individual who is:

1987 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

1988 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical

1989 Practice Act.

1990 [~~(18)~~] (22) "Serious bodily injury" means bodily injury that involves a substantial risk

1991 of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or

1992 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

1993 (23) "State hospital" means the Utah State Hospital established in Section 26B-5-302.

1994 [~~(19)~~] (24) "Substantial danger" means that due to mental illness, an individual is at

1995 serious risk of:

1996 (a) suicide;

1997 (b) serious bodily self-injury;

1998 (c) serious bodily injury because the individual is incapable of providing the basic

1999 necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual;  
(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)]~~ (25) "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 31. Section **26B-5-302**, which is renumbered from Section 62A-15-601 is  
renumbered and amended to read:

~~[62A-15-601].~~        **26B-5-302. Utah State Hospital.**

The Utah State Hospital is established and located in Provo, in Utah county. ~~[For  
purposes of this part it is referred to as the "state hospital."]~~

Section 32. Section **26B-5-303**, which is renumbered from Section 62A-15-603 is  
renumbered and amended to read:

~~[62A-15-603].~~        **26B-5-303. Administration of state hospital -- Division --  
Authority.**

(1) The division shall administer the state hospital as part of the state's comprehensive  
mental health program and, to the fullest extent possible, shall, as the state hospital's  
administrator, coordinate with local mental health authority programs.

(2) The division has the same powers, duties, rights, and responsibilities as, and shall  
perform the same functions that by law are conferred or required to be discharged or performed  
by, the state hospital.

(3) Supervision and administration of security responsibilities for the state hospital is

vested in the division. The executive director shall designate, as special function officers, individuals with peace officer authority to perform special security functions for the state hospital.

(4) A director of a mental health facility that houses an involuntary patient or a patient committed by judicial order may establish secure areas, as provided in Section 76-8-311.1, within the mental health facility for the patient.

Section 33. Section **26B-5-304**, which is renumbered from Section 62A-15-613 is renumbered and amended to read:

~~[62A-15-613].~~      **26B-5-304. Appointment of superintendent -- Qualifications -- Powers and responsibilities.**

(1) The director, with the consent of the executive director, shall appoint a superintendent of the state hospital, who shall hold office at the will of the director.

(2) The superintendent shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning mental health.

(3) The superintendent has general responsibility for the buildings, grounds, and property of the state hospital.

(4) The superintendent shall appoint, with the approval of the director, as many employees as necessary for the efficient and economical care and management of the state hospital, and shall fix the employees' compensation and administer personnel functions according to the standards of the Division of Human Resource Management.

Section 34. Section **26B-5-305**, which is renumbered from Section 62A-15-614 is renumbered and amended to read:

~~[62A-15-614].~~      **26B-5-305. Clinical director -- Appointment -- Conditions and procedure -- Duties.**

(1) Whenever the superintendent is not qualified to be the clinical director of the state hospital under this section, ~~[he]~~ the superintendent shall, with the approval of the director of

the division, appoint a clinical director who is licensed to practice medicine and surgery in this state, and who has had at least three years' training in a psychiatric residency program approved by the American Board of Psychiatry and Neurology, Inc., and who is eligible for certification by that board.

(2) The salary of the clinical director of the state hospital shall be fixed by the standards of the Division of Finance, to be paid in the same manner as the salaries of other employees.

(3) The clinical director shall perform such duties as directed by the superintendent and prescribed by the rules of the board, and shall prescribe and direct the treatment of patients and adopt sanitary measures for their welfare.

~~[(3)]~~ (4) If the superintendent is qualified to be the clinical director, ~~[he]~~ the superintendent may assume the duties of the clinical director.

Section 35. Section **26B-5-306**, which is renumbered from Section 62A-15-610 is renumbered and amended to read:

~~[62A-15-610].~~      **26B-5-306. Objectives of state hospital and other facilities --**  
**Persons who may be admitted to state hospital.**

(1) The objectives of the state hospital and other mental health facilities shall be to care for all persons within this state who are subject to the provisions of this chapter; and to furnish them with the proper attendance, medical treatment, seclusion, rest, restraint, amusement, occupation, and support that is conducive to their physical and mental well-being.

(2) Only the following persons may be admitted to the state hospital:

(a) persons 18 years ~~[of age]~~ old and older who meet the criteria necessary for commitment under this part and who have severe mental disorders for whom no appropriate, less restrictive treatment alternative is available;

(b) persons under 18 years ~~[of age]~~ old who meet the criteria necessary for commitment under ~~[Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Part 4, Commitment of Persons under Age 18, and for whom no less restrictive

alternative is available;

(c) persons adjudicated and found to be guilty with a mental illness under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

(d) persons adjudicated and found to be not guilty by reason of insanity who are under a subsequent commitment order because they have a mental illness and are a danger to themselves or others, under Section [77-16a-302](#);

(e) persons found incompetent to proceed under Section [77-15-6](#);

(f) persons who require an examination under Title 77, Utah Code of Criminal Procedure; and

(g) persons in the custody of the Department of Corrections, admitted in accordance with Section [\[62A-15-605.5\]](#) [26B-5-372](#), giving priority to those persons with severe mental disorders.

Section 36. Section **26B-5-307**, which is renumbered from Section 62A-15-644 is renumbered and amended to read:

**~~[62A-15-644].~~      26B-5-307. Additional powers of director -- Reports and records of division.**

(1) In addition to specific authority granted by other provisions of this part, the director has authority to prescribe the form of applications, records, reports, and medical certificates provided for under this part, and the information required to be contained therein, and to adopt rules that are not inconsistent with the provisions of this part that the director finds to be reasonably necessary for the proper and efficient commitment of persons with a mental illness.

(2) The division shall require reports relating to the admission, examination, diagnosis, release, or discharge of any patient and investigate complaints made by any patient or by any person on behalf of a patient.

(3) A local mental health authority shall keep a record of the names and current status of all persons involuntarily committed to it under this chapter.

Section 37. Section **26B-5-308**, which is renumbered from Section 62A-15-639 is

2108 renumbered and amended to read:

2109 ~~[62A-15-639].~~ **26B-5-308. Standards for care and treatment.**

2110 Every patient is entitled to humane care and treatment and to medical care and  
2111 treatment in accordance with the prevailing standards accepted in medical practice, psychiatric  
2112 nursing practice, social work practice, and the practice of clinical psychology.

2113 Section 38. Section **26B-5-309**, which is renumbered from Section 62A-15-640 is  
2114 renumbered and amended to read:

2115 ~~[62A-15-640].~~ **26B-5-309. Mechanical restraints and medication -- Clinical**  
2116 **record.**

2117 (1) Mechanical restraints may not be applied to a patient unless it is determined by the  
2118 director or his designee to be required by the needs of the patient. Every use of a mechanical  
2119 restraint and the reasons therefor shall be made a part of the patient's clinical record, under the  
2120 signature of the director or his designee, and shall be reviewed regularly.

2121 (2) In no event shall medication be prescribed for a patient unless it is determined by a  
2122 physician to be required by the patient's medical needs. Every use of a medication and the  
2123 reasons therefor shall be made a part of the patient's clinical record.

2124 Section 39. Section **26B-5-310**, which is renumbered from Section 62A-15-641 is  
2125 renumbered and amended to read:

2126 ~~[62A-15-641].~~ **26B-5-310. Restrictions and limitations -- Civil rights and**  
2127 **privileges.**

2128 (1) Subject to the general rules of the division, and except to the extent that the director  
2129 or his designee determines that it is necessary for the welfare of the patient to impose  
2130 restrictions, every patient is entitled to:

2131 (a) communicate, by sealed mail or otherwise, with persons, including official  
2132 agencies, inside or outside the facility;

2133 (b) receive visitors; and

2134 (c) exercise all civil rights, including the right to dispose of property, execute

instruments, make purchases, enter contractual relationships, and vote, unless the patient has been adjudicated to be incompetent and has not been restored to legal capacity.

(2) When any right of a patient is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the patient's treatment record. Any continuing denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment record. Notice of that continuing denial in excess of 30 days shall be sent to the division, the appropriate local mental health authority, the appropriate local substance abuse authority, or an approved treatment facility or program, whichever is most applicable to the patient.

(3) Notwithstanding any limitations authorized under this section on the right of communication, each patient is entitled to communicate by sealed mail with the appropriate local mental health authority, the appropriate local substance abuse authority, an approved treatment facility or program, the division, the patient's attorney, and the court, if any, that ordered the patient's commitment or essential treatment. In no case may the patient be denied a visit with the legal counsel or clergy of the patient's choice.

(4) Local mental health authorities, local substance abuse authorities, and approved treatment facilities or programs shall provide reasonable means and arrangements for informing involuntary patients of their right to release as provided in this chapter, and for assisting them in making and presenting requests for release.

(5) Mental health facilities, local substance abuse authorities, and approved treatment facilities or programs shall post a statement, created by the division, describing a patient's rights under Utah law.

(6) Notwithstanding Section 53B-17-303, an individual committed under this chapter has the right to determine the final disposition of that individual's body after death.

Section 40. Section 26B-5-311, which is renumbered from Section 62A-15-642 is renumbered and amended to read:

~~[62A-15-642]~~. **26B-5-311. Habeas corpus.**

Any individual detained pursuant to this part is entitled to the writ of habeas corpus

upon proper petition by [~~himself~~] themselves or a friend, to the [~~district~~] court in the county in which [~~he~~] the individual is detained.

Section 41. Section **26B-5-312**, which is renumbered from Section 62A-15-643 is renumbered and amended to read:

~~[62A-15-643].~~        **26B-5-312. Confidentiality of information and records -- Exceptions -- Penalty.**

(1) All certificates, applications, records, and reports made for the purpose of this part, including those made on judicial proceedings for involuntary commitment, that directly or indirectly identify a patient or former patient or an individual whose commitment has been sought under this part, shall be kept confidential and may not be disclosed by any person except insofar as:

(a) the individual identified or his legal guardian, if any, or, if a minor, his parent or legal guardian shall consent;

(b) disclosure may be necessary to carry out the provisions of:

(i) this part; or

(ii) Section ~~53-10-208.1~~; or

(c) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it, and that failure to make the disclosure would be contrary to the public interest.

(2) A person who knowingly or intentionally discloses any information not authorized by this section is guilty of a class B misdemeanor.

Section 42. Section **26B-5-313**, which is renumbered from Section 62A-15-1002 is renumbered and amended to read:

~~[62A-15-1002].~~        **26B-5-313. Declaration for mental health treatment.**

(1) An adult who is not incapable may make a declaration of preferences or instructions regarding [~~his~~] the adult's mental health treatment. The declaration may include, but is not limited to, consent to or refusal of specified mental health treatment.

(2) A declaration for mental health treatment shall designate a capable adult to act as attorney-in-fact to make decisions about mental health treatment for the declarant. An alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the appointment in writing may make decisions about mental health treatment on behalf of the declarant only when the declarant is incapable. The decisions shall be consistent with any instructions or desires the declarant has expressed in the declaration.

(3) A declaration is effective only if it is signed by the declarant and two capable adult witnesses. The witnesses shall attest that the declarant is known to them, signed the declaration in their presence, appears to be of sound mind and is not under duress, fraud, or undue influence. Persons specified in Subsection [~~62A-15-1003~~] [26B-5-314](#)(6) may not act as witnesses.

(4) A declaration becomes operative when it is delivered to the declarant's physician or other mental health treatment provider and remains valid until it expires or is revoked by the declarant. The physician or provider is authorized to act in accordance with an operative declaration when the declarant has been found to be incapable. The physician or provider shall continue to obtain the declarant's informed consent to all mental health treatment decisions if the declarant is capable of providing informed consent or refusal.

(5) (a) An attorney-in-fact does not have authority to make mental health treatment decisions unless the declarant is incapable.

(b) An attorney-in-fact is not, solely as a result of acting in that capacity, personally liable for the cost of treatment provided to the declarant.

(c) Except to the extent that a right is limited by a declaration or by any federal law, an attorney-in-fact has the same right as the declarant to receive information regarding the proposed mental health treatment and to receive, review, and consent to disclosure of medical records relating to that treatment. This right of access does not waive any evidentiary privilege.

(d) In exercising authority under the declaration, the attorney-in-fact shall act

2216 consistently with the instructions and desires of the declarant, as expressed in the declaration.  
2217 If the declarant's desires are unknown, the attorney-in-fact shall act in what ~~[he]~~ the  
2218 attorney-in-fact, in good faith, believes to be the best interest of the declarant.

2219 (e) An attorney-in-fact is not subject to criminal prosecution, civil liability, or  
2220 professional disciplinary action for any action taken in good faith pursuant to a declaration for  
2221 mental health treatment.

2222 (6) (a) A declaration for mental health treatment remains effective for a period of three  
2223 years or until revoked by the declarant. If a declaration for mental health treatment has been  
2224 invoked and is in effect at the expiration of three years after its execution, the declaration  
2225 remains effective until the declarant is no longer incapable.

2226 (b) The authority of a named attorney-in-fact and any alternative attorney-in-fact  
2227 continues in effect as long as the declaration appointing the attorney-in-fact is in effect or until  
2228 the attorney-in-fact has withdrawn.

2229 (7) A person may not be required to execute or to refrain from executing a declaration  
2230 as a criterion for insurance, as a condition for receiving mental or physical health services, or as  
2231 a condition of discharge from a facility.

2232 Section 43. Section **26B-5-314**, which is renumbered from Section 62A-15-1003 is  
2233 renumbered and amended to read:

2234 ~~[62A-15-1003].~~ **26B-5-314. Physician and provider responsibilities --**

2235 **Provision of services contrary to declaration -- Revocation.**

2236 (1) Upon being presented with a declaration, a physician shall make the declaration a  
2237 part of the declarant's medical record. When acting under authority of a declaration, a physician  
2238 shall comply with it to the fullest extent possible, consistent with reasonable medical practice,  
2239 the availability of treatments requested, and applicable law. If the physician or other provider is  
2240 unwilling at any time to comply with the declaration, the physician or provider shall promptly  
2241 notify the declarant and the attorney-in-fact, and document the notification in the declarant's  
2242 medical record.

(2) A physician or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's wishes, as expressed in a declaration for mental health treatment if:

(a) the declarant has been committed to the custody of a local mental health authority in accordance with ~~[Part 6, Utah State Hospital and Other Mental Health Facilities]~~ this part; or

(b) in cases of emergency endangering life or health.

(3) A declaration does not limit any authority provided in ~~[Part 6, Utah State Hospital and Other Mental Health Facilities]~~ this part, to take a person into custody, or admit or retain a person in the custody of a local mental health authority.

(4) A declaration may be revoked in whole or in part by the declarant at any time so long as the declarant is not incapable. That revocation is effective when the declarant communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the declarant's medical record.

(5) A physician who administers or does not administer mental health treatment according to and in good faith reliance upon the validity of a declaration is not subject to criminal prosecution, civil liability, or professional disciplinary action resulting from a subsequent finding that a declaration is invalid.

(6) None of the following persons may serve as an attorney-in-fact or as witnesses to the signing of a declaration:

(a) the declarant's attending physician or mental health treatment provider, or an employee of that physician or provider;

(b) an employee of the division; or

(c) an employee of a local mental health authority or any organization that contracts with a local mental health authority.

(7) An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant is incapable, the attorney-in-fact may withdraw by giving notice to the attending physician or provider. The attending physician shall note the withdrawal as part of the declarant's medical record.

Section 44. Section **26B-5-315**, which is renumbered from Section 62A-15-1004 is renumbered and amended to read:

~~[62A-15-1004]~~. **26B-5-315. Declaration for mental health treatment -- Form.**

A declaration for mental health treatment shall be in substantially the following form:

DECLARATION FOR MENTAL HEALTH TREATMENT

I, \_\_\_\_\_, being an adult of sound mind, willfully and voluntarily make this declaration for mental health treatment, to be followed if it is determined by a court or by two physicians that my ability to receive and evaluate information effectively or to communicate my decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment. "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, and admission to and retention in a mental health facility for a period up to 17 days.

I understand that I may become incapable of giving or withholding informed consent for mental health treatment due to the symptoms of a diagnosed mental disorder. These symptoms may include:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PSYCHOACTIVE MEDICATIONS

If I become incapable of giving or withholding informed consent for mental health treatment, my wishes regarding psychoactive medications are as follows:

\_\_\_\_\_ I consent to the administration of the following medications:

\_\_\_\_\_  
\_\_\_\_\_

in the dosages:

\_\_\_\_\_ considered appropriate by my attending physician.

\_\_\_\_\_ approved by \_\_\_\_\_

2297 \_\_\_\_\_ as I hereby direct: \_\_\_\_\_

2298 \_\_\_\_\_ I do not consent to the administration of the following medications:

2299 \_\_\_\_\_

2300 \_\_\_\_\_

2301 \_\_\_\_\_

2302 \_\_\_\_\_

2303 **CONVULSIVE TREATMENT**

2304 If I become incapable of giving or withholding informed consent for mental health  
2305 treatment, my wishes regarding convulsive treatment are as follows:

2306 \_\_\_\_\_ I consent to the administration of convulsive treatment of the following type:

2307 \_\_\_\_\_, the number of treatments to be:

2308 \_\_\_\_\_ determined by my attending physician.

2309 \_\_\_\_\_ approved by \_\_\_\_\_

2310 \_\_\_\_\_ as follows: \_\_\_\_\_

2311 \_\_\_\_\_ I do not consent to the administration of convulsive treatment.

2312 My reasons for consenting to or refusing convulsive treatment are as follows;

2313 \_\_\_\_\_

2314 \_\_\_\_\_

2315 \_\_\_\_\_

2316 \_\_\_\_\_

2317 **ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY**

2318 If I become incapable of giving or withholding informed consent for mental health  
2319 treatment, my wishes regarding admission to and retention in a mental health facility are as  
2320 follows:

2321 \_\_\_\_\_ I consent to being admitted to the following mental health facilities:

2322 \_\_\_\_\_

2323 I may be retained in the facility for a period of time:

2324 \_\_\_\_\_ determined by my attending physician.

2325 \_\_\_\_\_ approved by \_\_\_\_\_

2326 \_\_\_\_\_ no longer than \_\_\_\_\_

2327 This directive cannot, by law, provide consent to retain me in a facility for more than 17 days.

2328 **ADDITIONAL REFERENCES OR INSTRUCTIONS**

2329 \_\_\_\_\_

2330 \_\_\_\_\_

2331 \_\_\_\_\_

2332 \_\_\_\_\_

2333 **ATTORNEY-IN-FACT**

2334 I hereby appoint:

2335 NAME \_\_\_\_\_

2336 ADDRESS \_\_\_\_\_

2337 TELEPHONE # \_\_\_\_\_

2338 to act as my attorney-in-fact to make decisions regarding my mental health treatment if I  
2339 become incapable of giving or withholding informed consent for that treatment.

2340 If the person named above refuses or is unable to act on my behalf, or if I revoke that  
2341 person's authority to act as my attorney-in-fact, I authorize the following person to act as my  
2342 alternative attorney-in-fact:

2343 NAME \_\_\_\_\_

2344 ADDRESS \_\_\_\_\_

2345 TELEPHONE # \_\_\_\_\_

2346 My attorney-in-fact is authorized to make decisions which are consistent with the  
2347 wishes I have expressed in this declaration. If my wishes are not expressed, my attorney-in-fact  
2348 is to act in good faith according to what he or she believes to be in my best interest.

2349 \_\_\_\_\_

2350 (Signature of Declarant/Date)

## AFFIRMATION OF WITNESSES

We affirm that the declarant is personally known to us, that the declarant signed or acknowledged the declarant's signature on this declaration for mental health treatment in our presence, that the declarant appears to be of sound mind and does not appear to be under duress, fraud, or undue influence. Neither of us is the person appointed as attorney-in-fact by this document, the attending physician, an employee of the attending physician, an employee of the ~~[Division]~~ Office of Substance Abuse and Mental Health within the Department of Health and Human Services, an employee of a local mental health authority, or an employee of any organization that contracts with a local mental health authority.

Witnessed By:

\_\_\_\_\_  
\_\_\_\_\_

(Signature of Witness/Date)

(Printed Name of Witness)

\_\_\_\_\_  
\_\_\_\_\_

(Signature of Witness/Date)

(Printed Name of Witness)

## ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

I accept this appointment and agree to serve as attorney-in-fact to make decisions about mental health treatment for the declarant. I understand that I have a duty to act consistently with the desires of the declarant as expressed in the declaration. I understand that this document gives me authority to make decisions about mental health treatment only while the declarant is incapable as determined by a court or two physicians. I understand that the declarant may revoke this appointment, or the declaration, in whole or in part, at any time and in any manner, when the declarant is not incapable.

\_\_\_\_\_  
\_\_\_\_\_

(Signature of Attorney-in-fact/Date)

(Printed name)

2378 \_\_\_\_\_

2379 \_\_\_\_\_

2380 (Signature of Alternate Attorney-in-fact/Date) (Printed name)

2381 NOTICE TO PERSON MAKING A

2382 DECLARATION FOR MENTAL HEALTH TREATMENT

2383 This is an important legal document. It is a declaration that allows, or disallows, mental  
2384 health treatment. Before signing this document, you should know that:

2385 (1) this document allows you to make decisions in advance about three types of mental  
2386 health treatment: psychoactive medication, convulsive therapy, and short-term (up to 17 days)  
2387 admission to a mental health facility;

2388 (2) the instructions that you include in this declaration will be followed only if a court  
2389 or two physicians believe that you are incapable of otherwise making treatment decisions.  
2390 Otherwise, you will be considered capable to give or withhold consent for treatment;

2391 (3) you may also appoint a person as your attorney-in-fact to make these treatment  
2392 decisions for you if you become incapable. The person you appoint has a duty to act  
2393 consistently with your desires as stated in this document or, if not stated, to make decisions in  
2394 accordance with what that person believes, in good faith, to be in your best interest. For the  
2395 appointment to be effective, the person you appoint must accept the appointment in writing.  
2396 The person also has the right to withdraw from acting as your attorney-in-fact at any time;

2397 (4) this document will continue in effect for a period of three years unless you become  
2398 incapable of participating in mental health treatment decisions. If this occurs, the directive will  
2399 continue in effect until you are no longer incapable;

2400 (5) you have the right to revoke this document in whole or in part, or the appointment  
2401 of an attorney-in-fact, at any time you have not been determined to be incapable. YOU MAY  
2402 NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE  
2403 CONSIDERED INCAPABLE BY A COURT OR TWO PHYSICIANS. A revocation is  
2404 effective when it is communicated to your attending physician or other provider; and

(6) if there is anything in this document that you do not understand, you should ask an attorney to explain it to you. This declaration is not valid unless it is signed by two qualified witnesses who are personally known to you and who are present when you sign or acknowledge your signature.

Section 45. Section **26B-5-316**, which is renumbered from Section 62A-15-607 is renumbered and amended to read:

~~[62A-15-607].~~      **26B-5-316. Responsibility for cost of care.**

(1) The division shall estimate and determine, as nearly as possible, the actual expense per annum of caring for and maintaining a patient in the state hospital, and that amount or portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents, child or children who are of sufficient financial ability to do so, or by the guardian of the patient who has funds of the patient that may be used for that purpose.

(2) In addition to the expenses described in Subsection (1), parents are responsible for the support of their child while the child is in the care of the state hospital pursuant to Title 78B, Chapter 12, Utah Child Support Act, and ~~[Title 62A, Chapter 11, Recovery Services]~~ Title 26B, Chapter 9, Recovery Services and Administration of Child Support.

Section 46. Section **26B-5-317**, which is renumbered from Section 62A-15-617 is renumbered and amended to read:

~~[62A-15-617].~~      **26B-5-317. Expenses of voluntary patients.**

The expense for the care and treatment of voluntary patients shall be assessed to and paid in the same manner and to the same extent as is provided for involuntary patients under the provisions of Section ~~[62A-15-607]~~ 26B-5-316.

Section 47. Section **26B-5-318**, which is renumbered from Section 62A-15-619 is renumbered and amended to read:

~~[62A-15-619].~~      **26B-5-318. Liability of estate of person with a mental illness.**

The provisions made in this part for the support of persons with a mental illness at public expense do not release the estates of those persons from liability for their care and

treatment, and the division is authorized and empowered to collect from the estates of those persons any sums paid by the state in their behalf.

Section 48. Section **26B-5-319**, which is renumbered from Section 62A-15-604 is renumbered and amended to read:

~~[62A-15-604].~~        **26B-5-319. Receipt of gift and personal property related to the transfer of persons from other institutions.**

(1) The division may take and hold by gift, devise, or bequest real and personal property required for the use of the state hospital. With the approval of the governor the division may convert that property that is not suitable for the state hospital's use into money or property that is suitable for the state hospital's use.

(2) The state hospital is authorized to receive from any other institution within the department an individual committed to that institution, when a careful evaluation of the treatment needs of the individual and of the treatment programs available at the state hospital indicates that the transfer would be in the interest of that individual.

(3) (a) For the purposes of this Subsection (3), "contributions" means gifts, grants, devises, and donations.

(b) Notwithstanding the provisions of Subsection ~~[62A-1-111]~~ 26B-1-202(10), the state hospital is authorized to receive contributions and deposit the contributions into an interest-bearing restricted special revenue fund. The state treasurer may invest the fund, and all interest will remain in the fund.

(c) (i) Single expenditures from the fund in amounts of \$5,000 or less shall be approved by the superintendent.

(ii) Single expenditures exceeding \$5,000 must be preapproved by the superintendent and the division director.

(iii) Expenditures described in this Subsection (3) shall be used for the benefit of patients at the state hospital.

(d) Money and interest in the fund may not be used for items normally paid for by

2459 operating revenues or for items related to personnel costs without specific legislative  
2460 authorization.

2461 Section 49. Section **26B-5-320**, which is renumbered from Section 62A-15-621 is  
2462 renumbered and amended to read:

2463 **[62A-15-621]. 26B-5-320. Trespass -- Disturbance -- Penalty.**

2464 Any person who, without permission, enters any of the buildings or enclosures  
2465 appropriated to the use of patients, or makes any attempt to do so, or enters anywhere upon the  
2466 premises belonging to or used by the division, a local mental health authority, or the state  
2467 hospital and commits, or attempts to commit, any trespass or depredation thereon, or any  
2468 person who, either from within or without the enclosures, willfully annoys or disturbs the peace  
2469 or quiet of the premises or of any patient therein, is guilty of a class B misdemeanor.

2470 Section 50. Section **26B-5-321**, which is renumbered from Section 62A-15-622 is  
2471 renumbered and amended to read:

2472 **[62A-15-622]. 26B-5-321. Abduction of patient -- Penalty.**

2473 Any person who abducts a patient who is in the custody of a local mental health  
2474 authority, or induces any patient to elope or escape from that custody, or attempts to do so, or  
2475 aids or assists therein, is guilty of a class B misdemeanor, in addition to liability for damages,  
2476 or subject to other criminal charges.

2477 Section 51. Section **26B-5-322**, which is renumbered from Section 62A-15-623 is  
2478 renumbered and amended to read:

2479 **[62A-15-623]. 26B-5-322. Criminal's escape -- Penalty.**

2480 Any person committed to the state hospital under the provisions of Title 77, Chapter 15,  
2481 Inquiry into Sanity of Defendant, or Chapter 16a, Commitment and Treatment of Persons with  
2482 a Mental Illness, who escapes or leaves the state hospital without proper legal authority is  
2483 guilty of a class A misdemeanor.

2484 Section 52. Section **26B-5-323**, which is renumbered from Section 62A-15-624 is  
2485 renumbered and amended to read:

2486 ~~[62A-15-624].~~ **26B-5-323.** Violations of this part -- Penalty.

2487 Any person who willfully and knowingly violates any provision of this part, except  
2488 where another penalty is provided by law, is guilty of a class C misdemeanor.

2489 Section 53. Section **26B-5-324**, which is renumbered from Section 62A-15-608 is  
2490 renumbered and amended to read:

2491 ~~[62A-15-608].~~ **26B-5-324.** Local mental health authority -- Supervision and  
2492 treatment of persons with a mental illness.

2493 (1) Each local mental health authority has responsibility for supervision and treatment  
2494 of persons with a mental illness who have been committed to its custody under the provisions  
2495 of this part, whether residing in the state hospital or elsewhere.

2496 (2) The division, in administering and supervising the security responsibilities of the  
2497 state hospital under its authority provided by Section ~~[62A-15-603]~~ 26B-5-303, shall enforce  
2498 Sections ~~[62A-15-620 through 62A-15-624]~~ 26B-5-320 through 26B-5-323 and Section  
2499 26B-5-342 to the extent they pertain to the state hospital.

2500 Section 54. Section **26B-5-325**, which is renumbered from Section 62A-15-609 is  
2501 renumbered and amended to read:

2502 ~~[62A-15-609].~~ **26B-5-325.** Responsibility for education of school-aged  
2503 children at the hospital -- Responsibility for noninstructional services.

2504 (1) The State Board of Education is responsible for the education of school-aged  
2505 children committed to the division.

2506 (2) In order to fulfill its responsibility under Subsection (1), the board may contract  
2507 with local school districts or other appropriate agencies to provide educational and related  
2508 administrative services.

2509 (3) Medical, residential, and other noninstructional services at the state hospital are the  
2510 responsibility of the division.

2511 Section 55. Section **26B-5-326**, which is renumbered from Section 62A-15-611 is  
2512 renumbered and amended to read:

2513           ~~[62A-15-611]~~.           **26B-5-326. Allocation of state hospital beds -- Formula.**

2514           (1) As used in this section:

2515           (a) "Adult beds" means the total number of patient beds located in the adult general  
2516 psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent  
2517 of the state hospital.

2518           (b) "Mental health catchment area" means a county or group of counties governed by a  
2519 local mental health authority.

2520           (2) (a) The division shall establish by rule a formula to separately allocate to local  
2521 mental health authorities adult beds for persons who meet the requirements of Subsection  
2522 ~~[62A-15-610]~~ 26B-5-306(2)(a). Beginning on May 10, 2011, and ending on June 30, 2011, 152  
2523 beds shall be allocated to local mental health authorities under this section.

2524           (b) The number of beds shall be reviewed and adjusted as necessary:

2525           (i) on July 1, 2011, to restore the number of beds allocated to 212 beds as funding  
2526 permits; and

2527           (ii) on July 1, 2011, and every three years after July 1, 2011, according to the state's  
2528 population.

2529           (c) All population figures utilized shall reflect the most recent available population  
2530 estimates from the Utah Population Committee.

2531           (3) The formula established under Subsection (2) shall provide for allocation of beds  
2532 based on:

2533           (a) the percentage of the state's adult population located within a mental health  
2534 catchment area; and

2535           (b) a differential to compensate for the additional demand for hospital beds in mental  
2536 health catchment areas that are located in urban areas.

2537           (4) A local mental health authority may sell or loan its allocation of beds to another  
2538 local mental health authority.

2539           (5) The division shall allocate adult beds at the state hospital to local mental health

authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under the formula established under Subsection (2), the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

(6) The board shall periodically review and make changes in the formula established under Subsection (2) as necessary to accurately reflect changes in population.

Section 56. Section **26B-5-327**, which is renumbered from Section 62A-15-612 is renumbered and amended to read:

~~[62A-15-612].~~      **26B-5-327. Allocation of pediatric state hospital beds -- Formula.**

(1) As used in this section:

(a) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.

(b) "Pediatric beds" means the total number of patient beds located in the children's unit and the youth units at the state hospital, as determined by the superintendent of the state hospital.

(2) On July 1, 1996, 72 pediatric beds shall be allocated to local mental health authorities under this section. The division shall review and adjust the number of pediatric beds as necessary every three years according to the state's population of persons under 18 years ~~[of age]~~ old. All population figures utilized shall reflect the most recent available population estimates from the Governor's Office of Planning and Budget.

(3) The allocation of beds shall be based on the percentage of the state's population of persons under ~~[the age of]~~ 18 years old located within a mental health catchment area. Each community mental health center shall be allocated at least one bed.

(4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.

(5) The division shall allocate 72 pediatric beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under that formula, the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

Section 57. Section **26B-5-330**, which is renumbered from Section 62A-15-628 is renumbered and amended to read:

~~[62A-15-628].~~      **26B-5-330. Involuntary commitment -- Procedures.**

(1) An adult may not be involuntarily committed to the custody of a local mental health authority except under the following provisions:

(a) emergency procedures for temporary commitment upon medical or designated examiner certification, as provided in Subsection [~~62A-15-629~~] 26B-5-331(1)(a);

(b) emergency procedures for temporary commitment without endorsement of medical or designated examiner certification, as provided in Subsection [~~62A-15-629~~] 26B-5-331(1)(b);  
or

(c) commitment on court order, as provided in Section [~~62A-15-631~~] 26B-5-332.

(2) A person under 18 years [~~of age~~] old may be committed to the physical custody of a local mental health authority only in accordance with the provisions of [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Part 4, Commitment of Persons Under Age 18.

Section 58. Section **26B-5-331**, which is renumbered from Section 62A-15-629 is renumbered and amended to read:

~~[62A-15-629].~~      **26B-5-331. 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 lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, 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) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(i) as described in Section [~~62A-15-631~~] 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection [~~62A-15-631~~] 26B-5-332(4);

(ii) the patient makes a voluntary application for admission; or

(iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:

(A) the patient, due to mental illness, poses a substantial danger to self or others;

(B) additional time is necessary for evaluation and treatment of the patient's mental illness; and

(C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.

(b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.

(c) Subsection (3)(a)(iii) applies to an adult patient.

(4) Upon a written application described in Subsection (1)(a) or the observation and 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~~] 26B-4-119;

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

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the 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 adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section ~~[26-8a-102]~~ [26B-4-101](#).

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

(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

2675 patient's choice; and

2676 (ii) see and communicate with an attorney.

2677 (7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this  
2678 section.

2679 (b) This section does not create a special duty of care.

2680 Section 59. Section **26B-5-332**, which is renumbered from Section 62A-15-631 is  
2681 renumbered and amended to read:

2682 ~~[62A-15-631]~~. **26B-5-332. Involuntary commitment under court order --**  
2683 **Examination -- Hearing -- Power of court -- Findings required -- Costs.**

2684 (1) A responsible individual who has credible knowledge of an adult's mental illness  
2685 and the condition or circumstances that have led to the adult's need to be involuntarily  
2686 committed may initiate an involuntary commitment court proceeding by filing, in the [district]  
2687 court in the county where the proposed patient resides or is found, a written application that  
2688 includes:

2689 (a) unless the court finds that the information is not reasonably available, the proposed  
2690 patient's:

2691 (i) name;

2692 (ii) date of birth; and

2693 (iii) social security number;

2694 (b) (i) a certificate of a licensed physician or a designated examiner stating that within  
2695 the seven-day period immediately preceding the certification, the physician or designated  
2696 examiner examined the proposed patient and is of the opinion that the proposed patient has a  
2697 mental illness and should be involuntarily committed; or

2698 (ii) a written statement by the applicant that:

2699 (A) the proposed patient has been requested to, but has refused to, submit to an  
2700 examination of mental condition by a licensed physician or designated examiner;

2701 (B) is sworn to under oath; and

2702 (C) states the facts upon which the application is based; and  
2703 (c) a statement whether the proposed patient has previously been under an assisted  
2704 outpatient treatment order, if known by the applicant.

2705 (2) Before issuing a judicial order, the court:  
2706 (a) shall require the applicant to consult with the appropriate local mental health  
2707 authority at or before the hearing; and  
2708 (b) may direct a mental health professional from the local mental health authority to  
2709 interview the applicant and the proposed patient to determine the existing facts and report the  
2710 existing facts to the court.

2711 (3) The court may issue an order, directed to a mental health officer or peace officer, to  
2712 immediately place a proposed patient in the custody of a local mental health authority or in a  
2713 temporary emergency facility, as described in Section [~~62A-15-634~~] 26B-5-334, to be detained  
2714 for the purpose of examination if:  
2715 (a) the court finds from the application, any other statements under oath, or any reports  
2716 from a mental health professional that there is a reasonable basis to believe that the proposed  
2717 patient has a mental illness that poses a danger to self or others and requires involuntary  
2718 commitment pending examination and hearing; or  
2719 (b) the proposed patient refuses to submit to an interview with a mental health  
2720 professional as directed by the court or to go to a treatment facility voluntarily.

2721 (4) (a) The court shall provide notice of commencement of proceedings for involuntary  
2722 commitment, setting forth the allegations of the application and any reported facts, together  
2723 with a copy of any official order of detention, to a proposed patient before, or upon, placement  
2724 of the proposed patient in the custody of a local mental health authority or, with respect to any  
2725 proposed patient presently in the custody of a local mental health authority whose status is  
2726 being changed from voluntary to involuntary, upon the filing of an application for that purpose  
2727 with the court.  
2728 (b) The place of detention shall maintain a copy of the order of detention.

2729           (5) (a) The court shall provide notice of commencement of proceedings for involuntary  
2730 commitment as soon as practicable to the applicant, any legal guardian, any immediate adult  
2731 family members, legal counsel for the parties involved, the local mental health authority or the  
2732 local mental health authority's designee, and any other persons whom the proposed patient or  
2733 the court designates.

2734           (b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall  
2735 advise the persons that a hearing may be held within the time provided by law.

2736           (c) If the proposed patient refuses to permit release of information necessary for  
2737 provisions of notice under this subsection, the court shall determine the extent of notice.

2738           (6) Proceedings for commitment of an individual under 18 years old to a local mental  
2739 health authority may be commenced in accordance with [~~Part 7, Commitment of Persons Under~~  
2740 ~~Age 18 to Division of Substance Abuse and Mental Health~~] Part 4, Commitment of Persons  
2741 Under Age 18.

2742           (7) (a) The [~~district~~] court may, in the [~~district~~] court's discretion, transfer the case to  
2743 any other district court within this state, if the transfer will not be adverse to the interest of the  
2744 proposed patient.

2745           (b) If a case is transferred under Subsection (7)(a), the parties to the case may be  
2746 transferred and the local mental health authority may be substituted in accordance with Utah  
2747 Rules of Civil Procedure, Rule 25.

2748           (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance  
2749 of a judicial order, or after commitment of a proposed patient to a local mental health authority  
2750 or the local mental health authority's designee under court order for detention or examination,  
2751 the court shall appoint two designated examiners:

2752           (a) who did not sign the civil commitment application nor the civil commitment  
2753 certification under Subsection (1);

2754           (b) one of whom is a licensed physician; and

2755           (c) one of whom may be designated by the proposed patient or the proposed patient's

2756 counsel, if that designated examiner is reasonably available.

2757 (9) The court shall schedule a hearing to be held within 10 calendar days after the day  
2758 on which the designated examiners are appointed.

2759 (10) (a) The designated examiners shall:

2760 (i) conduct the examinations separately;

2761 (ii) conduct the examinations at the home of the proposed patient, at a hospital or other  
2762 medical facility, or at any other suitable place, including through telehealth, that is not likely to  
2763 have a harmful effect on the proposed patient's health;

2764 (iii) inform the proposed patient, if not represented by an attorney:

2765 (A) that the proposed patient does not have to say anything;

2766 (B) of the nature and reasons for the examination;

2767 (C) that the examination was ordered by the court;

2768 (D) that any information volunteered could form part of the basis for the proposed  
2769 patient's involuntary commitment;

2770 (E) that findings resulting from the examination will be made available to the court;

2771 and

2772 (F) that the designated examiner may, under court order, obtain the proposed patient's  
2773 mental health records; and

2774 (iv) within 24 hours of examining the proposed patient, report to the court, orally or in  
2775 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as  
2776 described in Section [~~62A-15-625~~] 26B-5-360, or has acceptable programs available to the  
2777 proposed patient without court proceedings.

2778 (b) If a designated examiner reports orally under Subsection (10)(a), the designated  
2779 examiner shall immediately send a written report to the clerk of the court.

2780 (11) If a designated examiner is unable to complete an examination on the first attempt  
2781 because the proposed patient refuses to submit to the examination, the court shall fix a  
2782 reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, 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, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or 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]~~ 26B-5-360;

(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]~~ 26B-5-351.

(14) (a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, 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.

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

(ii) The court may, in 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.

(b) The court is authorized to exclude 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 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 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, Rule 1102.

(e) (i) A local mental health authority or 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) 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 an adult proposed patient 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:

(i) the proposed patient has a mental illness;

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

(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;

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

(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.

(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~~] 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section [~~62A-15-630.5~~] 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section [~~62A-15-630.5~~] 26B-5-351.

(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~~] 26B-5-351 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) If the patient is not under an order of commitment at the time of the hearing, the

2864 patient's treatment period may not exceed six months without a review hearing.

2865 (iii) Upon a review hearing, to be commenced before the expiration of the previous  
2866 order of commitment, an order for commitment may be for an indeterminate period, if the court  
2867 finds by clear and convincing evidence that the criteria described in Subsection (16) will last  
2868 for an indeterminate period.

2869 (b) (i) The court shall maintain a current list of all patients under the court's order of  
2870 commitment and review the list to determine those patients who have been under an order of  
2871 commitment for the court designated period.

2872 (ii) At least two weeks before the expiration of the designated period of any order of  
2873 commitment still in effect, the court that entered the original order of commitment shall inform  
2874 the appropriate local mental health authority or the local mental health authority's designee of  
2875 the expiration.

2876 (iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local  
2877 mental health authority or the local mental health authority's designee shall immediately  
2878 reexamine the reasons upon which the order of commitment was based.

2879 (iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health  
2880 authority or the local mental health authority's designee determines that the conditions  
2881 justifying commitment no longer exist, the local mental health authority or the local mental  
2882 health authority's designee shall discharge the patient from involuntary commitment and  
2883 immediately report the discharge to the court.

2884 (v) If, after reexamination under Subsection (17)(b)(iii), the local mental health  
2885 authority or the local mental health authority's designee determines that the conditions  
2886 justifying commitment continue to exist, the court shall immediately appoint two designated  
2887 examiners and proceed under Subsections (8) through (14).

2888 (c) (i) The local mental health authority or the local mental health authority's designee  
2889 responsible for the care of a patient under an order of commitment for an indeterminate period  
2890 shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate

2891 commitment was based.

2892       (ii) If the local mental health authority or the local mental health authority's designee  
2893 determines that the conditions justifying commitment no longer exist, the local mental health  
2894 authority or the local mental health authority's designee shall discharge the patient from the  
2895 local mental health authority's or the local mental health authority designee's custody and  
2896 immediately report the discharge to the court.

2897       (iii) If the local mental health authority or the local mental health authority's designee  
2898 determines that the conditions justifying commitment continue to exist, the local mental health  
2899 authority or the local mental health authority's designee shall send a written report of the  
2900 findings to the court.

2901       (iv) A patient and the patient's counsel of record shall be notified in writing that the  
2902 involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the  
2903 decision to continue, and that the patient has the right to a review hearing by making a request  
2904 to the court.

2905       (v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately  
2906 appoint two designated examiners and proceed under Subsections (8) through (14).

2907       (18) (a) Any patient committed as a result of an original hearing or a patient's legally  
2908 designated representative who is aggrieved by the findings, conclusions, and order of the court  
2909 entered in the original hearing has the right to a new hearing upon a petition filed with the court  
2910 within 30 days after the day on which the court order is entered.

2911       (b) The petition shall allege error or mistake in the findings, in which case the court  
2912 shall appoint three impartial designated examiners previously unrelated to the case to conduct  
2913 an additional examination of the patient.

2914       (c) Except as provided in Subsection (18)(b), the court shall, in all other respects,  
2915 conduct the new hearing in the manner otherwise permitted.

2916       (19) The county in which the proposed patient resides or is found shall pay the costs of  
2917 all proceedings under this section.

Section 60. Section **26B-5-333**, which is renumbered from Section 62A-15-632 is renumbered and amended to read:

~~[62A-15-632]~~. **26B-5-333. Circumstances under which conditions justifying initial involuntary commitment shall be considered to continue to exist.**

(1) When an individual is involuntarily committed to the custody of a local mental health authority under Subsection ~~[62A-15-631]~~ 26B-5-332(16), the conditions justifying commitment under that Subsection shall be considered to continue to exist for purposes of continued treatment under Subsection ~~[62A-15-631]~~ 26B-5-332(17) or conditional release under Section ~~[62A-15-637]~~ 26B-5-337 if the court finds that:

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

(2) When an individual has been ordered to assisted outpatient treatment under Subsection ~~[62A-15-630.5]~~ 26B-5-351(14), the individual may be involuntarily committed to the custody of a local mental health authority under Subsection ~~[62A-15-631]~~ 26B-5-332(16) for purposes of continued treatment under Subsection ~~[62A-15-631]~~ 26B-5-332(17) or conditional release under Section ~~[62A-15-637]~~ 26B-5-337, if the court finds that:

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

(3) A patient whose treatment is continued or who is conditionally released under the

terms of this section shall be maintained in the least restrictive environment available that can provide the patient with treatment that is adequate and appropriate.

Section 61. Section **26B-5-334**, which is renumbered from Section 62A-15-634 is renumbered and amended to read:

**~~[62A-15-634].~~      26B-5-334. Detention pending placement in custody.**

Pending commitment to a local mental health authority, a patient taken into custody or ordered to be committed pursuant to this part may be detained in the patient's home, a licensed foster home, or any other suitable facility under reasonable conditions prescribed by the local mental health authority. Except in an extreme emergency, the patient may not be detained in a nonmedical facility used for the detention of individuals charged with or convicted of criminal offenses. The local mental health authority shall take reasonable measures, including provision of medical care, as may be necessary to assure proper care of an individual temporarily detained pursuant to this section.

Section 62. Section **26B-5-335**, which is renumbered from Section 62A-15-635 is renumbered and amended to read:

**~~[62A-15-635].~~      26B-5-335. Notice of commitment.**

Whenever a patient has been temporarily, involuntarily committed to a local mental health authority under Section [~~62A-15-629~~] 26B-5-331 on the application of an individual other than the patient's legal guardian, spouse, or next of kin, the local mental health authority or a designee of the local mental health authority shall immediately notify the patient's legal guardian, spouse, or next of kin, if known.

Section 63. Section **26B-5-336**, which is renumbered from Section 62A-15-636 is renumbered and amended to read:

**~~[62A-15-636].~~      26B-5-336. Periodic review -- Discharge.**

Each local mental health authority or its designee shall, as frequently as practicable, examine or cause to be examined every person who has been committed to it. Whenever the local mental health authority or its designee determines that the conditions justifying

involuntary commitment no longer exist, it shall discharge the patient. If the patient has been committed through judicial proceedings, a report describing that determination shall be sent to the clerk of the court where the proceedings were held.

Section 64. Section **26B-5-337**, which is renumbered from Section 62A-15-637 is renumbered and amended to read:

~~[62A-15-637]~~. **26B-5-337. Release of patient to receive other treatment -- Placement in more restrictive environment -- Procedures.**

(1) A local mental health authority or a designee of a local mental health authority may conditionally release an improved patient to less restrictive treatment when:

- (a) the authority specifies the less restrictive treatment; and
- (b) the patient agrees in writing to the less restrictive treatment.

(2) (a) Whenever a local mental health authority or a designee of a local mental health authority determines that the conditions justifying commitment no longer exist, the local mental health authority or the designee shall discharge the patient.

(b) If the discharged patient has been committed through judicial proceedings, the local mental health authority or the designee shall prepare a report describing the determination and shall send the report to the clerk of the court where the proceedings were held.

(3) (a) A local mental health authority or a designee of a local mental health authority is authorized to issue an order for the immediate placement of a current patient into a more restrictive environment, if:

(i) the local mental health authority or a designee of a local mental health authority has reason to believe that the patient's current environment is aggravating the patient's mental illness; or

(ii) the patient has failed to comply with the specified treatment plan to which the patient agreed in writing.

(b) An order for a more restrictive environment shall:

- (i) state the reasons for the order;

(ii) authorize any peace officer to take the patient into physical custody and transport the patient to a facility designated by the local mental health authority;

(iii) inform the patient of the right to a hearing, the right to appointed counsel, and the other procedures described in Subsection [~~62A-15-631~~] 26B-5-332(14); and

(iv) prior to or upon admission to the more restrictive environment, or upon imposition of additional or different requirements as conditions for continued conditional release from inpatient care, copies of the order shall be delivered to:

(A) the patient;

(B) the person in whose care the patient is placed;

(C) the patient's counsel of record; and

(D) the court that entered the original order of commitment.

(c) If the patient was in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the patient or the patient's representative may request a hearing within 30 days of the change. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed pursuant to Section [~~62A-15-631~~] 26B-5-332, with the exception of Subsection [~~62A-15-631~~] 26B-5-332(16), unless, by the time set for the hearing, the patient is returned to the less restrictive environment or the patient withdraws the request for a hearing, in writing.

(d) The court shall:

(i) make findings regarding whether the conditions described in Subsections (3)(a) and (b) were met and whether the patient is in the least restrictive environment that is appropriate for the patient's needs; and

(ii) designate, by order, the environment for the patient's care and the period for which the patient shall be treated, which may not extend beyond expiration of the original order of commitment.

(4) Nothing contained in this section prevents a local mental health authority or its designee, pursuant to Section [~~62A-15-636~~] 26B-5-336, from discharging a patient from

commitment or from placing a patient in an environment that is less restrictive than that ordered by the court.

Section 65. Section **26B-5-338**, which is renumbered from Section 62A-15-638 is renumbered and amended to read:

**~~[62A-15-638].~~      26B-5-338. Reexamination of court order for commitment -- Procedures -- Costs.**

(1) Any patient committed pursuant to Section [~~62A-15-631~~] 26B-5-332 is entitled to a reexamination of the order for commitment on the patient's own petition, or on that of the legal guardian, parent, spouse, relative, or friend, to the [~~district~~] court of the county in which the patient resides or is detained.

(2) Upon receipt of the petition, the court shall conduct or cause to be conducted by a mental health commissioner proceedings in accordance with Section [~~62A-15-631~~] 26B-5-332, except that those proceedings shall not be required to be conducted if the petition is filed sooner than six months after the issuance of the order of commitment or the filing of a previous petition under this section, provided that the court may hold a hearing within a shorter period of time if good cause appears. The costs of proceedings for such judicial determination shall be paid by the county in which the patient resided or was found prior to commitment, upon certification, by the clerk of the [~~district~~] court in the county where the proceedings are held, to the county legislative body that those proceedings were held and the costs incurred.

Section 66. Section **26B-5-339**, which is renumbered from Section 62A-15-618 is renumbered and amended to read:

**~~[62A-15-618].~~      26B-5-339. Designated examiners.**

(1) A designated examiner shall consider a proposed patient's mental health history when evaluating a proposed patient.

(2) A designated examiner may request a court order to obtain a proposed patient's mental health records if a proposed patient refuses to share this information with the designated examiner.

(3) A designated examiner, when evaluating a proposed patient for civil commitment, shall consider whether:

- (a) a proposed patient has been under a court order for assisted outpatient treatment;
- (b) the proposed patient complied with the terms of the assisted outpatient treatment order, if any; and
- (c) whether assisted outpatient treatment is sufficient to meet the proposed patient's needs.

(4) A designated examiner shall be allowed a reasonable fee by the county legislative body of the county in which the proposed patient resides or is found, unless the designated examiner is otherwise paid.

Section 67. Section **26B-5-340**, which is renumbered from Section 62A-15-630 is renumbered and amended to read:

~~[62A-15-630].~~        **26B-5-340. Mental health commissioners.**

The court may appoint a mental health commissioner to assist in conducting commitment proceedings in accordance with Section [78A-5-107](#).

Section 68. Section **26B-5-341**, which is renumbered from Section 62A-15-626 is renumbered and amended to read:

~~[62A-15-626].~~        **26B-5-341. Release from commitment.**

(1) (a) Subject to Subsection (1)(b), a local mental health authority or the mental health authority's designee shall release from commitment any individual who, in the opinion of the local mental health authority or the mental health authority's designee, has recovered or no longer meets the criteria specified in Section ~~[62A-15-631]~~ [26B-5-332](#).

(b) A local mental health authority's inability to locate a committed individual may not be the basis for the individual's release, unless the court orders the release of the individual after a hearing.

(2) A local mental health authority or the 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~~] 26B-5-405, but an effort shall be made to assure that any further supportive services required to meet the patient's needs upon release will be provided.

(3) When a patient has been 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~~] 26B-5-336 and 26B-5-337.

Section 69. Section **26B-5-342**, which is renumbered from Section 62A-15-620 is renumbered and amended to read:

~~[62A-15-620].~~        **26B-5-342. Attempt to commit person contrary to requirements -- Penalty.**

Any person who attempts to place another person in the custody of a local mental health authority contrary to the provisions of this part is guilty of a class B misdemeanor, in addition to liability in an action for damages, or subject to other criminal charges.

Section 70. Section **26B-5-350**, which is renumbered from Section 62A-15-630.4 is renumbered and amended to read:

~~[62A-15-630.4].~~        **26B-5-350. Assisted outpatient treatment services.**

(1) The local mental health authority or ~~[its]~~ the local mental health authority's designee shall provide assisted outpatient treatment, which shall include:

- (a) case management; and
- (b) an individualized treatment plan, created with input from the proposed patient when possible.

(2) A court order for assisted outpatient treatment does not create independent authority to forcibly medicate a patient.

Section 71. Section **26B-5-351**, which is renumbered from Section 62A-15-630.5 is renumbered and amended to read:

~~[62A-15-630.5].~~        **26B-5-351. Assisted outpatient treatment proceedings.**

(1) A responsible individual who has credible knowledge of an adult's mental illness

3107 and the condition or circumstances that have led to the adult's need for assisted outpatient  
3108 treatment may file, in the [district] court in the county where the proposed patient resides or is  
3109 found, a written application that includes:

3110 (a) unless the court finds that the information is not reasonably available, the proposed  
3111 patient's:

3112 (i) name;

3113 (ii) date of birth; and

3114 (iii) social security number; and

3115 (b) (i) a certificate of a licensed physician or a designated examiner stating that within  
3116 the seven-day period immediately preceding the certification, the physician or designated  
3117 examiner examined the proposed patient and is of the opinion that the proposed patient has a  
3118 mental illness and should be involuntarily committed; or

3119 (ii) a written statement by the applicant that:

3120 (A) the proposed patient has been requested to, but has refused to, submit to an  
3121 examination of mental condition by a licensed physician or designated examiner;

3122 (B) is sworn to under oath; and

3123 (C) states the facts upon which the application is based.

3124 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may  
3125 require the applicant to consult with the appropriate local mental health authority, and the court  
3126 may direct a mental health professional from that local mental health authority to interview the  
3127 applicant and the proposed patient to determine the existing facts and report them to the court.

3128 (b) The consultation described in Subsection (2)(a):

3129 (i) may take place at or before the hearing; and

3130 (ii) is required if the local mental health authority appears at the hearing.

3131 (3) If the proposed patient refuses to submit to an interview described in Subsection  
3132 (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a  
3133 mental health officer or peace officer, to immediately place the proposed patient into the

3134 custody of a local mental health authority or in a temporary emergency facility, as provided in  
3135 Section [~~62A-15-634~~] 26B-5-334, to be detained for the purpose of examination.

3136 (4) Notice of commencement of proceedings for assisted outpatient treatment, setting  
3137 forth the allegations of the application and any reported facts, together with a copy of any  
3138 official order of detention, shall:

3139 (a) be provided by the court to a proposed patient before, or upon, placement into the  
3140 custody of a local mental health authority or, with respect to any proposed patient presently in  
3141 the custody of a local mental health authority;

3142 (b) be maintained at the proposed patient's place of detention, if any;

3143 (c) be provided by the court as soon as practicable to the applicant, any legal guardian,  
3144 any immediate adult family members, legal counsel for the parties involved, the local mental  
3145 health authority or its designee, and any other person whom the proposed patient or the court  
3146 shall designate; and

3147 (d) advise that a hearing may be held within the time provided by law.

3148 (5) The [~~district~~] court may, in its discretion, transfer the case to any other [~~district~~]  
3149 court within this state, provided that the transfer will not be adverse to the interest of the  
3150 proposed patient.

3151 (6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance  
3152 of a judicial order, or after commitment of a proposed patient to a local mental health authority  
3153 or its designee under court order for detention in order to complete an examination, the court  
3154 shall appoint two designated examiners:

3155 (a) who did not sign the assisted outpatient treatment application nor the certification  
3156 described in Subsection (1);

3157 (b) one of whom is a licensed physician; and

3158 (c) one of whom may be designated by the proposed patient or the proposed patient's  
3159 counsel, if that designated examiner is reasonably available.

3160 (7) The court shall schedule a hearing to be held within 10 calendar days of the day on

3161 which the designated examiners are appointed.

3162 (8) The designated examiners shall:

3163 (a) conduct their examinations separately;

3164 (b) conduct the examinations at the home of the proposed patient, at a hospital or other  
3165 medical facility, or at any other suitable place that is not likely to have a harmful effect on the  
3166 proposed patient's health;

3167 (c) inform the proposed patient, if not represented by an attorney:

3168 (i) that the proposed patient does not have to say anything;

3169 (ii) of the nature and reasons for the examination;

3170 (iii) that the examination was ordered by the court;

3171 (iv) that any information volunteered could form part of the basis for the proposed  
3172 patient to be ordered to receive assisted outpatient treatment; and

3173 (v) that findings resulting from the examination will be made available to the court;  
3174 and

3175 (d) within 24 hours of examining the proposed patient, report to the court, orally or in  
3176 writing, whether the proposed patient is mentally ill. If the designated examiner reports orally,  
3177 the designated examiner shall immediately send a written report to the clerk of the court.

3178 (9) If a designated examiner is unable to complete an examination on the first attempt  
3179 because the proposed patient refuses to submit to the examination, the court shall fix a  
3180 reasonable compensation to be paid to the examiner.

3181 (10) If the local mental health authority, its designee, or a medical examiner determines  
3182 before the court hearing that the conditions justifying the findings leading to an assisted  
3183 outpatient treatment hearing no longer exist, the local mental health authority, its designee, or  
3184 the medical examiner shall immediately report that determination to the court.

3185 (11) The court may terminate the proceedings and dismiss the application at any time,  
3186 including prior to the hearing, if the designated examiners or the local mental health authority  
3187 or its designee informs the court that the proposed patient does not meet the criteria in

3188 Subsection (14).

3189 (12) Before the hearing, an opportunity to be represented by counsel shall be afforded  
3190 to the proposed patient, and if neither the proposed patient nor others provide counsel, the court  
3191 shall appoint counsel and allow counsel sufficient time to consult with the proposed patient  
3192 before the hearing. In the case of an indigent proposed patient, the payment of reasonable  
3193 attorney fees for counsel, as determined by the court, shall be made by the county in which the  
3194 proposed patient resides or is found.

3195 (13) (a) All persons to whom notice is required to be given shall be afforded an  
3196 opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The  
3197 court may, in its discretion, receive the testimony of any other individual. The court may allow  
3198 a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth  
3199 in the record, or an informed waiver by the patient, which shall be included in the record.

3200 (b) The court is authorized to exclude all individuals not necessary for the conduct of  
3201 the proceedings and may, upon motion of counsel, require the testimony of each examiner to be  
3202 given out of the presence of any other examiners.

3203 (c) The hearing shall be conducted in as informal a manner as may be consistent with  
3204 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the  
3205 mental health of the proposed patient.

3206 (d) The court shall consider all relevant historical and material information that is  
3207 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah  
3208 Rules of Evidence.

3209 (e) (i) A local mental health authority or its designee, or the physician in charge of the  
3210 proposed patient's care shall, at the time of the hearing, provide the court with the following  
3211 information:

3212 (A) the detention order, if any;

3213 (B) admission notes, if any;

3214 (C) the diagnosis, if any;

3215 (D) doctor's orders, if any;

3216 (E) progress notes, if any;

3217 (F) nursing notes, if any; and

3218 (G) medication records, if any.

3219 (ii) The information described in Subsection (13)(e)(i) shall also be provided to the  
3220 proposed patient's counsel:

3221 (A) at the time of the hearing; and

3222 (B) at any time prior to the hearing, upon request.

3223 (14) The court shall order a proposed patient to assisted outpatient treatment if, upon  
3224 completion of the hearing and consideration of the information presented, the court finds by  
3225 clear and convincing evidence that:

3226 (a) the proposed patient has a mental illness;

3227 (b) there is no appropriate less-restrictive alternative to a court order for assisted  
3228 outpatient treatment; and

3229 (c) (i) the proposed patient lacks the ability to engage in a rational decision-making  
3230 process regarding the acceptance of mental health treatment, as demonstrated by evidence of  
3231 inability to weigh the possible risks of accepting or rejecting treatment; or

3232 (ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse  
3233 or deterioration that is likely to result in the proposed patient posing a substantial danger to self  
3234 or others.

3235 (15) The court may order the applicant or a close relative of the patient to be the  
3236 patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the  
3237 patient's mental health treatment.

3238 (16) In the absence of the findings described in Subsection (14), the court, after the  
3239 hearing, shall dismiss the proceedings.

3240 (17) (a) The assisted outpatient treatment order shall designate the period for which the  
3241 patient shall be treated, which may not exceed 12 months without a review hearing.

(b) At a review hearing, the court may extend the duration of an assisted outpatient treatment order by up to 12 months, if:

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

(ii) (A) the patient does not appear at the review hearing;

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

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

(c) The court shall maintain a current list of all patients under its order of assisted outpatient treatment.

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

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

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

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

Section 72. Section 26B-5-360, which is renumbered from Section 62A-15-625 is renumbered and amended to read:

~~[62A-15-625].~~      **26B-5-360. 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 applies for voluntary admission and who has a mental illness or exhibits the

3269 symptoms of a mental illness.

3270 (2) No adult may be committed to a local mental health authority against that adult's  
3271 will except as provided in this chapter.

3272 (3) An adult may be voluntarily admitted to a local mental health authority for  
3273 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after  
3274 the requirements of Section 77-18-106 have been met.

3275 Section 73. Section **26B-5-361**, which is renumbered from Section 62A-15-627 is  
3276 renumbered and amended to read:

3277 ~~[62A-15-627]~~. **26B-5-361. Release of voluntary adult -- Exceptions.**

3278 (1) Except as provided in Subsection (2), a mental health facility shall immediately  
3279 release an adult patient:

3280 (a) who is voluntarily admitted, as described in Section ~~[62A-15-625]~~ 26B-5-360, and  
3281 who requests release, verbally or in writing; or

3282 (b) whose release is requested in writing by the patient's legal guardian, parent, spouse,  
3283 or adult next of kin.

3284 (2) (a) An adult patient's release under Subsection (1) may be conditioned upon the  
3285 agreement of the patient, if:

3286 (i) the request for release is made by an individual other than the patient; or

3287 (ii) the admitting local mental health authority, the designee of the local mental health  
3288 authority, or the admitting mental health facility has cause to believe that release of the patient  
3289 would be unsafe for the patient or others.

3290 (b) (i) An adult patient's release may be postponed for up to 48 hours, excluding  
3291 weekends and holidays, if the admitting local mental health authority, the designee of the local  
3292 mental health authority, or the admitting mental health facility causes involuntary commitment  
3293 proceedings to be commenced with the ~~[district]~~ court within the specified time period.

3294 (ii) The admitting local mental health authority, the designee of the local mental health  
3295 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) A judicial proceeding for involuntary commitment may not be commenced with respect to a voluntary patient unless the patient requests release.

Section 74. Section **26B-5-362**, which is renumbered from Section 62A-15-646 is renumbered and amended to read:

~~[62A-15-646].~~      **26B-5-362. Commitment and care of criminally insane.**

Nothing contained in this part may be construed to alter or change the method presently employed for the commitment and care of the criminally insane as provided in Title 77, Chapter 15, Inquiry into Sanity of Defendant.

Section 75. Section **26B-5-363**, which is renumbered from Section 62A-15-616 is renumbered and amended to read:

~~[62A-15-616].~~      **26B-5-363. Persons entering state mentally ill.**

(1) A person who enters this state while mentally ill may be returned by a local mental health authority to the home of relatives or friends of that person with a mental illness, if known, or to a hospital in the state where that person with a mental illness is domiciled, in accordance with ~~[Title 62A, Chapter 15, Part 8,]~~ the Interstate Compact on Mental Health in Section 26B-5-365.

(2) This section does not prevent commitment of persons who are traveling through or temporarily residing in this state.

Section 76. Section **26B-5-364**, which is renumbered from Section 62A-15-633 is renumbered and amended to read:

~~[62A-15-633].~~      **26B-5-364. Persons eligible for care or treatment by federal agency -- Continuing jurisdiction of state courts.**

(1) If an individual committed pursuant to Section ~~[62A-15-631]~~ 26B-5-332 is eligible for care or treatment by any agency of the United States, the court, upon receipt of a certificate from a United States agency, showing that facilities are available and that the individual is eligible for care or treatment therein, may order the individual to be placed in the custody of

3323 that agency for care.

3324 (2) When admitted to any facility or institution operated by a United States agency,  
3325 within or without this state, the individual shall be subject to the rules and regulations of that  
3326 agency.

3327 (3) The chief officer of any facility or institution operated by a United States agency  
3328 and in which the individual is hospitalized, shall, with respect to that individual, be vested with  
3329 the same powers as the superintendent or director of a mental health facility, regarding  
3330 detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is  
3331 retained in appropriate courts of this state at any time to inquire into the mental condition of an  
3332 individual so hospitalized, and to determine the necessity for continuance of hospitalization,  
3333 and every order of hospitalization issued pursuant to this section is so conditioned.

3334 Section 77. Section **26B-5-365**, which is renumbered from Section 62A-15-801 is  
3335 renumbered and amended to read:

3336 ~~[62A-15-801].~~ **26B-5-365. Interstate Compact on Mental Health -- Compact**  
3337 **provisions.**

3338 The Interstate Compact on Mental Health is hereby enacted and entered into with all  
3339 other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

3340 INTERSTATE COMPACT ON MENTAL HEALTH

3341 The contracting states solemnly agree that:

3342 Article I

3343 The proper and expeditious treatment of the mentally ill can be facilitated by  
3344 cooperative action, to the benefit of the patients, their families, and society as a whole. Further,  
3345 the party states find that the necessity of and desirability of furnishing that care and treatment  
3346 bears no primary relation to the residence or citizenship of the patient but that the controlling  
3347 factors of community safety and humanitarianism require that facilities and services be made  
3348 available for all who are in need of them. Consequently, it is the purpose of this compact and  
3349 of the party states to provide the necessary legal and constitutional basis for commitment or

other appropriate care and treatment of the mentally ill under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states.

The appropriate authority in this state for making determinations under this compact is the director of the division or his designee.

**Article II**

As used in this compact:

(1) "After-care" means care, treatment, and services provided to a patient on convalescent status or conditional release.

(2) "Institution" means any hospital, program, or facility maintained by a party state or political subdivision for the care and treatment of persons with a mental illness.

(3) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic and Statistical Manual of Mental Disorders, that substantially impairs a person's mental, emotional, behavioral, or related functioning to such an extent that he requires care and treatment for his own welfare, the welfare of others, or the community.

(4) "Patient" means any person subject to or eligible, as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact and constitutional due process requirements.

(5) "Receiving state" means a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be sent.

(6) "Sending state" means a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be sent.

(7) "State" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**Article III**

(1) Whenever a person physically present in any party state is in need of institutionalization because of mental illness, he shall be eligible for care and treatment in an institution in that state, regardless of his residence, settlement, or citizenship qualifications.

(2) Notwithstanding the provisions of Subsection (1) of this article, any patient may be transferred to an institution in another state whenever there are factors, based upon clinical determinations, indicating that the care and treatment of that patient would be facilitated or improved by that action. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors to be considered include the patient's full record with due regard for the location of the patient's family, the character of his illness and its probable duration, and other factors considered appropriate by authorities in the party state and the director of the division, or his designee.

(3) No state is obliged to receive any patient pursuant to the provisions of Subsection (2) of this article unless the sending state has:

- (a) given advance notice of its intent to send the patient;
- (b) furnished all available medical and other pertinent records concerning the patient;
- (c) given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient; and
- (d) determined that the receiving state agrees to accept the patient.

(4) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(5) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and further transfer of the patient may be made as is deemed to be in the best interest of the patient, as determined by appropriate authorities in the receiving and sending states.

#### Article IV

(1) Whenever, pursuant to the laws of the state in which a patient is physically present, it is determined that the patient should receive after-care or supervision, that care or supervision may be provided in the receiving state. If the medical or other appropriate clinical

authorities who have responsibility for the care and treatment of the patient in the sending state believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of providing the patient with after-care in the receiving state.

That request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge the patient would be placed, the complete medical history of the patient, and other pertinent documents.

(2) If the medical or other appropriate clinical authorities who have responsibility for the care and treatment of the patient in the sending state, and the appropriate authorities in the receiving state find that the best interest of the patient would be served, and if the public safety would not be jeopardized, the patient may receive after-care or supervision in the receiving state.

(3) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment as for similar local patients.

#### Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities both within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of that patient, he shall be detained in the state where found, pending disposition in accordance with the laws of that state.

#### Article VI

Accredited officers of any party state, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

#### Article VII

(1) No person may be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state has the effect of making the person a patient of the institution in the receiving state.

(2) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs among themselves.

(3) No provision of this compact may be construed to alter or affect any internal relationships among the departments, agencies, and officers of a party state, or between a party state and its subdivisions, as to the payment of costs or responsibilities.

(4) Nothing in this compact may be construed to prevent any party state or any of its subdivisions from asserting any right against any person, agency, or other entity with regard to costs for which that party state or its subdivision may be responsible under this compact.

(5) Nothing in this compact may be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care, or treatment of the mentally ill, or any statutory authority under which those agreements are made.

#### Article VIII

(1) Nothing in this compact may be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or with respect to any patient for whom he serves, except that when the transfer of a patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, a court of competent jurisdiction in the receiving state may make supplemental or substitute appointments. In that case, the court that appointed the previous guardian shall, upon being advised of the new appointment and upon the satisfactory completion of accounting and other acts as the court may require, relieve the previous guardian of power and responsibility to whatever extent is appropriate in the circumstances.

However, in the case of any patient having settlement in the sending state, a court of competent jurisdiction in the sending state has the sole discretion to relieve a guardian

appointed by it or to continue his power and responsibility, as it deems advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(2) The term "guardian" as used in Subsection (1) of this article includes any guardian, trustee, legal committee, conservator, or other person or agency however denominated, who is charged by law with power to act for the person or property of a patient.

#### Article IX

(1) No provision of this compact except Article V applies to any person institutionalized while under sentence in a penal or correctional institution, while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness, he would be subject to incarceration in a penal or correctional institution.

(2) To every extent possible, it shall be the policy of party states that no patient be placed or detained in any prison, jail, or lockup, but shall, with all expedition, be taken to a suitable institutional facility for mental illness.

#### Article X

(1) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state, either in the capacity of sending or receiving state. The compact administrator, or his designee, shall deal with all matters relating to the compact and patients processed under the compact. In this state the director of the division, or his designee shall act as the "compact administrator."

(2) The compact administrators of the respective party states have power to promulgate reasonable rules and regulations as are necessary to carry out the terms and provisions of this compact. In this state, the division has authority to establish those rules in accordance with the

3485 Utah Administrative Rulemaking Act.

3486 (3) The compact administrator shall cooperate with all governmental departments,  
3487 agencies, and officers in this state and its subdivisions in facilitating the proper administration  
3488 of the compact and any supplementary agreement or agreements entered into by this state under  
3489 the compact.

3490 (4) The compact administrator is hereby authorized and empowered to enter into  
3491 supplementary agreements with appropriate officials of other states pursuant to Articles VII  
3492 and XI of this compact. In the event that supplementary agreements require or contemplate the  
3493 use of any institution or facility of this state or require or contemplate the provision of any  
3494 service by this state, that agreement shall have no force unless approved by the director of the  
3495 department or agency under whose jurisdiction the institution or facility is operated, or whose  
3496 department or agency will be charged with the rendering of services.

3497 (5) The compact administrator may make or arrange for any payments necessary to  
3498 discharge financial obligations imposed upon this state by the compact or by any  
3499 supplementary agreement entered into under the compact.

3500 Article XI

3501 Administrative authorities of any two or more party states may enter into supplementary  
3502 agreements for the provision of any service or facility, or for the maintenance of any institution  
3503 on a joint or cooperative basis whenever the states concerned find that those agreements will  
3504 improve services, facilities, or institutional care and treatment of persons who are mentally ill.  
3505 A supplementary agreement may not be construed to relieve a party state of any obligation that  
3506 it otherwise would have under other provisions of this compact.

3507 Article XII

3508 This compact has full force and effect in any state when it is enacted into law in that  
3509 state. Thereafter, that state is a party to the compact with any and all states that have legally  
3510 joined.

3511 Article XIII

A party state may withdraw from the compact by enacting a statute repealing the compact. Withdrawal takes effect one year after notice has been communicated officially and in writing to the compact administrators of all other party states. However, the withdrawal of a state does not change the status of any patient who has been sent to that state or sent out of that state pursuant to the compact.

#### Article XIV

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact are severable, and if any phrase, clause, sentence or provision is declared to be contrary to the constitution of the United States or the applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held to be contrary to the constitution of any party state the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 78. Section **26B-5-366**, which is renumbered from Section 62A-15-802 is renumbered and amended to read:

**~~[62A-15-802].~~        26B-5-366. Interstate compact on mental health -- Requirement of conformity with this chapter.**

All actions and proceedings taken under authority of this compact shall be in accordance with the procedures and constitutional requirements described in [~~Part 6, Utah State Hospital and Other Mental Health Facilities~~] this part.

Section 79. Section **26B-5-367**, which is renumbered from Section 62A-15-647 is renumbered and amended to read:

**~~[62A-15-647].~~        26B-5-367. Severability.**

If any one or more provision, section, subsection, sentence, clause, phrase, or word of this part, or the application thereof to any person or circumstance, is found to be unconstitutional the same is hereby declared to be severable and the balance of this part shall

remain effective notwithstanding that unconstitutionality. The Legislature hereby declares that it would have passed this part, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

Section 80. Section **26B-5-370**, which is renumbered from Section 62A-15-901 is renumbered and amended to read:

~~[62A-15-901].~~      **26B-5-370. Establishment of the Utah Forensic Mental Health Facility.**

The Utah Forensic Mental Health Facility is hereby established and shall be located on state land on the campus of the Utah State Hospital in Provo, Utah County.

Section 81. Section **26B-5-371**, which is renumbered from Section 62A-15-902 is renumbered and amended to read:

~~[62A-15-902].~~      **26B-5-371. Utah Forensic Mental Health Facility -- Design and operation -- Security.**

(1) The forensic mental health facility is a secure treatment facility.

(2) (a) The forensic mental health facility accommodates the following populations:

(i) prison inmates displaying mental illness~~[, as defined in Section 62A-15-602,]~~ necessitating treatment in a secure mental health facility;

(ii) criminally adjudicated persons found guilty with a mental illness or guilty with a mental illness at the time of the offense undergoing evaluation for mental illness under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

(iii) criminally adjudicated persons undergoing evaluation for competency or found guilty with a mental illness or guilty with a mental illness at the time of the offense under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, who also have an intellectual disability;

(iv) persons undergoing evaluation for competency or found by a court to be incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry into Sanity of

Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

(v) persons who are civilly committed to the custody of a local mental health authority in accordance with ~~[Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities]~~ this part, and who may not be properly supervised by the Utah State Hospital because of a lack of necessary security, as determined by the superintendent or the superintendent's designee; and

(vi) persons ordered to commit themselves to the custody of the ~~[Division of Substance Abuse and Mental Health]~~ division for treatment at the Utah State Hospital as a condition of probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

(b) Placement of an offender in the forensic mental health facility under any category described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's status as established by the court at the time of adjudication.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for the allocation of beds to the categories described in Subsection (2)(a).

(3) The department shall:

(a) own and operate the forensic mental health facility;

(b) provide and supervise administrative and clinical staff; and

(c) provide security staff who are trained as psychiatric technicians.

(4) Pursuant to Subsection ~~[62A-15-603]~~ 26B-5-303(3) the executive director shall designate individuals to perform security functions for the state hospital.

Section 82. Section **26B-5-372**, which is renumbered from Section 62A-15-605.5 is renumbered and amended to read:

~~[62A-15-605.5].~~      **26B-5-372. Admission of person in custody of Department of Corrections to state hospital -- Retransfer of person to Department of Corrections.**

(1) The executive director of the Department of Corrections may request the director to admit a person who is in the custody of the Department of Corrections to the state hospital, if

the clinical director within the Department of Corrections finds that the inmate has mentally deteriorated to the point that admission to the state hospital is necessary to ensure adequate mental health treatment. In determining whether that inmate should be placed in the state hospital, the director of the division shall consider:

- (a) the mental health treatment needs of the inmate;
- (b) the treatment programs available at the state hospital; and
- (c) whether the inmate meets the requirements of Subsection ~~[62A-15-610]~~

26B-5-306(2).

(2) If the director denies the admission of an inmate as requested by the clinical director within the Department of Corrections, the Board of Pardons and Parole shall determine whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole shall consider:

- (a) the mental health treatment needs of the inmate;
- (b) the treatment programs available at the state hospital; and
- (c) whether the inmate meets the requirements of Subsection ~~[62A-15-610]~~

26B-5-306(2).

(3) The state hospital shall receive any person in the custody of the Department of Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody of the Department of Corrections, and the state hospital shall act solely as the agent of the Department of Corrections.

(4) Inmates transferred to the state hospital pursuant to this section shall be transferred back to the Department of Corrections through negotiations between the director and the director of the Department of Corrections. If agreement between the director and the director of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall have final authority in determining whether a person will be transferred back to the Department of Corrections. In making that determination, that board shall consider:

- 3620 (a) the mental health treatment needs of the inmate;  
3621 (b) the treatment programs available at the state hospital;  
3622 (c) whether the person continues to meet the requirements of Subsection [~~62A-15-610~~]

3623 26B-5-306(2);

- 3624 (d) the ability of the state hospital to provide adequate treatment to the person, as well  
3625 as safety and security to the public; and

- 3626 (e) whether, in the opinion of the director, in consultation with the clinical director of  
3627 the state hospital, the person's treatment needs have been met.

3628 Section 83. Section **26B-5-380**, which is renumbered from Section 62A-1-108.5 is  
3629 renumbered and amended to read:

3630 ~~[62A-1-108.5].~~ **26B-5-380. Mental illness and intellectual disability**  
3631 **examinations -- Responsibilities of the department.**

3632 (1) In accomplishing the department's duties to conduct a competency evaluation under  
3633 Title 77, Utah Code of Criminal Procedure, and a juvenile competency evaluation under  
3634 Section ~~80-6-402~~, the department shall proceed as outlined in this section and within  
3635 appropriations authorized by the Legislature.

3636 (2) When the department is ordered by a court to conduct a competency evaluation, the  
3637 department shall designate a forensic evaluator, selected under Subsection (4), to evaluate the  
3638 defendant in the defendant's current custody or status.

3639 (3) When the department is ordered by the juvenile court to conduct a juvenile  
3640 competency evaluation under Section ~~80-6-402~~, the department shall:

3641 (a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor;  
3642 and

3643 (b) upon a finding of good cause and order of the court, designate a second examiner to  
3644 evaluate the minor.

3645 (4) The department shall establish criteria, in consultation with the Commission on  
3646 Criminal and Juvenile Justice, and shall contract with persons to conduct competency

evaluations and juvenile competency evaluations under Subsections (2) and (3)(b). In making this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(5) Nothing in this section prohibits the department, at the request of defense counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal Procedure, and for good cause shown, from proposing a person who has not been previously selected under Subsection (4) to contract with the department to conduct the evaluation. In selecting that person, the criteria of the department established under Subsection (4) and the provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

Section 84. Section **26B-5-401**, which is renumbered from Section 62A-15-701 is renumbered and amended to read:

**Part 4. Commitment of Persons Under Age 18**

~~[62A-15-701].~~      **26B-5-401. Definitions.**

~~[As]~~ In addition to the definitions in Section [26B-5-301](#), as used in this part:

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

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

(3) "Legal custody" means:

(a) the right to determine where and with whom the child shall live;

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

(c) the right to authorize surgery or other extraordinary medical care.

(4) "Physical custody" means:

(a) placement of a child in any residential or inpatient setting;

(b) the right to physical custody of a child;

(c) the right and duty to protect the child; and

(d) the duty to provide, or insure that the child is provided with, adequate food, clothing, shelter, and ordinary medical care.

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

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

Section 85. Section **26B-5-402**, which is renumbered from Section 62A-15-702 is renumbered and amended to read:

**~~[62A-15-702].~~      26B-5-402.    Treatment and commitment of minors in the public mental health system.**

A child is entitled to due process proceedings, in accordance with the requirements of this part, whenever the child:

(1) may receive or receives services through the public mental health system and is placed, by a local mental health authority, in a physical setting where his liberty interests are restricted, including residential and inpatient placements; or

(2) receives treatment in which a constitutionally protected privacy or liberty interest may be affected, including the administration of antipsychotic medication, electroshock therapy, and psychosurgery.

Section 86. Section **26B-5-403**, which is renumbered from Section 62A-15-703 is renumbered and amended to read:

**~~[62A-15-703].~~      26B-5-403.    Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.**

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and

shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

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

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

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

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

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

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

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

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

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

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

(d) The fact finder may allow a child to waive the child's right to be present at the

commitment proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:

(i) the petition for commitment;

(ii) the admission notes;

(iii) the child's diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g) (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health

authority in accordance with the procedures described in Section [~~62A-15-629~~] 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

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

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the

child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

- (i) the original petition for commitment;
- (ii) admission notes;
- (iii) diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

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

3809 court shall review the record and findings of the neutral and detached fact finder, the report of  
3810 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,  
3811 allow or require the testimony of the neutral and detached fact finder, the designated examiner,  
3812 the child, the child's parent or legal guardian, the person who brought the initial petition for  
3813 commitment, or any other person whose testimony the court deems relevant. The court may  
3814 allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that  
3815 waiver is granted, the purpose shall be made a part of the court's record.

3816 (11) Each local mental health authority has an affirmative duty to conduct periodic  
3817 evaluations of the mental health and treatment progress of every child committed to its physical  
3818 custody under this section, and to release any child who has sufficiently improved so that the  
3819 criteria justifying commitment no longer exist.

3820 (12) (a) A local mental health authority or its designee, in conjunction with the child's  
3821 current treating mental health professional may release an improved child to a less restrictive  
3822 environment, as they determine appropriate. Whenever the local mental health authority or its  
3823 designee, and the child's current treating mental health professional, determine that the  
3824 conditions justifying commitment no longer exist, the child shall be discharged and released to  
3825 the child's parent or legal guardian. With regard to a child who is in the physical custody of the  
3826 State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the  
3827 child's current treating mental health professional.

3828 (b) A local mental health authority or its designee, in conjunction with the child's  
3829 current treating mental health professional, is authorized to issue a written order for the  
3830 immediate placement of a child not previously released from an order of commitment into a  
3831 more restrictive environment, if the local authority or its designee and the child's current  
3832 treating mental health professional has reason to believe that the less restrictive environment in  
3833 which the child has been placed is exacerbating the child's mental illness, or increasing the risk  
3834 of harm to self or others.

3835 (c) The written order described in Subsection (12)(b) shall include the reasons for

placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

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

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section ~~62A-15-705~~ 26B-5-405. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section [~~62A-15-704~~] 26B-5-704, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 87. Section **26B-5-404**, which is renumbered from Section 62A-15-704 is renumbered and amended to read:

~~[62A-15-704].~~        **26B-5-404. Invasive treatment -- Due process proceedings.**

(1) For purposes of this section, "invasive treatment" means treatment in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery.

(2) The requirements of this section apply to all children receiving services or treatment from a local mental health authority, its designee, or its provider regardless of whether a local mental health authority has physical custody of the child or the child is receiving outpatient treatment from the local authority, its designee, or provider.

(3) (a) The division shall promulgate rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing due process procedures for children prior to any invasive treatment as follows:

(i) with regard to antipsychotic medications, if either the parent or child disagrees with that treatment, a due process proceeding shall be held in compliance with the procedures established under this Subsection (3);

(ii) with regard to psychosurgery and electroshock therapy, a due process proceeding shall be conducted pursuant to the procedures established under this Subsection (3), regardless of whether the parent or child agree or disagree with the treatment; and

(iii) other possible invasive treatments may be conducted unless either the parent or child disagrees with the treatment, in which case a due process proceeding shall be conducted

3890 pursuant to the procedures established under this Subsection (3).

3891 (b) In promulgating the rules required by Subsection (3)(a), the division shall consider  
3892 the advisability of utilizing an administrative law judge, court proceedings, a neutral and  
3893 detached fact finder, and other methods of providing due process for the purposes of this  
3894 section. The division shall also establish the criteria and basis for determining when invasive  
3895 treatment should be administered.

3896 Section 88. Section **26B-5-405**, which is renumbered from Section 62A-15-705 is  
3897 renumbered and amended to read:

3898 ~~[62A-15-705].~~ **26B-5-405. Commitment proceedings in juvenile court --**  
3899 **Criteria -- Custody.**

3900 (1) (a) Subject to Subsection (1)(b), a commitment proceeding for a child may be  
3901 commenced by filing a written application with the juvenile court of the county in which the  
3902 child resides or is found, in accordance with the procedures described in Section [~~62A-15-631~~]  
3903 26B-5-332.

3904 (b) A commitment proceeding under this section may be commenced only after a  
3905 commitment proceeding under Section [~~62A-15-703~~] 26B-5-403 has concluded without the  
3906 child being committed.

3907 (2) The juvenile court shall order commitment to the physical custody of a local mental  
3908 health authority if, upon completion of the hearing and consideration of the record, the juvenile  
3909 court finds by clear and convincing evidence that:

3910 (a) the child has a mental illness[~~, as defined in Section 62A-15-602~~];

3911 (b) the child demonstrates a risk of harm to the child or others;

3912 (c) the child is experiencing significant impairment in the child's ability to perform  
3913 socially;

3914 (d) the child will benefit from the proposed care and treatment; and

3915 (e) there is no appropriate less restrictive alternative.

3916 (3) The juvenile court may not commit a child under Subsection (1) directly to the

3917 Utah State Hospital.

3918 (4) The local mental health authority has an affirmative duty to:

3919 (a) conduct periodic reviews of children committed to the local mental health  
3920 authority's custody in accordance with this section; and

3921 (b) release any child who has sufficiently improved so that the local mental health  
3922 authority, or the local mental authority's designee, determines that commitment is no longer  
3923 appropriate.

3924 (5) If a child is committed to the custody of a local mental health authority, or the local  
3925 mental health authority's designee, by the juvenile court, the local mental health authority, or  
3926 the local mental health authority's designee, shall give the juvenile court written notice of the  
3927 intention to release the child not fewer than five days before the day on which the child is  
3928 released.

3929 Section 89. Section **26B-5-406**, which is renumbered from Section 62A-15-706 is  
3930 renumbered and amended to read:

3931 ~~[62A-15-706].~~ **26B-5-406. Parent advocate.**

3932 The division shall establish the position of a parent advocate to assist parents of  
3933 children with a mental illness who are subject to the procedures required by this part.

3934 Section 90. Section **26B-5-407**, which is renumbered from Section 62A-15-707 is  
3935 renumbered and amended to read:

3936 ~~[62A-15-707].~~ **26B-5-407. Confidentiality of information and records --**  
3937 **Exceptions -- Penalty.**

3938 (1) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records  
3939 Access and Management Act, all certificates, applications, records, and reports made for the  
3940 purpose of this part that directly or indirectly identify a patient or former patient or an  
3941 individual whose commitment has been sought under this part, shall be kept confidential and  
3942 may not be disclosed by any person except as follows:

3943 (a) the individual identified consents after reaching 18 years ~~[of age]~~ old;

(b) the child's parent or legal guardian consents;  
(c) disclosure is necessary to carry out any of the provisions of this part; or  
(d) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it, and that failure to make the disclosure would be contrary to the public interest.

(2) A person who violates any provision of this section is guilty of a class B misdemeanor.

Section 91. Section **26B-5-408**, which is renumbered from Section 62A-15-708 is renumbered and amended to read:

~~[62A-15-708].~~      **26B-5-408. Mechanical restraints -- Clinical record.**

Mechanical restraints may not be applied to a child unless it is determined, by the local mental health authority or its designee in conjunction with the child's current treating mental health professional, that they are required by the needs of that child. Every use of a mechanical restraint and the reasons for that use shall be made a part of the child's clinical record, under the signature of the local mental health authority, its designee, and the child's current treating mental health professional.

Section 92. Section **26B-5-409**, which is renumbered from Section 62A-15-709 is renumbered and amended to read:

~~[62A-15-709].~~      **26B-5-409. Habeas corpus.**

Any child committed in accordance with Section ~~[62A-15-703]~~ 26B-5-403 is entitled to a writ of habeas corpus upon proper petition by himself or next of friend to the ~~[district]~~ court in the district in which he is detained.

Section 93. Section **26B-5-410**, which is renumbered from Section 62A-15-710 is renumbered and amended to read:

~~[62A-15-710].~~      **26B-5-410. Restrictions and limitations -- Civil rights and privileges.**

(1) Subject to the specific rules of the division, and except to the extent that the local

mental health authority or its designee, in conjunction with the child's current treating mental health professional, determines that it is necessary for the welfare of the person to impose restrictions, every child committed to the physical custody of a local mental health authority under Section [~~62A-15-703~~] 26B-5-403 is entitled to:

(a) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside of the facility;

(b) receive visitors; and

(c) exercise his civil rights.

(2) When any right of a child is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the child's treatment record. Any continuing denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment record. Notice of that continuing denial in excess of 30 days shall be sent to the division.

(3) Notwithstanding any limitations authorized under this section on the right of communication, each child committed to the physical custody of a local mental health authority is entitled to communicate by sealed mail with his attorney, the local mental health authority, its designee, his current treating mental health professional, and the court, if commitment was court ordered. In no case may the child be denied a visit with the legal counsel or clergy of his choice.

(4) Each local mental health authority shall provide appropriate and reasonable means and arrangements for informing children and their parents or legal guardians of their rights as provided in this part, and for assisting them in making and presenting requests for release.

(5) All local mental health facilities shall post a statement, promulgated by the division, describing patient's rights under Utah law.

Section 94. Section **26B-5-411**, which is renumbered from Section 62A-15-711 is renumbered and amended to read:

~~[62A-15-711]~~. **26B-5-411. Standards for care and treatment.**

Every child is entitled to humane care and treatment and to medical care and treatment

in accordance with the prevailing standards accepted in medical practice, psychiatric nursing practice, social work practice, and the practice of clinical psychology.

Section 95. Section **26B-5-412**, which is renumbered from Section 62A-15-712 is renumbered and amended to read:

**[62A-15-712].      26B-5-412. Responsibilities of the division.**

(1) The division shall ensure that the requirements of this part are met and applied uniformly by local mental health authorities across the state.

(2) Because the division must, under Section [~~62A-15-103~~] 26B-5-102, contract with, review, approve, and oversee local mental health authority plans, and withhold funds from local mental health authorities and public and private providers for contract noncompliance or misuse of public funds, the division shall:

(a) require each local mental health authority to submit its plan to the division by May 1 of each year; and

(b) conduct an annual program audit and review of each local mental health authority in the state, and its contract provider.

(3) The annual audit and review described in Subsection (2)(b) shall, in addition to items determined by the division to be necessary and appropriate, include a review and determination regarding whether or not:

(a) public funds allocated to local mental health authorities are consistent with services rendered and outcomes reported by it or its contract provider; and

(b) each local mental health authority is exercising sufficient oversight and control over public funds allocated for mental health programs and services.

(4) The Legislature may refuse to appropriate funds to the division if the division fails to comply with the procedures and requirements of this section.

Section 96. Section **26B-5-413**, which is renumbered from Section 62A-15-713 is renumbered and amended to read:

**[62A-15-713].      26B-5-413. Contracts with local mental health authorities --**

4025 **Provisions.**

4026           When the division contracts with a local mental health authority to provide mental  
4027 health programs and services in accordance with the provisions of this chapter and Title 17,  
4028 Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include  
4029 at least the following provisions:

4030           (1) that an independent auditor shall conduct any audit of the local mental health  
4031 authority or its contract provider's programs or services, pursuant to the provisions of Title 51,  
4032 Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
4033 Other Local Entities Act;

4034           (2) in addition to the requirements described in Title 51, Chapter 2a, Accounting  
4035 Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the  
4036 division:

4037           (a) shall prescribe guidelines and procedures, in accordance with those formulated by  
4038 the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of  
4039 officers, directors, and specified employees of the private contract provider, to assure the state  
4040 that no personal benefit is gained from travel or other expenses; and

4041           (b) may prescribe specific items to be addressed by that audit, depending upon the  
4042 particular needs or concerns relating to the local mental health authority or contract provider at  
4043 issue;

4044           (3) the local mental health authority or its contract provider shall invite and include all  
4045 funding partners in its auditor's pre- and exit conferences;

4046           (4) each member of the local mental health authority shall annually certify that he has  
4047 received and reviewed the independent audit and has participated in a formal interview with the  
4048 provider's executive officers;

4049           (5) requested information and outcome data will be provided to the division in the  
4050 manner and within the timelines defined by the division;

4051           (6) all audit reports by state or county persons or entities concerning the local mental

health authority or its contract provider shall be provided to the executive director of the department, the local mental health authority, and members of the contract provider's governing board; and

(7) the local mental health authority or its contract provider will offer and provide mental health services to residents who are indigent and who meet state criteria for serious and persistent mental illness or severe emotional disturbance.

Section 97. Section **26B-5-501**, which is renumbered from Section 62A-15-1202 is renumbered and amended to read:

**Part 5. Essential Treatment and Intervention**

**[62A-15-1202]. 26B-5-501. Definitions.**

[As] In addition to the definitions in Section 26B-5-301, as used in this part:

(1) "Emergency, life saving treatment" means treatment that is:

(a) provided at a licensed health care facility or licensed human services program;

(b) provided by a licensed health care professional;

(c) necessary to save the life of the patient; and

(d) required due to the patient's:

(i) use of an illegal substance; or

(ii) excessive use or misuse of a prescribed medication.

(2) "Essential treatment examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specifically qualified by training or experience in the diagnosis of substance use disorder; 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 substance use disorder.

(3) "Relative" means an adult who is a spouse, parent, stepparent, grandparent, child, or sibling of an individual.

(4) "Serious harm" means the individual, due to substance use disorder, is at serious

4079 risk of:

4080 (a) drug overdose;

4081 (b) suicide;

4082 (c) serious bodily self-injury;

4083 (d) serious bodily injury because the individual is incapable of providing the basic  
4084 necessities of life, including food, clothing, or shelter; or

4085 (e) causing or attempting to cause serious bodily injury to another individual.

4086 (5) "Substance use disorder" means the same as that term is defined in the current  
4087 edition of the Diagnostic and Statistical Manual of Mental Disorders published by the  
4088 American Psychiatric Association.

4089 Section 98. Section **26B-5-502**, which is renumbered from Section 62A-15-1201 is  
4090 renumbered and amended to read:

4091 ~~[62A-15-1201]~~. **26B-5-502. Statement of legislative intent.**

4092 To address the serious public health crisis of substance use disorder related deaths and  
4093 life-threatening opioid addiction, and to allow and enable caring relatives to seek essential  
4094 treatment and intervention, as may be necessary, on behalf of a sufferer of a substance use  
4095 disorder, the Legislature enacts the Essential Treatment and Intervention Act.

4096 Section 99. Section **26B-5-503**, which is renumbered from Section 62A-15-1203 is  
4097 renumbered and amended to read:

4098 ~~[62A-15-1203]~~. **26B-5-503. Petition for essential treatment -- Contents --**  
4099 **Commitment to pay.**

4100 (1) A relative seeking essential treatment and intervention for a sufferer of a substance  
4101 use disorder may file a petition with the ~~[district]~~ court of the county in which the sufferer of  
4102 the substance use disorder resides or is found.

4103 (2) The petition shall include:

4104 (a) the respondent's:

4105 (i) legal name;

4106 (ii) date of birth, if known;  
4107 (iii) social security number, if known; and  
4108 (iv) residence and current location, if known;  
4109 (b) the petitioner's relationship to the respondent;  
4110 (c) the name and residence of the respondent's legal guardian, if any and if known;  
4111 (d) a statement that the respondent:  
4112 (i) is suffering from a substance use disorder; and  
4113 (ii) if not treated for the substance use disorder presents a serious harm to self or  
4114 others;  
4115 (e) the factual basis for the statement described in Subsection (2)(d); and  
4116 (f) at least one specified local substance abuse authority or approved treatment facility  
4117 or program where the respondent may receive essential treatment.  
4118 (3) Any petition filed under this section:  
4119 (a) may be accompanied by proof of health insurance to provide for the respondent's  
4120 essential treatment;  
4121 (b) shall be accompanied by a binding commitment to pay, signed by the petitioner or  
4122 another individual, obligating the petitioner or other individual to pay all treatment costs  
4123 beyond those covered by the respondent's health insurance policy for court-ordered essential  
4124 treatment for the respondent; and  
4125 (c) may be accompanied by documentation of emergency, life saving treatment  
4126 provided to the respondent.  
4127 (4) Nothing in this section alters the contractual relationship between a health insurer  
4128 and an insured individual.  
4129 Section 100. Section **26B-5-504**, which is renumbered from Section 62A-15-1204 is  
4130 renumbered and amended to read:  
4131 **~~[62A-15-1204].~~ 26B-5-504. Criteria for essential treatment and intervention.**  
4132 A [district] court shall order an individual to undergo essential treatment for a substance

4133 use disorder when the [~~district~~] court determines by clear and convincing evidence that the  
4134 individual:

- 4135 (1) suffers from a substance use disorder;  
4136 (2) can reasonably benefit from the essential treatment;  
4137 (3) is unlikely to substantially benefit from a less-restrictive alternative treatment; and  
4138 (4) presents a serious harm to self or others.

4139 Section 101. Section **26B-5-505**, which is renumbered from Section 62A-15-1205 is  
4140 renumbered and amended to read:

4141 ~~[62A-15-1205].~~ **26B-5-505. Proceeding for essential treatment -- Duties of**  
4142 **court -- Disposition.**

4143 (1) A [~~district~~] court shall review the assertions contained in the verified petition  
4144 described in Section [~~62A-15-1203~~] 26B-5-503.

4145 (2) If the court determines that the assertions, if true, are sufficient to order the  
4146 respondent to undergo essential treatment, the court shall:

4147 (a) set an expedited date for a time-sensitive hearing to determine whether the court  
4148 should order the respondent to undergo essential treatment for a substance use disorder;

4149 (b) provide notice of:

4150 (i) the contents of the petition, including all assertions made;

4151 (ii) a copy of any order for detention or examination;

4152 (iii) the date of the hearing;

4153 (iv) the purpose of the hearing;

4154 (v) the right of the respondent to be represented by legal counsel; and

4155 (vi) the right of the respondent to request a preliminary hearing before submitting to an  
4156 order for examination;

4157 (c) provide notice to:

4158 (i) the respondent;

4159 (ii) the respondent's guardian, if any; and

4160 (iii) the petitioner; and  
4161 (d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be  
4162 examined before the hearing date:  
4163 (i) by two essential treatment examiners; or  
4164 (ii) by one essential treatment examiner, if documentation before the court  
4165 demonstrates that the respondent received emergency, life saving treatment:  
4166 (A) within 30 days before the day on which the petition for essential treatment and  
4167 intervention was filed; or  
4168 (B) during the pendency of the petition for essential treatment and intervention.  
4169 (3) An essential treatment examiner shall examine the respondent to determine:  
4170 (a) whether the respondent meets each of the criteria described in Section  
4171 ~~[62A-15-1204]~~ [26B-5-504](#);  
4172 (b) the severity of the respondent's substance use disorder, if any;  
4173 (c) what forms of treatment would substantially benefit the respondent, if the examiner  
4174 determines that the respondent has a substance use disorder; and  
4175 (d) the appropriate duration for essential treatment, if essential treatment is  
4176 recommended.  
4177 (4) An essential treatment examiner shall certify the examiner's findings to the court  
4178 within 24 hours after completion of the examination.  
4179 (5) The court may, based upon the findings of an essential treatment examiner,  
4180 terminate the proceedings and dismiss the petition.  
4181 (6) The parties may, at any time, make a binding stipulation to an essential treatment  
4182 plan and submit that plan to the court for court order.  
4183 (7) At the hearing, the petitioner and the respondent may testify and may  
4184 cross-examine witnesses.  
4185 (8) If, upon completion of the hearing, the court finds that the criteria in Section  
4186 ~~[62A-15-1204]~~ [26B-5-504](#) are met, the court shall order essential treatment for an initial period

4187 that:

4188 (a) does not exceed 360 days, subject to periodic review as provided in Section  
4189 ~~[62A-15-1206]~~ 26B-5-507; and

4190 (b) (i) is recommended by an essential treatment examiner; or

4191 (ii) is otherwise agreed to at the hearing.

4192 (9) The court shall designate the facility for the essential treatment, as:

4193 (a) described in the petition;

4194 (b) recommended by an essential treatment examiner; or

4195 (c) agreed to at the hearing.

4196 (10) The court shall issue an order that includes the court's findings and the reasons for  
4197 the court's determination.

4198 (11) The court may order the petitioner to be the respondent's personal representative,  
4199 as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

4200 Section 102. Section **26B-5-506**, which is renumbered from Section 62A-15-1205.5 is  
4201 renumbered and amended to read:

4202 ~~[62A-15-1205.5]~~. **26B-5-506. Failure to comply with court order.**

4203 (1) The provisions of this section apply after a respondent has been afforded full due  
4204 process rights, as provided in this Essential Treatment and Intervention Act, including notice,  
4205 an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that  
4206 the evidence meets the clear and convincing standard, as described in Section ~~[62A-15-1204]~~  
4207 26B-5-504, for a court to order essential treatment and intervention.

4208 (2) When a respondent fails to comply with a court order issued under Subsection  
4209 ~~[62A-15-1205]~~ 26B-5-505(2)(d) or (10), the court may:

4210 (a) find the respondent in contempt under Subsection 78B-6-301(5); and

4211 (b) issue a warrant of commitment under Section 78B-6-312.

4212 (3) When a peace officer executes a warrant issued under this section, the officer shall  
4213 take the respondent into protective custody and transport the respondent to the location

4214 specified by the court.

4215 (4) Notwithstanding Subsection (3), if a peace officer determines through the peace  
4216 officer's experience and training that taking the respondent into protective custody or  
4217 transporting the respondent would increase the risk of substantial danger to the respondent or  
4218 others, a peace officer may exercise discretion to not take the respondent into custody or  
4219 transport the respondent, as permitted by policies and procedures established by the peace  
4220 officer's law enforcement agency and any applicable federal or state statute, or case law.

4221 Section 103. Section **26B-5-507**, which is renumbered from Section 62A-15-1206 is  
4222 renumbered and amended to read:

4223 ~~[62A-15-1206].~~ **26B-5-507. Periodic review -- Discharge.**

4224 A local substance abuse authority or an approved treatment facility or program that  
4225 provides essential treatment shall:

4226 (1) at least every 90 days after the day on which a patient is admitted, unless a court  
4227 orders otherwise, examine or cause to be examined a patient who has been ordered to receive  
4228 essential treatment;

4229 (2) notify the patient and the patient's personal representative or guardian, if any, of the  
4230 substance and results of the examination;

4231 (3) discharge an essential treatment patient if the examination determines that the  
4232 conditions justifying essential treatment and intervention no longer exist; and

4233 (4) after discharging an essential treatment patient, send a report describing the reasons  
4234 for discharge to the clerk of the court where the proceeding for essential treatment was held and  
4235 to the patient's personal representative or guardian, if any.

4236 Section 104. Section **26B-5-508**, which is renumbered from Section 62A-15-1207 is  
4237 renumbered and amended to read:

4238 ~~[62A-15-1207].~~ **26B-5-508. Seventy-two-hour emergency treatment pending**  
4239 **a final court order.**

4240 (1) A court may order a respondent to be hospitalized for up to 72 hours if:

(a) an essential treatment examiner has examined the respondent and certified that the respondent meets the criteria described in Section [~~62A-15-1204~~] 26B-5-504; and

(b) the court finds by clear and convincing evidence that the respondent presents an imminent threat of serious harm to self or others as a result of a substance use disorder.

(2) An individual who is admitted to a hospital under this section shall be released from the hospital within 72 hours after admittance, unless a treating physician or essential treatment examiner determines that the individual continues to pose an imminent threat of serious harm to self or others.

(3) If a treating physician or essential treatment examiner makes the determination described in Subsection (2), the individual may be detained for as long as the threat of serious harm remains imminent, but not more than 10 days after the day on which the individual was hospitalized, unless a court orders otherwise.

(4) A treating physician or an essential treatment examiner shall, as frequently as practicable, examine an individual hospitalized under this section and release the individual if it is determined that a threat of imminent serious harm no longer exists.

Section 105. Section **26B-5-509**, which is renumbered from Section 62A-15-1207.5 is renumbered and amended to read:

**[~~62A-15-1207.5~~].     26B-5-509. Emergency, life saving treatment -- Temporary personal representative.**

(1) When an individual receives emergency, life saving treatment:

(a) a licensed health care professional, at the health care facility where the emergency, life saving treatment is provided, may ask the individual who, if anyone, may be contacted and informed regarding the individual's treatment;

(b) a treating physician may hold the individual in the health care facility for up to 48 hours, if the treating physician determines that the individual poses a serious harm to self or others; and

(c) a relative of the individual may petition a court to be designated as the individual's

personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the individual's medical and mental health care related to a substance use disorder.

(2) The petition described in Subsection (1)(c) shall include:

(a) the respondent's:

(i) legal name;

(ii) date of birth, if known;

(iii) social security number, if known; and

(iv) residence and current location, if known;

(b) the petitioner's relationship to the respondent;

(c) the name and residence of the respondent's legal guardian, if any and if known;

(d) a statement that the respondent:

(i) is suffering from a substance use disorder; and

(ii) has received, within the last 72 hours, emergency, life saving treatment;

(e) the factual basis for the statement described in Subsection (2)(d); and

(f) the name of any other individual, if any, who may be designated as the respondent's personal representative.

(3) A court shall grant a petition for designation as a personal representative, ex parte, if it appears from the petition for designation as a court-designated personal representative that:

(a) the respondent is suffering from a substance use disorder;

(b) the respondent received emergency, life saving treatment within 10 days before the day on which the petition for designation as a personal representative is filed;

(c) the petitioner is a relative of the respondent; and

(d) no other individual is otherwise designated as the respondent's personal representative.

(4) When a court grants, ex parte, a petition for designation as a personal representative, the court:

(a) shall provide notice to the respondent;

(b) shall order the petitioner to be the respondent's personal representative for 10 days after the day on which the court designates the petitioner as the respondent's personal representative; and

(c) may extend the duration of the order:

(i) for good cause shown, after the respondent has been notified and given a proper and sufficient opportunity to respond; or

(ii) if the respondent consents to an extension.

Section 106. Section **26B-5-510**, which is renumbered from Section 62A-15-1208 is renumbered and amended to read:

~~[62A-15-1208].~~      **26B-5-510. Confidentiality.**

(1) The purpose of [~~Part 12, Essential Treatment and Intervention Act,~~] this part is to provide a process for essential treatment and intervention to save lives, preserve families, and reduce substance use disorder, including opioid addiction.

(2) An essential treatment petition and any other document filed in connection with the petition for essential treatment is confidential and protected.

(3) A hearing on an essential treatment petition is closed to the public, and only the following individuals and their legal counsel may be admitted to the hearing:

(a) parties to the petition;

(b) the essential treatment examiners who completed the court-ordered examination under Subsection [~~62A-15-1205~~] 26B-5-505(3);

(c) individuals who have been asked to give testimony; and

(d) individuals to whom notice of the hearing is required to be given under Subsection [~~62A-15-1205~~] 26B-5-505(2)(c).

(4) Testimony, medical evaluations, the petition, and other documents directly related to the adjudication of the petition and presented to the court in the interest of the respondent may not be construed or applied as an admission of guilt to a criminal offense.

(5) A court may, if applicable, enforce a previously existing warrant for a respondent or

a warrant for a charge that is unrelated to the essential treatment petition filed under this part.

Section 107. Section **26B-5-511**, which is renumbered from Section 62A-15-1209 is renumbered and amended to read:

~~[62A-15-1209].~~      **26B-5-511. Essential treatment for substance use disorder -- Rights of patient.**

All applicable rights guaranteed to a patient by Sections [~~62A-15-641 and 62A-15-642~~] 26B-5-310 and 26B-5-311 shall be guaranteed to an individual who is ordered to undergo essential treatment for a substance use disorder.

Section 108. Section **26B-5-601**, which is renumbered from Section 62A-17-102 is renumbered and amended to read:

**Part 6. Mental Health Intervention and Treatment Programs**

~~[62A-17-102].~~      **26B-5-601. Definitions.**

As used in this [chapter] part:

(1) "211" means the abbreviated dialing code assigned by the Federal Communications Commission for consumer access to community information and referral services.

(2) "ACT team personnel" means a licensed psychiatrist or mental health therapist, or another individual, as determined by the division, who is part of an ACT team.

~~[(2)]~~ (3) "Approved 211 service provider" means a public or nonprofit agency or organization designated by the department to provide 211 services.

(4) (a) "Assertive community treatment" means mental health services and on-site intervention that a person renders to an individual with a mental illness.

(b) "Assertive community treatment" includes the provision of assessment and treatment plans, rehabilitation, support services, and referrals to other community resources.

(5) "Assertive community treatment team" or "ACT team" means a mobile team of medical and mental health professionals that provides assertive community outreach treatment and, based on the individual circumstances of each case, coordinates with other medical providers and appropriate community resources.

(6) "Mental health therapist" means the same as that term is defined in Section [58-60-102](#).

(7) "Mental illness" means the same as that term is defined in Section [26B-5-301](#).

(8) "Psychiatrist" means the same as that term is defined in Section [26B-1-328](#).

~~[(3)]~~ (9) (a) "Utah 211" means an information and referral system that:

- (i) maintains a database of:
  - (A) providers of health and human services; and
  - (B) volunteer opportunities and coordinators throughout the state;
- (ii) assists individuals, families, and communities at no cost in identifying, understanding, and accessing the providers of health and human services; and
- (iii) works collaboratively with state agencies, local governments, community-based organizations, not-for-profit organizations, organizations active in disaster relief, and faith-based organizations.

(b) "Utah 211" does not mean service provided by 911 and first responders.

Section 109. Section **26B-5-602**, which is renumbered from Section 62A-17-103 is renumbered and amended to read:

~~**[62A-17-103].**~~      **26B-5-602. Designated approved 211 service provider --**

**Department responsibilities.**

(1) The department shall designate an approved 211 service provider to provide information to Utah citizens about health and human services available in the citizen's community.

(2) Only a service provider approved by the department may provide 211 telephone services in this state.

(3) The department shall approve a 211 service provider after considering the following:

- (a) the ability of the proposed 211 service provider to meet the national 211 standards recommended by the Alliance of Information and Referral Systems;

- 4376 (b) the financial stability of the proposed 211 service provider;  
4377 (c) the community support for the proposed 211 service provider;  
4378 (d) the relationship between the proposed 211 service provider and other information  
4379 and referral services; and  
4380 (e) other criteria as the department considers appropriate.

4381 (4) The department shall coordinate with the approved 211 service provider and other  
4382 state and local agencies to ensure the joint development and maintenance of a statewide  
4383 information database for use by the approved 211 service provider.

4384 Section 110. Section **26B-5-603**, which is renumbered from Section 62A-17-104 is  
4385 renumbered and amended to read:

4386 ~~[62A-17-104].~~ **26B-5-603. Utah 211 created -- Responsibilities.**

4387 (1) The designated 211 service provider described in Section ~~[62A-17-102]~~ [26B-5-601](#)  
4388 shall be known as Utah 211.

4389 (2) Utah 211 shall, as appropriations allow:

4390 (a) by 2014:

4391 (i) provide the services described in this Subsection (2) 24 hours a day, seven days a  
4392 week;

4393 (ii) abide by the key standards for 211 programs, as specified in the Standards for  
4394 Professional Information and Referral Requirements for Alliance of Information Systems  
4395 Accreditation and Operating 211 systems; and

4396 (iii) be a point of entry for disaster-related information and referral;

4397 (b) track types of calls received and referrals made;

4398 (c) develop, coordinate, and implement a statewide information and referral system  
4399 that integrates existing community-based structures with state and local agencies;

4400 (d) provide information relating to:

4401 (i) health and human services; and

4402 (ii) volunteer opportunities;

4403 (e) create an online, searchable database to provide information to the public about the  
4404 health and human services provided by public or private entities throughout the state, and  
4405 ensure that:

4406 (i) the material on the searchable database is indexed:

4407 (A) geographically to inform an individual about the health and human services  
4408 provided in the area where the individual lives; and

4409 (B) by type of service provided; and

4410 (ii) the searchable database contains links to the Internet sites of any local provider of  
4411 health and human services, if possible, and include:

4412 (A) the name, address, and phone number of organizations providing health and human  
4413 services in a county; and

4414 (B) a description of the type of services provided;

4415 (f) be responsible, in collaboration with state agencies, for raising community  
4416 awareness about available health and human services; and

4417 (g) host meetings on a quarterly basis until calendar year 2014, and on a biannual basis  
4418 beginning in 2014, to seek input and guidance from state agencies, local governments,  
4419 community-based organizations, not-for-profit organizations, and faith-based organizations.

4420 Section 111. Section **26B-5-604**, which is renumbered from Section 62A-17-105 is  
4421 renumbered and amended to read:

4422 ~~[62A-17-105].~~ **26B-5-604. Other state agencies and local governments.**

4423 (1) A state agency or local government institution that provides health and human  
4424 services, or a public or private entity receiving state-appropriated funds to provide health and  
4425 human services, shall provide Utah 211 with information, in a form determined by Utah 211,  
4426 about the services the agency or entity provides for inclusion in the statewide information and  
4427 referral system.

4428 (2) A state agency or local government institution that provides health and human  
4429 services may not establish a new public telephone line or hotline, other than an emergency first

4430 responder hotline, to provide information or referrals unless the agency or institution first:

4431 (a) consults with Utah 211 about using the existing 211 to provide access to the  
4432 information or referrals; and

4433 (b) assesses whether a new line or the existing 211 program would be more cost  
4434 effective.

4435 (3) Nothing in this section prohibits a state agency or local government institution from  
4436 starting a public telephone line or hotline in an emergency situation.

4437 (4) State agencies, local governments, community-based organizations, not-for-profit  
4438 organizations, faith-based organizations, and businesses that engage in providing human  
4439 services may contract with Utah 211 to provide specialized projects, including:

4440 (a) public health campaigns;

4441 (b) seasonal community services; and

4442 (c) expanded point of entry services.

4443 Section 112. Section **26B-5-605**, which is renumbered from Section 62A-17-106 is  
4444 renumbered and amended to read:

4445 **~~[62A-17-106].~~ 26B-5-605. Immunity from liability.**

4446 (1) Except as provided in Subsection (2), Utah 211, its employees, directors, officers,  
4447 and information specialists are not liable to any person in a civil action for injury or loss as a  
4448 result of an act or omission of Utah 211, its employees, directors, officers, or information  
4449 specialists, in connection with:

4450 (a) developing, adopting, implementing, maintaining, or operating the Utah 211  
4451 system;

4452 (b) making Utah 211 available for use by the public; or

4453 (c) providing 211 services.

4454 (2) Utah 211, its employees, directors, officers, and information specialists shall be  
4455 liable to any person in a civil action for an injury or loss resulting from willful or wanton  
4456 misconduct.

Section 113. Section **26B-5-606**, which is renumbered from Section 62A-15-1802 is renumbered and amended to read:

~~[62A-15-1802]~~. **26B-5-606. Division duties -- ACT team license creation.**

(1) To promote the availability of assertive community treatment, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for ACT team personnel and ACT teams, that includes:

(a) the standards the division establishes under Subsection (2); and

(b) guidelines for:

(i) required training and experience of ACT team personnel; and

(ii) the coordination of assertive community treatment and other community resources.

(2) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the certifications described in Subsection (1); and

(ii) create a statewide ACT team plan that:

(A) identifies statewide assertive community treatment needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide assertive community treatment.

(b) The division may delegate the ACT team plan requirement described in Subsection (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community outreach treatment.

Section 114. Section **26B-5-607**, which is renumbered from Section 62A-15-1803 is renumbered and amended to read:

~~[62A-15-1803]~~. **26B-5-607. Grants for development of an ACT team.**

(1) The division shall award grants for the development of one ACT team to provide assertive community treatment to individuals in the state.

(2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed ACT team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed ACT team.

(3) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 115. Section **26B-5-608**, which is renumbered from Section 62A-15-1804 is renumbered and amended to read:

~~[62A-15-1804].~~      **26B-5-608. Housing assistance program for individuals discharged from the Utah State Hospital and receiving assertive community treatment.**

(1) (a) The division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a housing assistance program in consultation with the Utah State Hospital, established in Section ~~[62A-15-601]~~ 26B-5-302, and one or more housing authorities, associations of governments, or nonprofit entities.

(b) The housing assistance program shall provide the housing assistance described in Subsection (1)(c) to individuals:

(i) who are discharged from the Utah State Hospital; and

(ii) who the division determines would benefit from assertive community treatment.

(c) The housing assistance provided under the housing assistance program may include:

(i) subsidizing rent payments for housing;

(ii) subsidizing the provision of temporary or transitional housing; or

(iii) providing money for one-time housing barrier assistance, including rental housing

4511 application fees, utility hookup fees, or rental housing security deposits.

4512 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
4513 Administrative Rulemaking Act, to establish procedures for the operation of the housing  
4514 assistance program described in Subsection (1).

4515 (3) The division shall report to the Health and Human Services Interim Committee  
4516 each year before November 30 regarding:

4517 (a) the entities the division consulted with under Subsection (1)(a);

4518 (b) the number of individuals who are benefitting from the housing assistance program  
4519 described in Subsection (1);

4520 (c) the type of housing assistance provided under the housing assistance program  
4521 described in Subsection (1);

4522 (d) the average monthly dollar amount provided to individuals under the housing  
4523 assistance program described in Subsection (1); and

4524 (e) recommendations regarding improvements or changes to the housing assistance  
4525 program described in Subsection (1).

4526 Section 116. Section **26B-5-609**, which is renumbered from Section 62A-15-1402 is  
4527 renumbered and amended to read:

4528 ~~[62A-15-1402].~~ **26B-5-609.** Department and division duties -- MCOT license  
4529 creation.

4530 (1) As used in this section:

4531 (a) "Commission" means the Behavioral Health Crisis Response Commission created  
4532 in Section [63C-18-202](#).

4533 (b) "Emergency medical service personnel" means the same as that term is defined in  
4534 Section [26B-4-101](#).

4535 (c) "Emergency medical services" means the same as that term is defined in Section  
4536 [26B-4-101](#).

4537 (d) "MCOT certification" means the certification created in this part for MCOT

personnel and mental health crisis outreach services.

(e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(f) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious jeopardy to the individual's health or well-being; or

(ii) a danger to others.

(g) (i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(h) "Mental health therapist" means the same as that term is defined in Section [58-60-102](#).

(i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

~~[(1)]~~ (2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection ~~[(2)]~~ (3); and

(b) guidelines for:

(i) credit for training and experience; and

4565 (ii) the coordination of:  
4566 (A) emergency medical services and mental health crisis services;  
4567 (B) law enforcement, emergency medical service personnel, and mobile crisis outreach  
4568 teams; and  
4569 (C) temporary commitment in accordance with Section ~~[62A-15-629]~~ 26B-5-331.  
4570 ~~[(2)]~~ (3) (a) With recommendations from the commission, the division shall:  
4571 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4572 make rules that establish standards that an applicant is required to meet to qualify for the  
4573 MCOT certification described in Subsection ~~[(1)]~~ (2); and  
4574 (ii) create a statewide MCOT plan that:  
4575 (A) identifies statewide mental health crisis services needs, objectives, and priorities;  
4576 and  
4577 (B) identifies the equipment, facilities, personnel training, and other resources  
4578 necessary to provide mental health crisis services.  
4579 (b) The division may delegate the MCOT plan requirement described in Subsection  
4580 ~~[(2)(a)(ii)]~~ (3)(a)(ii) to a contractor with which the division contracts to provide mental health  
4581 crisis services.  
4582 Section 117. Section **26B-5-610**, which is renumbered from Section 62A-15-1302 is  
4583 renumbered and amended to read:  
4584 ~~[62A-15-1302]~~. **26B-5-610. Contracts for statewide mental health crisis line**  
4585 **and statewide warm line -- Crisis worker and certified peer support specialist**  
4586 **qualification or certification -- Operational standards.**  
4587 (1) As used in this section:  
4588 (a) "Certified peer support specialist" means an individual who:  
4589 (i) meets the standards of qualification or certification that the division sets, in  
4590 accordance with Subsection (3); and  
4591 (ii) staffs the statewide warm line under the supervision of at least one mental health

4592 therapist.

4593 (b) "Commission" means the Behavioral Health Crisis Response Commission created  
4594 in Section [63C-18-202](#).

4595 (c) "Crisis worker" means an individual who:

4596 (i) meets the standards of qualification or certification that the division sets, in  
4597 accordance with Subsection (3); and

4598 (ii) staffs the statewide mental health crisis line, the statewide warm line, or a local  
4599 mental health crisis line under the supervision of at least one mental health therapist.

4600 (d) "Local mental health crisis line" means a phone number or other response system  
4601 that is:

4602 (i) accessible within a particular geographic area of the state; and

4603 (ii) intended to allow an individual to contact and interact with a qualified mental or  
4604 behavioral health professional.

4605 (e) "Mental health crisis" means the same as that term is defined in Section [26B-5-609](#).

4606 (f) "Mental health therapist" means the same as that term is defined in Section  
4607 [58-60-102](#).

4608 (g) "Statewide mental health crisis line" means a statewide phone number or other  
4609 response system that allows an individual to contact and interact with a qualified mental or  
4610 behavioral health professional 24 hours per day, 365 days per year.

4611 (h) "Statewide warm line" means a statewide phone number or other response system  
4612 that allows an individual to contact and interact with a qualified mental or behavioral health  
4613 professional or a certified peer support specialist.

4614 [~~(1)~~] (2) (a) The division shall enter into a new contract or modify an existing contract  
4615 to manage and operate, in accordance with this part, the statewide mental health crisis line and  
4616 the statewide warm line.

4617 (b) Through the contracts described in Subsection [~~(1)~~](a) (2)(a) and in consultation  
4618 with the commission, the division shall set standards of care and practice for:

(i) the mental health therapists and crisis workers who staff the statewide mental health crisis line; and

(ii) the mental health therapists, crisis workers, and certified peer support specialists who staff the statewide warm line.

~~[(2)]~~ (3) (a) The division shall establish training and minimum standards for the qualification or certification of:

(i) crisis workers who staff the statewide mental health crisis line, the statewide warm line, and local mental health crisis lines; and

(ii) certified peer support specialists who staff the statewide warm line.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection ~~[(2)(a)]~~ (3)(a).

(4) In consultation with the commission, the division shall ensure that:

(a) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:

(i) mental health therapists; or

(ii) crisis workers;

(b) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health crisis line, an individual described in Subsection (4)(a) answers the call without the caller first:

(i) waiting on hold; or

(ii) being screened by an individual other than a mental health therapist or crisis worker;

(c) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line;

(d) the following individuals are available to staff and answer calls to the statewide

4646 warm line during the hours and days of operation set by the division under Subsection (5):  
4647 (i) mental health therapists;  
4648 (ii) crisis workers; or  
4649 (iii) certified peer support specialists;  
4650 (e) when an individual calls the statewide mental health crisis line, the individual's call  
4651 may be transferred to the statewide warm line if the individual is not experiencing a mental  
4652 health crisis; and  
4653 (f) when an individual calls the statewide warm line, the individual's call may be  
4654 transferred to the statewide mental health crisis line if the individual is experiencing a mental  
4655 health crisis.  
4656 (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
4657 Administrative Rulemaking Act, to establish the hours and days of operation for the statewide  
4658 warm line.  
4659 Section 118. Section **26B-5-611**, which is renumbered from Section 62A-15-1101 is  
4660 renumbered and amended to read:  
4661 **[62A-15-1101]. 26B-5-611. Suicide prevention -- Reporting requirements.**  
4662 (1) As used in this section:  
4663 (a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory  
4664 Council created in Section [63M-7-301](#).  
4665 (b) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)  
4666 within the Department of Public Safety.  
4667 (c) "Coalition" means the Statewide Suicide Prevention Coalition created under  
4668 Subsection (3).  
4669 (d) "Coordinator" means the state suicide prevention coordinator appointed under  
4670 Subsection (2).  
4671 (e) "Fund" means the Governor's Suicide Prevention Fund created in Section  
4672 [26B-1-325](#).

(f) "Intervention" means an effort to prevent a person from attempting suicide.

(g) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.

(h) "Postvention" means intervention after a suicide attempt or a suicide death to reduce risk and promote healing.

(i) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.

~~[(1)]~~ (2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

~~[(2)]~~ (3) The coordinator shall:

(a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and

(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

~~[(3)]~~ (4) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training;

(h) postvention training; or

(i) a public education campaign to improve public awareness about warning signs of suicide and suicide prevention resources.

4700           ~~[(4)]~~ (5) The coordinator shall coordinate with the following to gather statistics, among  
4701 other duties:

4702           (a) local mental health and substance abuse authorities;

4703           (b) the State Board of Education, including the public education suicide prevention  
4704 coordinator described in Section ~~53G-9-702~~;

4705           ~~[(c) the Department of Health;]~~

4706           (c) applicable divisions and offices within the department;

4707           (d) health care providers, including emergency rooms;

4708           (e) federal agencies, including the Federal Bureau of Investigation;

4709           (f) other unbiased sources; and

4710           (g) other public health suicide prevention efforts.

4711           ~~[(5)]~~ (6) The coordinator shall provide a written report to the Health and Human  
4712 Services Interim Committee, at or before the October meeting every year, on:

4713           (a) implementation of the state suicide prevention program, as described in Subsections  
4714 ~~[(1) and (3)]~~ (2) and (4);

4715           (b) data measuring the effectiveness of each component of the state suicide prevention  
4716 program;

4717           (c) funds appropriated for each component of the state suicide prevention program; and

4718           (d) five-year trends of suicides in Utah, including subgroups of youths and adults and  
4719 other subgroups identified by the state suicide prevention coordinator.

4720           ~~[(6)]~~ (7) The coordinator shall, in consultation with the bureau, implement and manage  
4721 the operation of the firearm safety program described in Subsection ~~[62A-15-103]~~  
4722 26B-5-102(3).

4723           ~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4724 Act, the division shall make rules:

4725           (a) governing the implementation of the state suicide prevention program, consistent  
4726 with this section; and

4727 (b) in conjunction with the bureau, defining the criteria for employers to apply for  
4728 grants under the Suicide Prevention Education Program described in Section [~~62A-15-103.1~~]  
4729 26B-5-110, which shall include:

4730 (i) attendance at the suicide prevention education course described in Subsection  
4731 [~~62A-15-103~~] 26B-5-102(3); and

4732 (ii) distribution of the firearm safety brochures or packets created in Subsection  
4733 [~~62A-15-103~~] 26B-5-102(3), but does not require the distribution of a cable-style gun lock with  
4734 a firearm if the firearm already has a trigger lock or comparable safety mechanism.

4735 [~~(8)~~] (9) As funding by the Legislature allows, the coordinator shall award grants, not  
4736 to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the  
4737 needs of children who have been served by the Division of Juvenile Justice and Youth  
4738 Services.

4739 [~~(9)~~] (10) The coordinator and the coalition shall submit to the advisory council, no  
4740 later than October 1 each year, a written report detailing the previous fiscal year's activities to  
4741 fund, implement, and evaluate suicide prevention activities described in this section.

4742 Section 119. Section **26B-5-612**, which is renumbered from Section 26-1-43 is  
4743 renumbered and amended to read:

4744 [~~26-1-43~~]. **26B-5-612. Integrated behavioral health care grant program.**

4745 (1) As used in this section:

4746 (a) "Integrated behavioral health care services" means coordinated physical and  
4747 behavioral health care services for one patient.

4748 (b) "Local mental health authority" means a local mental health authority described in  
4749 Section 17-43-301.

4750 (c) "Project" means a project described in Subsection (2).

4751 (2) Before July 1 of each year, the department shall issue a request for proposals in  
4752 accordance with this section to award a grant to a local mental health authority for development  
4753 or expansion of a project to provide effective delivery of integrated behavioral health care

4754 services.

4755 (3) To be considered for a grant award under Subsection (2), a local mental health  
4756 authority shall submit an application to the department that:

4757 (a) explains the benefits of integrated behavioral health care services to a patient who is  
4758 receiving mental health or substance use disorder treatment;

4759 (b) describes the local mental health authority's operational plan for delivery of  
4760 integrated behavioral health care services under the proposed project and any data or  
4761 evidence-based practices supporting the likely success of the operational plan;

4762 (c) includes:

4763 (i) the number of patients to be served by the local mental health authority's proposed  
4764 project; and

4765 (ii) the cost of the local mental health authority's proposed project; and

4766 (d) provides details regarding:

4767 (i) any plan to use funding sources in addition to the grant award under this section for  
4768 the local mental health authority's proposed project;

4769 (ii) any existing or planned contracts or partnerships between the local mental health  
4770 authority and other individuals or entities to develop or implement the local mental health  
4771 authority's proposed project; and

4772 (iii) the sustainability and reliability of the local mental health authority's proposed  
4773 project.

4774 (4) In evaluating a local mental health authority's application under Subsection (3) to  
4775 determine the grant award under Subsection (2), the department shall consider:

4776 (a) how the local mental health authority's proposed project will ensure effective  
4777 provision of integrated behavioral health care services;

4778 (b) the cost of the local mental health authority's proposed project;

4779 (c) the extent to which any existing or planned contracts or partnerships or additional  
4780 funding sources described in the local mental health authority's application are likely to benefit

the proposed project; and

(d) the sustainability and reliability of the local mental health authority's proposed project.

(5) Before July 1, 2025, the department shall report to the Health and Human Services Interim Committee regarding:

(a) any knowledge gained or obstacles encountered in providing integrated behavioral health care services under each project;

(b) data gathered in relation to each project; and

(c) recommendations for expanding a project statewide.

Section 120. Section **26B-6-101** is amended to read:

**CHAPTER 6. LONG TERM SERVICES AND SUPPORTS, AGING, AND  
DISABILITIES**

**Part 1. Aging and Adult Services**

**26B-6-101. Chapter definitions.**

~~[Reserved]~~ As used in this chapter:

(1) "Adult" or "high risk adult" means a person 18 years old or older who experiences a condition:

(a) that places the person at a high risk of being unable to care for themselves:

(i) as determined by assessment; and

(ii) due to the onset of a physical or cognitive impairment or frailty; and

(b) for which the person is not eligible to receive services under:

(i) Part 4, Division of Services for People with Disabilities; or

(ii) Chapter 5, Health Care -- Substance Use and Mental Health.

(2) "Aging" and "aged" means a person 60 years old or older.

(3) "Area agency" means an area agency that provides services to the aged, high risk adults, or both within a planning and service area.

(4) "Area agency on aging" means a public or private nonprofit agency or office

4808 designated by the division to:

4809 (a) operate within a planning and service area of the state; and

4810 (b) develop and implement a broad range of services for the aged in the area described

4811 in Subsection (4)(a).

4812 (5) "Area agency on high risk adults" means a public or private nonprofit agency or  
4813 office designated by the division to:

4814 (a) operate within a planning and service area of the state; and

4815 (b) develop and implement services for high risk adults in the area described in

4816 Subsection (5)(a).

4817 (6) "Board" means the Board of Aging and Adult Services created in Section

4818 [26B-1-426](#).

4819 (7) "Director" means the director of the division.

4820 (8) "Division" means the Division of Aging and Adult Services within the department.

4821 (9) "Personal care attendant" means a person who:

4822 (a) is selected by:

4823 (i) an aged person;

4824 (ii) an agent of an aged person;

4825 (iii) a high risk adult; or

4826 (iv) an agent of a high risk adult; and

4827 (b) provides personal services to the:

4828 (i) aged person described in Subsection (9)(a)(i); or

4829 (ii) high risk adult described in Subsection (9)(a)(iii).

4830 (10) "Personal services" means nonmedical care and support, including assisting a  
4831 person with:

4832 (a) meal preparation;

4833 (b) eating;

4834 (c) bathing;

- 4835        (d) dressing;  
4836        (e) personal hygiene; or  
4837        (f) daily living activities.

4838        (11) "Planning and service area" means a geographical area of the state designated by  
4839 the division for purposes of planning, development, delivery, and overall administration of  
4840 services for the aged or high risk adults.

4841        (12) (a) "Public funds" means state or federal funds that are disbursed by:

- 4842        (i) the department;  
4843        (ii) the division;  
4844        (iii) an area agency; or  
4845        (iv) an area agency on aging.

4846        (b) "Public funds" includes:

- 4847        (i) Medicaid funds; and  
4848        (ii) Medicaid waiver funds.

4849        Section 121. Section **26B-6-102**, which is renumbered from Section 62A-3-102 is  
4850 renumbered and amended to read:

4851        **[62A-3-102].        26B-6-102. Division created.**

4852        There is created a Division of Aging and Adult Services within the department, under  
4853 the administration and general supervision of the executive director.

4854        Section 122. Section **26B-6-103**, which is renumbered from Section 62A-3-103 is  
4855 renumbered and amended to read:

4856        **[62A-3-103].        26B-6-103. Director of division -- Appointment --**  
4857 **Qualifications.**

4858        (1) The director of the division shall be appointed by the executive director with the  
4859 concurrence of the board.

4860        (2) The director shall have a bachelor's degree from an accredited university or college,  
4861 be experienced in administration, and be knowledgeable in matters concerning the aging and

4862 adult populations.

4863 (3) The director is the administrative head of the division.

4864 Section 123. Section **26B-6-104**, which is renumbered from Section 62A-3-104 is

4865 renumbered and amended to read:

4866 **[62A-3-104].** **26B-6-104. Authority of division.**

4867 (1) The division is the sole state agency, as defined by the Older Americans Act of  
4868 1965, 42 U.S.C. 3001 et seq., to:

4869 (a) serve as an effective and visible advocate for the aging and adult population of this  
4870 state;

4871 (b) develop and administer a state plan under the policy direction of the board; and

4872 (c) take primary responsibility for state activities relating to provisions of the Older  
4873 Americans Act of 1965, as amended.

4874 (2) (a) The division has authority to designate:

4875 (i) planning and service areas for the state; and

4876 (ii) an area agency on aging within each planning and service area to design and  
4877 implement a comprehensive and coordinated system of services and programs for the aged  
4878 within appropriations from the Legislature.

4879 (b) Designation as an area agency on aging may be withdrawn:

4880 (i) upon request of the area agency on aging; or

4881 (ii) upon noncompliance with the provisions of the:

4882 (A) Older Americans Act of 1965, 42 U.S.C. Sec. 3001 et seq.;

4883 (B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C. Sec.  
4884 3001 et seq.;

4885 (C) provisions of this chapter; or

4886 (D) rules, policies, or procedures established by the division.

4887 (3) (a) The division has the authority to designate:

4888 (i) planning and service areas for the state; and

(ii) subject to Subsection (3)(b), an area agency on high risk adults within each planning and service area to design and implement a comprehensive and coordinated system of case management and programs for high risk adults within appropriations from the Legislature.

(b) For purposes of Subsection (3)(a)(ii), before October 1, 1998, the division shall designate as the area agency on high risk adults in a planning and service area:

(i) the area agency on aging that operates within the same geographic area if that agency requests, before July 1, 1998, to expand that agency's current contract with the division to include the responsibility of:

(A) being the area agency on high risk adults; or

(B) operating the area agency on high risk adults:

(I) through joint cooperation with one or more existing area agencies on aging; and

(II) without reducing geographical coverage in any service area; or

(ii) a public or private nonprofit agency or office if the area agency on aging that operates within the same geographic area has not made a request in accordance with Subsection (3)(b)(i).

(c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.

(ii) The division's efforts to establish area agencies on high risk adults shall start with counties with a population of more than 150,000 people.

(d) Designation as an area agency on high risk adults may be withdrawn:

(i) upon request by the area agency; or

(ii) upon noncompliance with:

(A) state law;

(B) federal law; or

(C) rules, policies, or procedures established by the division.

(4) (a) The division may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act:

(i) seek federal grants, loans, or participation in federal programs; and

(ii) receive and distribute state and federal funds for the division's programs and services to the aging and adult populations of the state.

(b) The division may not disburse public funds to a personal care attendant as payment for personal services rendered to an aged person or high risk adult, except as provided in Section [~~62A-3-104.3~~] [26B-6-107](#).

(5) The division has authority to establish, either directly or by contract, programs of advocacy, monitoring, evaluation, technical assistance, and public education to enhance the quality of life for aging and adult citizens of the state.

(6) In accordance with the rules of the division and Title 63G, Chapter 6a, Utah Procurement Code, the division may contract with:

(a) the governing body of an area agency to provide a comprehensive program of services; or

(b) public and private entities for special services.

(7) The division has authority to provide for collection, compilation, and dissemination of information, statistics, and reports relating to issues facing aging and adult citizens.

(8) The division has authority to prepare and submit reports regarding the operation and administration of the division to the department, the Legislature, and the governor, as requested.

(9) The division shall:

(a) implement and enforce policies established by the board governing all aspects of the division's programs for aging and adult persons in the state;

(b) in order to ensure compliance with all applicable state and federal statutes, policies, and procedures, monitor and evaluate programs provided by or under contract with:

(i) the division;

(ii) area agencies; and

(iii) an entity that receives funds from an area agency;

(c) examine expenditures of public funds;

4943 (d) withhold funds from programs based on contract noncompliance;  
4944 (e) review and approve plans of area agencies in order to ensure:  
4945 (i) compliance with division policies; and  
4946 (ii) a statewide comprehensive program;  
4947 (f) in order to further programs for aging and adult persons and prevent duplication of  
4948 services, promote and establish cooperative relationships with:  
4949 (i) state and federal agencies;  
4950 (ii) social and health agencies;  
4951 (iii) education and research organizations; and  
4952 (iv) other related groups;  
4953 (g) advocate for the aging and adult populations;  
4954 (h) promote and conduct research on the problems and needs of aging and adult  
4955 persons;  
4956 (i) submit recommendations for changes in policies, programs, and funding to the:  
4957 (i) governor; and  
4958 (ii) Legislature; and  
4959 (j) (i) accept contributions to and administer the funds contained in the [“]Out and  
4960 About[”] Homebound Transportation Assistance Fund created in Section [62A-3-110]  
4961 [26B-1-323](#); and  
4962 (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
4963 Rulemaking Act, to facilitate the administration of the [“]Out and About[”] Homebound  
4964 Transportation Assistance Fund in accordance with Section [62A-3-110] [26B-1-323](#).  
4965 Section 124. Section **26B-6-105**, which is renumbered from Section 62A-3-104.1 is  
4966 renumbered and amended to read:  
4967 ~~[62A-3-104.1]~~. **26B-6-105. Powers and duties of area agencies --**  
4968 **Registration as a limited purpose entity.**  
4969 (1) An area agency that provides services to an aged person, or a high risk adult shall

- 4970 within the area agency's respective jurisdiction:
- 4971 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,  
4972 hearings, and levies that affect a person described in this Subsection (1);
- 4973 (b) design and implement a comprehensive and coordinated system of services within a  
4974 designated planning and service area;
- 4975 (c) conduct periodic reviews and evaluations of needs and services;
- 4976 (d) prepare and submit to the division plans for funding and service delivery for  
4977 services within the designated planning and service area;
- 4978 (e) establish, either directly or by contract, programs licensed under Chapter 2,  
4979 ~~[Licensure of]~~ Part 1, Human Services Programs and Facilities;
- 4980 (f) (i) appoint an area director;
- 4981 (ii) prescribe the area director's duties; and
- 4982 (iii) provide adequate and qualified staff to carry out the area plan described in  
4983 Subsection (1)(d);
- 4984 (g) establish rules not contrary to policies of the board and rules of the division,  
4985 regulating local services and facilities;
- 4986 (h) operate other services and programs funded by sources other than those  
4987 administered by the division;
- 4988 (i) establish mechanisms to provide direct citizen input, including an area agency  
4989 advisory council with a majority of members who are eligible for services from the area  
4990 agency;
- 4991 (j) establish fee schedules; and
- 4992 (k) comply with the requirements and procedures of:
- 4993 (i) Title 11, Chapter 13, Interlocal Cooperation Act; and
- 4994 (ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
4995 Organizations, and Other Local Entities Act.
- 4996 (2) Before disbursing any public funds, an area agency shall require that all entities

4997 receiving any public funds agree in writing that:

4998 (a) the division may examine the entity's program and financial records; and

4999 (b) the auditor of the local area agency may examine and audit the entity's program and  
5000 financial records, if requested by the local area agency.

5001 (3) An area agency on aging may not disburse public funds to a personal care attendant  
5002 as payment for personal services rendered to an aged person or high risk adult, except as  
5003 provided in Section [~~62A-3-104.3~~] [26B-6-107](#).

5004 (4) (a) For the purpose of providing services pursuant to this part, a local area agency  
5005 may receive:

5006 (i) property;

5007 (ii) grants;

5008 (iii) gifts;

5009 (iv) supplies;

5010 (v) materials;

5011 (vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);

5012 and

5013 (vii) contributions.

5014 (b) If a gift is conditioned upon the gift's use for a specified service or program, the gift  
5015 shall be used for the specific service or program.

5016 (5) (a) Area agencies shall award all public funds in compliance with:

5017 (i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

5018 (ii) a county procurement ordinance that requires procurement procedures similar to  
5019 those described in Subsection (5)(a)(i).

5020 (b) (i) If all initial bids on a project are rejected, the area agency shall publish a new  
5021 invitation to bid.

5022 (ii) If no satisfactory bid is received by the area agency described in Subsection

5023 (5)(b)(i), when the bids received from the second invitation are opened the area agency may

5024 execute a contract without requiring competitive bidding.

5025 (c) (i) An area agency need not comply with the procurement provisions of this section  
5026 when it disburses public funds to another governmental entity.

5027 (ii) For purposes of this Subsection (5)(c), "governmental entity" means any political  
5028 subdivision or institution of higher education of the state.

5029 (d) (i) Contracts awarded by an area agency shall be for a:

5030 (A) fixed amount; and

5031 (B) limited period.

5032 (ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in  
5033 available funding for the same contract purpose without competition.

5034 (6) Local area agencies shall comply with:

5035 (a) applicable state and federal:

5036 (i) statutes;

5037 (ii) policies; and

5038 (iii) audit requirements; and

5039 (b) directives resulting from an audit described in Subsection (6)(a)(iii).

5040 (7) (a) Each area agency shall register and maintain the area agency's registration as a  
5041 limited purpose entity, in accordance with Section 67-1a-15.

5042 (b) An area agency that fails to comply with Subsection (7)(a) or Section 67-1a-15 is  
5043 subject to enforcement by the state auditor, in accordance with Section 67-3-1.

5044 Section 125. Section **26B-6-106**, which is renumbered from Section 62A-3-104.2 is  
5045 renumbered and amended to read:

5046 ~~[62A-3-104.2].~~ **26B-6-106. Contracts for services.**

5047 When an area agency has established a plan to provide services authorized by this  
5048 chapter, and those services meet standards fixed by rules of the board, the area agency may  
5049 enter into a contract with the division for services to be furnished by that area agency for an  
5050 agreed compensation to be paid by the division.

5051 Section 126. Section **26B-6-107**, which is renumbered from Section 62A-3-104.3 is  
5052 renumbered and amended to read:

5053 ~~[62A-3-104.3].~~ **26B-6-107. Disbursal of public funds -- Background check of**  
5054 **a personal care attendant.**

5055 (1) ~~[For purposes of]~~ As used in this section, "office" means ~~[the same as that term is~~  
5056 ~~defined in Section 62A-2-101]~~ Office of Licensing within the department.

5057 (2) Public funds may not be disbursed to a personal care attendant as payment for  
5058 personal services rendered to an aged person or high risk adult unless the office approves the  
5059 personal care attendant to have direct access and provide services to children or vulnerable  
5060 adults pursuant to Section ~~[62A-2-120]~~ 26B-2-120.

5061 (3) For purposes of Subsection (2), the office shall conduct a background check of a  
5062 personal care attendant:

5063 (a) who desires to receive public funds as payment for the personal services described  
5064 in Subsection (2); and

5065 (b) using the same procedures established for a background check of an applicant for a  
5066 license under Section ~~[62A-2-120]~~ 26B-2-120.

5067 Section 127. Section **26B-6-108**, which is renumbered from Section 62A-3-105 is  
5068 renumbered and amended to read:

5069 ~~[62A-3-105].~~ **26B-6-108. Matching requirements for state and federal**  
5070 **Older American funds.**

5071 (1) Except as provided in Subsection (2), a local area agency on aging that receives  
5072 state or federal Older Americans Act Supportive Services, Older Americans Act Congregate  
5073 Meals, or Older Americans Act Home Delivered Meals related funds from the division to  
5074 provide programs and services under this chapter shall match those funds in an amount at least  
5075 equal to:

5076 (a) 15% of service dollars; and

5077 (b) 25% of administrative dollars.

(2) A local area agency on aging is not required to match cash-in-lieu funds related to the Home Delivered Meals program or congregate meals.

(3) A local area agency on aging may include services, property, or other in-kind contributions to meet the administrative dollars match but may only use cash to meet the service dollars match.

Section 128. Section **26B-6-109**, which is renumbered from Section 62A-3-106 is renumbered and amended to read:

~~[62A-3-106].~~        **26B-6-109. Eligibility criteria.**

Eligibility for services provided by the division directly or through contractual arrangements shall be determined by criteria established by the division and approved by the board.

Section 129. Section **26B-6-110**, which is renumbered from Section 62A-3-106.5 is renumbered and amended to read:

~~[62A-3-106.5].~~        **26B-6-110. Agency responsible to investigate and provide services.**

(1) ~~[For purposes of]~~ As used in this section, "responsible agency" means the agency responsible to investigate or provide services in a particular case under the rules established under Subsection (2)(a).

(2) In order to avoid duplication in responding to a report of alleged abuse, neglect, or exploitation of a vulnerable adult who resides in a long-term care facility, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish procedures to:

(a) determine whether Adult Protective Services or the Long-Term Care Ombudsman Program will be responsible to investigate or provide services in a particular case; and

(b) determine whether, and under what circumstances, the agency described in Subsection (2)(a) that is not the responsible agency will provide assistance to the responsible agency in a particular case.

5105 (3) Notwithstanding Subsection (2), or the rules made pursuant to Subsection (2),  
5106 Adult Protective Services shall be the agency within the division that is responsible for  
5107 receiving all reports of alleged abuse, neglect, or exploitation of a vulnerable adult as provided  
5108 in Section [~~62A-3-305~~] 26B-6-205.

5109 Section 130. Section **26B-6-111**, which is renumbered from Section 62A-3-107 is  
5110 renumbered and amended to read:

5111 [~~62A-3-107~~]. **26B-6-111. Requirements for establishing division policy.**

5112 (1) The board is the program policymaking body for the division and for programs  
5113 funded with state and federal money under Sections [~~62A-3-104.1 and 62A-3-104.2~~]  
5114 26B-6-105 and 26B-6-106. In establishing policy and reviewing existing policy, the board  
5115 shall seek input from local area agencies, consumers, providers, advocates, division staff, and  
5116 other interested parties as determined by the board.

5117 (2) The board shall establish, by rule, procedures for developing its policies which  
5118 ensure that local area agencies are given opportunity to comment and provide input on any new  
5119 policy of the board and on any proposed changes in the board's existing policy. The board  
5120 shall also provide a mechanism for review of its existing policy and for consideration of policy  
5121 changes that are proposed by those local area agencies.

5122 (3) A member may not receive compensation or benefits for the member's service, but,  
5123 at the executive director's discretion, may receive per diem and travel expenses in accordance  
5124 with:

5125 (a) Section 63A-3-106;

5126 (b) Section 63A-3-107; and

5127 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
5128 63A-3-107.

5129 Section 131. Section **26B-6-112**, which is renumbered from Section 62A-3-107.5 is  
5130 renumbered and amended to read:

5131 [~~62A-3-107.5~~]. **26B-6-112. Allocation of funds to acquire facilities.**

(1) (a) The board may make grants to local area agencies on aging to acquire facilities to provide community-based services for aged persons. Grants under this section shall be made solely from appropriations made to the division for implementation of this section.

(b) Acquisition of a facility may include acquisition of real property, construction of a new facility, acquisition of an existing facility, or alteration, renovation, or improvement of an existing facility.

(c) The local area agency may allocate grants received under this section to a local nonprofit or governmental agency that owns or operates a facility to provide community-based services for aged persons.

(2) A local area agency on aging or the local nonprofit or governmental agency that owns or operates the facility and receives grant money from the area agency shall provide a matching contribution of at least 25% of the grant funds it receives under this section. A matching contribution may include funds, services, property, or other in-kind contributions.

(3) In making grants under this section, the board may consider:

(a) the extent and availability of public and private funding to operate programs in the facility to be acquired and to provide for maintenance of that facility;

(b) the need for community-based services in the geographical area served by the area agency on aging;

(c) the availability of private and local funds to assist in acquisition, alteration, renovation, or improvement of the facility; and

(d) the extent and level of support for acquisition of the facility from local government officials, private citizens, interest groups, and others.

(4) Grants to local area agencies on aging and any local nonprofit or governmental agency that owns or operates a facility and receives grant money from the area agency under this section are subject to the oversight and control by the division described in Subsection ~~[62A-3-104]~~ [26B-6-104](#)(8).

(5) It is the intent of the Legislature that the grants made under this section serve the

statewide purpose of providing support for senior citizens throughout the state, and that the grants shall be made to serve as effectively as possible the facilities in greatest need of assistance.

Section 132. Section **26B-6-113**, which is renumbered from Section 62A-3-108 is renumbered and amended to read:

~~[62A-3-108].~~        **26B-6-113. Allocation of funds to local area agencies -- Formulas.**

(1) (a) The board shall establish by rule formulas for allocating funds to local area agencies through contracts to provide programs and services in accordance with this part based on need.

(b) Determination of need shall be based on the number of eligible persons located in the local area which the division is authorized to serve, unless federal regulations require otherwise or the board establishes, by valid and accepted data, that other defined factors are relevant and reliable indicators of need.

(c) Formulas established by the board shall include a differential to compensate for additional costs of providing services in rural areas.

(2) Formulas established under Subsection (1) shall be in effect on or before July 1, 1998, and apply to all state and federal funds appropriated by the Legislature to the division for local area agencies, but does not apply to:

- (a) funds that local area agencies receive from sources other than the division;
- (b) funds that local area agencies receive from the division to operate a specific program within its jurisdiction which is available to all residents of the state;
- (c) funds that a local area agency receives from the division to meet a need that exists only within that local area; and
- (d) funds that a local area agency receives from the division for research projects.

Section 133. Section **26B-6-114**, which is renumbered from Section 62A-3-109 is renumbered and amended to read:

5186 ~~[62A-3-109]~~. **26B-6-114. Adjudicative proceedings.**

5187 Adjudicative proceedings held by, or relating to, the division or the board shall comply  
5188 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

5189 Section 134. Section **26B-6-201**, which is renumbered from Section 62A-3-301 is  
5190 renumbered and amended to read:

5191 **Part 2. Abuse, Neglect, or Exploitation of a Vulnerable Adult**

5192 ~~[62A-3-301]~~. **26B-6-201. Definitions.**

5193 As used in this part:

5194 (1) "Abandonment" means any knowing or intentional action or failure to act,  
5195 including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the  
5196 vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or  
5197 medical or other health care.

5198 (2) "Abuse" means:

5199 (a) knowingly or intentionally:

5200 (i) attempting to cause harm;

5201 (ii) causing harm; or

5202 (iii) placing another in fear of harm;

5203 (b) unreasonable or inappropriate use of physical restraint, medication, or isolation that  
5204 causes or is likely to cause harm to a vulnerable adult;

5205 (c) emotional or psychological abuse;

5206 (d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the  
5207 Individual; or

5208 (e) deprivation of life sustaining treatment, or medical or mental health treatment,  
5209 except:

5210 (i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

5211 (ii) when informed consent, as defined in Section **76-5-111**, has been obtained.

5212 (3) "Adult" means an individual who is 18 years old or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity to consent" means the ability of an individual to understand and communicate regarding the nature and consequences of decisions relating to the individual, and relating to the individual's property and lifestyle, including a decision to accept or refuse services.

(7) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(8) "Counsel" means an attorney licensed to practice law in this state.

(9) "Database" means the statewide database maintained by the division under Section ~~62A-3-311.1~~ [26B-6-210](#).

(10) (a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

(12) "Elder adult" means an individual 65 years old or older.

(13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate

5240 risk of death, serious physical injury, or serious physical, emotional, or financial harm.

5241 (14) "Emergency protective services" means measures taken by Adult Protective  
5242 Services under time-limited, court-ordered authority for the purpose of remediating an  
5243 emergency.

5244 (15) (a) "Emotional or psychological abuse" means knowing or intentional verbal or  
5245 nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering  
5246 mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

5247 (b) "Emotional or psychological abuse" includes intimidating, threatening, isolating,  
5248 coercing, or harassing.

5249 (c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct  
5250 by a vulnerable adult who lacks the capacity to intentionally or knowingly:

5251 (i) engage in the conduct; or

5252 (ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation,  
5253 or confusion.

5254 (16) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or  
5255 76-5b-202.

5256 (17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or  
5257 psychological damage, physical injury, serious physical injury, suffering, or distress inflicted  
5258 knowingly or intentionally.

5259 (18) "Inconclusive" means a finding by the division that there is not a reasonable basis  
5260 to conclude that abuse, neglect, or exploitation occurred.

5261 (19) "Intimidation" means communication through verbal or nonverbal conduct which  
5262 threatens deprivation of money, food, clothing, medicine, shelter, social interaction,  
5263 supervision, health care, or companionship, or which threatens isolation or abuse.

5264 (20) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult  
5265 from having contact with another person, unless the restriction of personal rights is authorized  
5266 by court order, by:

(i) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(b) "Isolation" does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(21) "Lacks capacity to consent" is as defined in Section [76-5-111.4](#).

(22) (a) "Neglect" means:

(i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or

(B) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

5294 (iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment  
5295 plan that causes or is likely to cause harm to the vulnerable adult;

5296 (v) self-neglect by the vulnerable adult; or

5297 (vi) abandonment by a caretaker.

5298 (b) "Neglect" does not include conduct, or failure to take action, that is permitted or  
5299 excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

5300 (23) "Physical injury" includes the damage and conditions described in Section  
5301 76-5-111.

5302 (24) "Protected person" means a vulnerable adult for whom the court has ordered  
5303 protective services.

5304 (25) "Protective services" means services to protect a vulnerable adult from abuse,  
5305 neglect, or exploitation.

5306 (26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food,  
5307 water, medication, health care, shelter, cooling, heating, safety, or other services necessary to  
5308 maintain the vulnerable adult's well being when that failure is the result of the adult's mental or  
5309 physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be  
5310 evidence of self-neglect.

5311 (27) "Serious physical injury" is as defined in Section 76-5-111.

5312 (28) "Supported" means a finding by the division that there is a reasonable basis to  
5313 conclude that abuse, neglect, or exploitation occurred.

5314 (29) "Undue influence" occurs when a person:

5315 (a) uses influence to take advantage of a vulnerable adult's mental or physical  
5316 impairment; or

5317 (b) uses the person's role, relationship, or power:

5318 (i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or  
5319 fear of a vulnerable adult; or

5320 (ii) to gain control deceptively over the decision making of the vulnerable adult.

(30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that person's ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult's own financial resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

Section 135. Section **26B-6-202**, which is renumbered from Section 62A-3-302 is renumbered and amended to read:

**~~[62A-3-302].~~            26B-6-202. Purpose of Adult Protective Services Program.**

Subject to the rules made by the division under Section [~~62A-3-106.5~~] 26B-6-110, Adult Protective Services:

- (1) shall investigate or cause to be investigated reports of alleged abuse, neglect, or exploitation of vulnerable adults;
- (2) shall, where appropriate, provide short-term, limited protective services with the permission of the affected vulnerable adult or the guardian or conservator of the vulnerable adult;
- (3) shall, subject to Section [~~62A-3-320~~] 26B-6-217, provide emergency protective services; and
- (4) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and develop procedures and policies relating to:
  - (a) reporting and investigating incidents of abuse, neglect, or exploitation; and
  - (b) providing protective services to the extent that funds are appropriated by the Legislature for this purpose.

Section 136. Section **26B-6-203**, which is renumbered from Section 62A-3-303 is renumbered and amended to read:

~~[62A-3-303].~~        **26B-6-203. Powers and duties of Adult Protective Services.**

In addition to all other powers and duties that Adult Protective Services is given under this part, Adult Protective Services:

- (1) shall maintain an intake system for receiving and screening reports;
- (2) shall investigate referrals that meet the intake criteria;
- (3) shall conduct assessments of vulnerability and functional capacity as it relates to an allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;
- (4) shall perform assessments based on protective needs and risks for a vulnerable adult who is the subject of a report;
- (5) may address any protective needs by making recommendations to and coordinating with the vulnerable adult or by making referrals to community resources;
- (6) may provide short-term, limited services to a vulnerable adult when family or community resources are not available to provide for the protective needs of the vulnerable adult;
- (7) shall have access to facilities licensed by, or contracted with, the department ~~[or the Department of Health]~~ for the purpose of conducting investigations;
- (8) shall be given access to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including private, controlled, or protected medical or financial records of a vulnerable adult who is the subject of an investigation if:
  - (a) for a vulnerable adult who has the capacity to consent, the vulnerable adult signs a release of information; or
  - (b) for a vulnerable adult who lacks capacity to consent, an administrative subpoena is issued by Adult Protective Services;
- (9) may initiate proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;

5375 (10) shall, subject to Section [~~62A-3-320~~] 26B-6-217, provide emergency protective  
5376 services;

5377 (11) may require all persons, including family members of a vulnerable adult and any  
5378 caretaker, to cooperate with Adult Protective Services in carrying out its duties under this  
5379 chapter, including the provision of statements, documents, exhibits, and other items that assist  
5380 Adult Protective Services in conducting investigations and providing protective services;

5381 (12) may require all officials, agencies, departments, and political subdivisions of the  
5382 state to assist and cooperate within their jurisdictional power with the court, the division, and  
5383 Adult Protective Services in furthering the purposes of this chapter;

5384 (13) may conduct studies and compile data regarding abuse, neglect, and exploitation;  
5385 and

5386 (14) may issue reports and recommendations.

5387 Section 137. Section **26B-6-204**, which is renumbered from Section 62A-3-304 is  
5388 renumbered and amended to read:

5389 ~~[62A-3-304].~~ **26B-6-204. Cooperation by caretaker.**

5390 A caretaker, facility, or other institution shall, regardless of the confidentiality standards  
5391 of the caretaker, facility, or institution:

5392 (1) report abuse, neglect, or exploitation of a vulnerable adult in accordance with this  
5393 chapter;

5394 (2) cooperate with any Adult Protective Services investigation;

5395 (3) provide Adult Protective Services with access to records or documents relating to  
5396 the vulnerable adult who is the subject of an investigation; or

5397 (4) provide evidence in any judicial or administrative proceeding relating to a  
5398 vulnerable adult who is the subject of an investigation.

5399 Section 138. Section **26B-6-205**, which is renumbered from Section 62A-3-305 is  
5400 renumbered and amended to read:

5401 ~~[62A-3-305].~~ **26B-6-205. Reporting requirements -- Investigation --**

**Exceptions -- Immunity -- Penalties -- Nonmedical healing.**

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the

suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse, neglect, or exploitation from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section ~~[26-21-201]~~ [26B-2-238](#), that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law

5456 enforcement agency, under Subsection (1), is subject to a private right of action and liability for  
5457 the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who  
5458 was not reported to Adult Protective Services or to the nearest peace officer or law enforcement  
5459 agency.

5460 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of  
5461 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity  
5462 Act of Utah.

5463 (8) If Adult Protective Services has substantial grounds to believe that an individual  
5464 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in  
5465 accordance with this section, Adult Protective Services shall file a complaint with:

5466 (a) the Division of Professional Licensing if the individual is a health care provider, as  
5467 defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

5468 (b) the appropriate law enforcement agency if the individual is a law enforcement  
5469 officer, as defined in Section 53-13-103; and

5470 (c) the State Board of Education if the individual is an educator, as defined in Section  
5471 53E-6-102.

5472 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails  
5473 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective  
5474 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

5475 (b) If an individual is convicted under Subsection (9)(a), the court may order the  
5476 individual, in addition to any other sentence the court imposes, to:

5477 (i) complete community service hours; or

5478 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable  
5479 adults.

5480 (c) In determining whether it would be appropriate to charge an individual with a  
5481 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a  
5482 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a

vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 139. Section **26B-6-206**, which is renumbered from Section 62A-3-307 is renumbered and amended to read:

~~[62A-3-307].~~        **26B-6-206. Photographing, video, and audio taping.**

Law enforcement or Adult Protective Services investigators may collect evidence regarding alleged abuse, neglect, or exploitation of a vulnerable adult by taking, or causing to be taken, photographs, video tape recordings, or audio or video tape accounts of a vulnerable adult, if the vulnerable adult:

(1) consents to the taking of the photographs, video tape recordings, or audio or video tape accounts; or

(2) lacks the capacity to give the consent described in Subsection (1).

Section 140. Section **26B-6-207**, which is renumbered from Section 62A-3-308 is

5510 renumbered and amended to read:

5511 ~~[62A-3-308].~~ 26B-6-207. **Peace officer's authority to transport --**

5512 **Notification.**

5513 (1) A peace officer may remove and transport, or cause to have transported, a  
5514 vulnerable adult to an appropriate medical or shelter facility, if:

5515 (a) the officer has probable cause to believe that:

5516 (i) by reason of abuse, neglect, or exploitation there exist exigent circumstances; and

5517 (ii) the vulnerable adult will suffer serious physical injury or death if not immediately  
5518 placed in a safe environment;

5519 (b) the vulnerable adult refuses to consent or lacks capacity to consent; and

5520 (c) there is not time to notify interested parties or to apply for a warrant or other court  
5521 order.

5522 (2) A peace officer described in Subsection (1) shall, within four hours after a  
5523 vulnerable adult is transported to an appropriate medical or shelter facility:

5524 (a) notify Adult Protective Services intake; and

5525 (b) request that Adult Protective Services or the division file a petition with the court  
5526 for an emergency protective order.

5527 Section 141. Section **26B-6-208**, which is renumbered from Section 62A-3-309 is  
5528 renumbered and amended to read:

5529 ~~[62A-3-309].~~ 26B-6-208. **Enforcement by division -- Duty of county or**  
5530 **district attorney.**

5531 (1) It is the duty of the county or district attorney, as appropriate under Sections  
5532 [17-18a-202](#) and [17-18a-203](#), to:

5533 (a) assist and represent the division;

5534 (b) initiate legal proceedings to protect vulnerable adults; and

5535 (c) take appropriate action to prosecute the alleged offenders.

5536 (2) If the county or district attorney fails to act upon the request of the division to

5537 provide legal assistance within five business days after the day on which the request is made:

5538 (a) the division may request the attorney general to act; and

5539 (b) the attorney general may, in the attorney general's discretion, assume the  
5540 responsibilities and carry the action forward in place of the county or district attorney.

5541 Section 142. Section **26B-6-209**, which is renumbered from Section 62A-3-311 is  
5542 renumbered and amended to read:

5543 ~~[62A-3-311].~~ **26B-6-209. Requests for records.**

5544 (1) Requests for records maintained by Adult Protective Services shall be made in  
5545 writing to Adult Protective Services.

5546 (2) Classification and disclosure of records shall be made in accordance with Title  
5547 63G, Chapter 2, Government Records Access and Management Act.

5548 Section 143. Section **26B-6-210**, which is renumbered from Section 62A-3-311.1 is  
5549 renumbered and amended to read:

5550 ~~[62A-3-311.1].~~ **26B-6-210. Statewide database -- Restricted use and access.**

5551 (1) The division shall maintain a database for reports of vulnerable adult abuse,  
5552 neglect, or exploitation made pursuant to this part.

5553 (2) The database shall include:

5554 (a) the names and identifying data of the alleged abused, neglected, or exploited  
5555 vulnerable adult and the alleged perpetrator;

5556 (b) information regarding whether or not the allegation of abuse, neglect, or  
5557 exploitation was found to be:

5558 (i) supported;

5559 (ii) inconclusive;

5560 (iii) without merit; or

5561 (iv) for reports for which the finding is made before May 5, 2008:

5562 (A) substantiated; or

5563 (B) unsubstantiated; and

(c) any other information that may be helpful in furthering the purposes of this part, as determined by the division.

(3) Information obtained from the database may be used only:

(a) for statistical summaries compiled by the department that do not include names or other identifying data;

(b) where identification of an individual as a perpetrator may be relevant in a determination regarding whether to grant or deny a license, privilege, or approval made by:

(i) the department;

(ii) the Division of Professional Licensing;

~~[(iii) the Bureau of Licensing, within the Department of Health;]~~

(iii) the Division of Licensing and Background Checks within the department;

(iv) the Bureau of Emergency Medical Services and Preparedness, within the ~~[Department of Health]~~ department, or a designee of the Bureau of Emergency Medical Services and Preparedness;

(v) any government agency specifically authorized by statute to access or use the information in the database; or

(vi) an agency of another state that performs a similar function to an agency described in Subsections (3)(b)(i) through (iv); or

(c) as otherwise specifically provided by law.

Section 144. Section **26B-6-211**, which is renumbered from Section 62A-3-311.5 is renumbered and amended to read:

~~[62A-3-311.5].~~      **26B-6-211. Notice of supported finding -- Procedure for challenging finding -- Limitations.**

(1) (a) Except as provided in Subsection (1)(b), within 15 days after the day on which the division makes a supported finding that a person committed abuse, neglect, or exploitation of a vulnerable adult, the division shall serve the person with a notice of agency action, in accordance with Subsections (2) and (3).

5591 (b) The division may serve the notice described in Subsection (1)(a) within a  
5592 reasonable time after the 15 day period described in Subsection (1)(a) if:

5593 (i) the delay is necessary in order to:

5594 (A) avoid impeding an ongoing criminal investigation or proceeding; or

5595 (B) protect the safety of a person; and

5596 (ii) the notice is provided before the supported finding is used as a basis to deny the  
5597 person a license or otherwise adversely impact the person.

5598 (2) The division shall cause the notice described in Subsection (1)(a) to be served by  
5599 personal service or certified mail.

5600 (3) The notice described in Subsection (1)(a) shall:

5601 (a) indicate that the division has conducted an investigation regarding alleged abuse,  
5602 neglect, or exploitation of a vulnerable adult by the alleged perpetrator;

5603 (b) indicate that, as a result of the investigation described in Subsection (3)(a), the  
5604 division made a supported finding that the alleged perpetrator committed abuse, neglect, or  
5605 exploitation of a vulnerable adult;

5606 (c) include a summary of the facts that are the basis for the supported finding;

5607 (d) indicate that the supported finding may result in disqualifying the person from:

5608 (i) being licensed, certified, approved, or employed by a government agency;

5609 (ii) being employed by a service provider, person, or other entity that contracts with, or  
5610 is licensed by, a government agency; or

5611 (iii) qualifying as a volunteer for an entity described in Subsection (3)(d)(i) or (ii);

5612 (e) indicate that, as a result of the supported finding, the alleged perpetrator's  
5613 identifying information is listed in the database;

5614 (f) indicate that the alleged perpetrator may request a copy of the report of the alleged  
5615 abuse, neglect, or exploitation; and

5616 (g) inform the alleged perpetrator of:

5617 (i) the right described in Subsection (4)(a); and

(ii) the consequences of failing to exercise the right described in Subsection (4)(a) in a timely manner.

(4) (a) The alleged perpetrator has the right, within 30 days after the day on which the notice described in Subsection (1)(a) is served, to challenge the supported finding by filing a request for an informal adjudicative proceeding, under Title 63G, Chapter 4, Administrative Procedures Act.

(b) If the alleged perpetrator fails to file a request for an informal adjudicative proceeding within the time described in Subsection (4)(a), the supported finding will become final and will not be subject to challenge or appeal.

(5) At the hearing described in Subsection (4)(a), the division has the burden of proving, by a preponderance of the evidence, that the alleged perpetrator committed abuse, neglect, or exploitation of a vulnerable adult.

(6) Notwithstanding any provision of this section, an alleged perpetrator described in this section may not challenge a supported finding if a court of competent jurisdiction entered a finding in a proceeding to which the alleged perpetrator was a party, that the alleged perpetrator committed the abuse, neglect, or exploitation of a vulnerable adult, upon which the supported finding is based.

(7) A person who was listed in the database as a perpetrator before May 5, 2008, and who did not have an opportunity to challenge the division's finding that resulted in the listing, may at any time:

(a) request that the division reconsider the division's finding; or

(b) request an informal adjudicative proceeding, under Title 63G, Chapter 4, Administrative Procedures Act, to challenge the finding.

Section 145. Section **26B-6-212**, which is renumbered from Section 62A-3-312 is renumbered and amended to read:

~~[62A-3-312]~~. **26B-6-212. Access to information in database.**

The database and the adult protection case file:

(1) shall be made available to law enforcement agencies, the attorney general's office, city attorneys, the Division of Professional Licensing, and county or district attorney's offices;

(2) shall be released as required under Subsection [63G-2-202\(4\)\(c\)](#); and

(3) may be made available, at the discretion of the division, to:

(a) subjects of a report as follows:

(i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or that adult's attorney or legal guardian; and

(ii) a person identified in a report as having abused, neglected, or exploited a vulnerable adult, or that person's attorney; and

(b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

(i) an employee or contractor of the department who is responsible for the evaluation or assessment of an adult protection case file;

(ii) a multidisciplinary team approved by the division to assist Adult Protective Services in the evaluation, assessment, and disposition of a vulnerable adult case;

(iii) an authorized person or agency providing services to, or responsible for, the care, treatment, assessment, or supervision of a vulnerable adult named in the report as a victim, when in the opinion of the division, that information will assist in the protection of, or provide other benefits to, the victim;

(iv) a licensing authority for a facility, program, or person providing care to a victim named in a report; and

(v) legally authorized protection and advocacy agencies when they represent a victim or have been requested by the division to assist on a case, including:

(A) the Office of Public Guardian, created in Section [~~62A-14-103~~] [26B-6-302](#); and

(B) the Long-Term Care Ombudsman Program, created in Section [~~62A-3-203~~] [26B-2-303](#).

Section 146. Section **26B-6-213**, which is renumbered from Section 62A-3-314 is renumbered and amended to read:

5672           ~~[62A-3-314].~~           **26B-6-213. Private right of action -- Estate asset -- Attorney**  
5673 **fees.**

5674           (1) A vulnerable adult who suffers harm or financial loss as a result of exploitation has  
5675 a private right of action against the perpetrator.

5676           (2) Upon the death of a vulnerable adult, any cause of action under this section shall  
5677 constitute an asset of the estate of the vulnerable adult.

5678           (3) If the plaintiff prevails in an action brought under this section, the court may order  
5679 that the defendant pay the costs and reasonable attorney fees of the plaintiff.

5680           (4) If the defendant prevails in an action brought under this section, the court may  
5681 order that the plaintiff pay the costs and reasonable attorney fees of the defendant, if the court  
5682 finds that the action was frivolous, unreasonable, or taken in bad faith.

5683           Section 147. Section **26B-6-214**, which is renumbered from Section 62A-3-315 is  
5684 renumbered and amended to read:

5685           ~~[62A-3-315].~~           **26B-6-214. Protective services voluntary unless court**  
5686 **ordered.**

5687           (1) Vulnerable adults who receive protective services under this part shall do so  
5688 knowingly or voluntarily or upon district court order.

5689           (2) Protective services may be provided without a court order for a vulnerable adult  
5690 who has the capacity to consent and who requests or knowingly or voluntarily consents to those  
5691 services. Protective services may also be provided for a vulnerable adult whose guardian or  
5692 conservator with authority to consent does consent to those services. When short-term, limited  
5693 protective services are provided, the division and the recipient, or the recipient's guardian or  
5694 conservator, shall execute a written agreement setting forth the purposes and limitations of the  
5695 services to be provided. If consent is subsequently withdrawn by the recipient, the recipient's  
5696 guardian or conservator, or the court, services, including any investigation, shall cease.

5697           (3) A court may order emergency protective services to be provided to a vulnerable  
5698 adult who does not consent or who lacks capacity to consent to protective services in

5699 accordance with Section [~~62A-3-320~~] 26B-6-217.

5700 Section 148. Section **26B-6-215**, which is renumbered from Section 62A-3-316 is  
5701 renumbered and amended to read:

5702 **[~~62A-3-316~~]. 26B-6-215. Costs incurred in providing of protective**  
5703 **services.**

5704 Costs incurred in providing protective services are the responsibility of the vulnerable  
5705 adult when:

5706 (1) the vulnerable adult is financially able to pay for those services, according to rates  
5707 established by the division, and that payment is provided for as part of the written agreement  
5708 for services described in Section [~~62A-3-315~~] 26B-6-214;

5709 (2) the vulnerable adult to be protected is eligible for those services from another  
5710 governmental agency; or

5711 (3) the court appoints a guardian or conservator and orders that the costs be paid from  
5712 the vulnerable adult's estate.

5713 Section 149. Section **26B-6-216**, which is renumbered from Section 62A-3-317 is  
5714 renumbered and amended to read:

5715 **[~~62A-3-317~~]. 26B-6-216. Venue for protective services proceedings.**

5716 Venue for all proceedings related to protective services and emergency protective  
5717 services under this [~~chapter~~] part is in the county where the vulnerable adult resides or is  
5718 present.

5719 Section 150. Section **26B-6-217**, which is renumbered from Section 62A-3-320 is  
5720 renumbered and amended to read:

5721 **[~~62A-3-320~~]. 26B-6-217. Emergency protective services -- Forcible entry.**

5722 (1) Adult Protective Services shall, immediately upon court order, provide emergency  
5723 protective services to a court-designated vulnerable adult.

5724 (2) A court may, without notice, order emergency protective services immediately upon  
5725 receipt of a petition for emergency protective services when a court finds that:

- 5726 (a) the subject of the petition is a vulnerable adult;
- 5727 (b) (i) the vulnerable adult does not have a court-appointed guardian or conservator; or
- 5728 (ii) the guardian or conservator is not effectively performing the guardian's or
- 5729 conservator's duties;
- 5730 (c) an emergency exists; and
- 5731 (d) the welfare, safety, or best interests of the vulnerable adult requires emergency
- 5732 protective services.
- 5733 (3) An emergency protective services order shall specifically designate the services that
- 5734 are approved and the facts that support the provision of those services.
- 5735 (4) Services authorized in an emergency protective services order may include
- 5736 hospitalization, nursing, custodial care, or a change in residence.
- 5737 (5) An emergency protective services order expires five business days after the day on
- 5738 which the court issues the order unless an appropriate party petitions for temporary
- 5739 guardianship pursuant to Section 75-5-310 or the division files a new petition for an emergency
- 5740 services order.
- 5741 (6) If a petition for guardianship or an additional emergency protective services petition
- 5742 is filed within five business days after the day on which the court issues the original emergency
- 5743 protective services order, a court may extend the duration of the original order an additional 15
- 5744 business days after the day on which the subsequent petition is filed to allow for a court hearing
- 5745 on the petition.
- 5746 (7) To implement an emergency protective services order, a court may authorize
- 5747 forcible entry by a peace officer into the premises where the vulnerable adult may be found.
- 5748 Section 151. Section **26B-6-218**, which is renumbered from Section 62A-3-321 is
- 5749 renumbered and amended to read:
- 5750 **[62A-3-321]. 26B-6-218. Petition for injunctive relief when caretaker**
- 5751 **refuses to allow protective services.**
- 5752 (1) When a vulnerable adult is in need of protective services and the caretaker refuses

to allow the provision of those services, the division may petition the court for injunctive relief prohibiting the caretaker from interfering with the provision of protective services.

(2) The division's petition under Subsection (1) shall allege facts sufficient to show that the vulnerable adult is in need of protective services, that the vulnerable adult either consents or lacks capacity to consent to those services, and that the caretaker refuses to allow the provision of those services.

(3) The court may, on appropriate findings and conclusions in accordance with Rule 65A, Utah Rules of Civil Procedure, issue an order enjoining the caretaker from interfering with the provision of protective services.

(4) The petition under Subsection (1) may be joined with a petition under Section ~~[62A-3-320]~~ [26B-6-217](#).

Section 152. Section **26B-6-219**, which is renumbered from Section 62A-3-322 is renumbered and amended to read:

~~[62A-3-322].~~            **26B-6-219. Medical cannabis use by a vulnerable adult or guardian.**

A peace officer or an employee or agent of the division may not solicit or provide, and a court may not order, emergency services for a vulnerable adult based solely on:

(1) the vulnerable adult's possession or use of cannabis in accordance with ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis in accordance with ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 153. Section **26B-6-301**, which is renumbered from Section 62A-14-102 is renumbered and amended to read:

### **Part 3. Office of Public Guardian**

~~[62A-14-102].~~            **26B-6-301. Definitions.**

5780 As used in this ~~[chapter]~~ part:

5781 (1) "Conservator" is as defined in Section [75-1-201](#).

5782 (2) "Court" is as defined in Section [75-1-201](#).

5783 (3) "Estate" is as defined in Section [75-1-201](#).

5784 (4) "Guardian" is as defined in Section [75-1-201](#).

5785 (5) "Incapacitated" means a person who has been determined by a court, pursuant to  
5786 Section [75-5-303](#), to be incapacitated, as defined in Section [75-1-201](#), after the office has  
5787 determined that the person is 18 years of age or older and suffers from a mental or physical  
5788 impairment as part of the prepetition assessment in Section ~~[[62A-14-107](#)]~~ [26B-6-305](#).

5789 (6) "Office" means the Office of Public Guardian.

5790 (7) "Property" is as defined in Section [75-1-201](#).

5791 (8) "Ward" means an incapacitated person for whom the office has been appointed as  
5792 guardian or conservator.

5793 Section 154. Section **26B-6-302**, which is renumbered from Section 62A-14-103 is  
5794 renumbered and amended to read:

5795 ~~[[62A-14-103](#)]~~. **26B-6-302. Office of Public Guardian -- Creation.**

5796 (1) There is created within the department the Office of Public Guardian which has the  
5797 powers and duties provided in this ~~[chapter]~~ part.

5798 (2) The office is under the administrative and general supervision of the executive  
5799 director.

5800 Section 155. Section **26B-6-303**, which is renumbered from Section 62A-14-104 is  
5801 renumbered and amended to read:

5802 ~~[[62A-14-104](#)]~~. **26B-6-303. Director of the office -- Appointment --**  
5803 **Qualifications.**

5804 (1) The director of the office shall be appointed by the executive director.

5805 (2) The director shall have a bachelor's degree from an accredited university or college,  
5806 be experienced in administration, and be knowledgeable in matters concerning guardianship

5807 and conservatorship.

5808 (3) The director is the administrative head of the office.

5809 Section 156. Section **26B-6-304**, which is renumbered from Section 62A-14-105 is

5810 renumbered and amended to read:

5811 **~~[62A-14-105].~~ 26B-6-304. Powers and duties of the office.**

5812 (1) The office shall:

5813 (a) develop and operate a statewide program to:

5814 (i) educate the public about the role and function of guardians and conservators;

5815 (ii) educate guardians and conservators on:

5816 (A) the duties of a guardian and a conservator; and

5817 (B) standards set by the National Guardianship Association for guardians and

5818 conservators; and

5819 (iii) serve as a guardian, conservator, or both for a ward upon appointment by a court

5820 when no other person is able and willing to do so and the office petitioned for or agreed in

5821 advance to the appointment;

5822 (b) possess and exercise all the powers and duties specifically given to the office by  
5823 virtue of being appointed as guardian or conservator of a ward, including the power to access a  
5824 ward's records;

5825 (c) review and monitor the personal and, if appropriate, financial status of each ward  
5826 for whom the office has been appointed to serve as guardian or conservator;

5827 (d) train and monitor each employee and volunteer, and monitor each contract provider  
5828 to whom the office has delegated a responsibility for a ward;

5829 (e) retain all court-delegated powers and duties for a ward;

5830 (f) report on the personal and financial status of a ward as required by a court in

5831 accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their

5832 Property;

5833 (g) handle a ward's funds in accordance with the department's trust account system;

(h) request that the department's audit plan, established pursuant to Section [63I-5-401](#), include the requirement of an annual audit of all funds and property held by the office on behalf of wards;

(i) maintain accurate records concerning each ward, the ward's property, and office services provided to the ward;

(j) make reasonable and continuous efforts to find a family member, friend, or other person to serve as a ward's guardian or conservator;

(k) after termination as guardian or conservator, distribute a ward's property in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property; and

(l) submit recommendations for changes in state law and funding to the governor and the Legislature and report to the governor and Legislature, upon request.

(2) The office may:

(a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, to be appointed an incapacitated person's guardian, conservator, or both after conducting a prepetition assessment under Section ~~[62A-14-107]~~ [26B-6-305](#);

(b) develop and operate a statewide program to recruit, train, supervise, and monitor volunteers to assist the office in providing guardian and conservator services;

(c) delegate one or more responsibilities for a ward to an employee, volunteer, or contract provider, except as provided in Subsection ~~[62A-14-107]~~ [26B-6-305](#)(1);

(d) solicit and receive private donations to provide guardian and conservator services under this ~~[chapter]~~ part; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) effectuate policy; and

(ii) carry out the office's role as guardian and conservator of wards as provided in this chapter.

Section 157. Section **26B-6-305**, which is renumbered from Section 62A-14-107 is renumbered and amended to read:

**~~[62A-14-107].~~      26B-6-305. Prepetition assessment and plan.**

(1) Before the office may file a petition in court to be appointed guardian or conservator of a person, the office shall:

(a) conduct a face-to-face needs assessment, by someone other than a volunteer, to determine whether the person suffers from a mental or physical impairment that renders the person substantially incapable of:

- (i) caring for his personal safety;
- (ii) managing his financial affairs; or
- (iii) attending to and providing for such necessities as food, shelter, clothing, and medical care, to the extent that physical injury or illness may result;

(b) assess the financial resources of the person based on information supplied to the office at the time of assessment;

(c) inquire and, if appropriate, search to determine whether any other person may be willing and able to serve as the person's guardian or conservator; and

(d) determine the form of guardianship or conservatorship to request of a court, if any, giving preference to the least intensive form of guardianship or conservatorship, consistent with the best interests of the person.

(2) The office shall prepare an individualized guardianship or conservator plan for each ward within 60 days of appointment.

Section 158. Section **26B-6-306**, which is renumbered from Section 62A-14-108 is renumbered and amended to read:

**~~[62A-14-108].~~      26B-6-306. Office volunteers.**

(1) A person who desires to be an office volunteer shall:

(a) possess demonstrated personal characteristics of honesty, integrity, compassion, and concern for incapacitated persons; and

5888 (b) upon request, submit information for a background check pursuant to Section  
5889 **26B-1-211**.

5890 (2) An office volunteer may not receive compensation or benefits, but may be  
5891 reimbursed by the office for expenses actually and reasonably incurred, consistent with Title  
5892 67, Chapter 20, Volunteer Government Workers Act.

5893 (3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8,  
5894 Immunity for Persons Performing Voluntary Services Act.

5895 Section 159. Section **26B-6-307**, which is renumbered from Section 62A-14-109 is  
5896 renumbered and amended to read:

5897 ~~**[62A-14-109].**~~ **26B-6-307. Contract for services.**

5898 (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the office may  
5899 contract with one or more providers to perform guardian and conservator duties.

5900 (2) The office shall review and monitor the services provided by a contract provider to  
5901 a ward for whom the office has been appointed guardian or conservator.

5902 Section 160. Section **26B-6-308**, which is renumbered from Section 62A-14-110 is  
5903 renumbered and amended to read:

5904 ~~**[62A-14-110].**~~ **26B-6-308. Court, legal, and other costs.**

5905 (1) The office may not be appointed as the guardian or conservator of a person unless  
5906 the office petitioned for or agreed in advance to the appointment.

5907 (2) Except as provided in Subsection (4), the court shall order the ward or the ward's  
5908 estate to pay for the cost of services rendered under this chapter, including court costs and  
5909 reasonable ~~[attorneys']~~ attorney fees.

5910 (3) If the office recovers ~~[attorneys']~~ attorney fees under Subsection (2), the office shall  
5911 transmit those fees to the attorneys who represented the ward or the office in connection with  
5912 the ward's case.

5913 (4) If a ward is indigent, the office shall provide guardian and conservator services free  
5914 of charge and shall make reasonable efforts to secure pro bono legal services for the ward.

(5) Under no circumstances may court costs or ~~[attorneys']~~ attorney fees be assessed to the office.

Section 161. Section **26B-6-309**, which is renumbered from Section 62A-14-111 is renumbered and amended to read:

~~[62A-14-111].~~      **26B-6-309. Duty of the county attorney or district attorney.**

(1) The attorney general shall advise the office on legal matters and represent the office in legal proceedings.

(2) Upon the request of the attorney general, a county attorney may represent the office in connection with the filing of a petition for appointment as guardian or conservator of an incapacitated person and with routine, subsequent appearances.

Section 162. Section **26B-6-401**, which is renumbered from Section 62A-5-101 is renumbered and amended to read:

**Part 4. Division of Services for People with Disabilities**

~~[62A-5-101].~~      **26B-6-401. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Approved provider" means a person approved by the division to provide home-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section ~~[62A-5-202.5]~~ 26B-1-429.

(3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

(4) "Designated intellectual disability professional" means:

(a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:

(i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or

(B) has at least one year of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or

(b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:

(i) has at least two years of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

(5) "Deteriorating disease" includes:

(a) multiple sclerosis;

(b) muscular dystrophy;

(c) Huntington's chorea;

(d) Alzheimer's disease;

(e) ataxia; or

(f) cancer.

(6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part [2] 5, Utah State Developmental Center.

(7) "Director" means the director of the Division of Services for People with Disabilities.

(8) "Direct service worker" means a person who provides services to a person with a disability:

(a) when the services are rendered in:

(i) the physical presence of the person with a disability; or

(ii) a location where the person rendering the services has access to the physical

5969 presence of the person with a disability; and  
5970 (b) (i) under a contract with the division;  
5971 (ii) under a grant agreement with the division; or  
5972 (iii) as an employee of the division.  
5973 (9) (a) "Disability" means a severe, chronic disability that:  
5974 (i) is attributable to:  
5975 (A) an intellectual disability;  
5976 (B) a condition that qualifies a person as a person with a related condition, as defined  
5977 in 42 C.F.R. Sec. 435.1010;  
5978 (C) a physical disability; or  
5979 (D) a brain injury;  
5980 (ii) is likely to continue indefinitely;  
5981 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a  
5982 substantial functional limitation in three or more of the following areas of major life activity:  
5983 (I) self-care;  
5984 (II) receptive and expressive language;  
5985 (III) learning;  
5986 (IV) mobility;  
5987 (V) self-direction;  
5988 (VI) capacity for independent living; or  
5989 (VII) economic self-sufficiency; or  
5990 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial  
5991 limitation in three or more of the following areas:  
5992 (I) memory or cognition;  
5993 (II) activities of daily life;  
5994 (III) judgment and self-protection;  
5995 (IV) control of emotions;

5996 (V) communication;  
 5997 (VI) physical health; or  
 5998 (VII) employment; and  
 5999 (iv) requires a combination or sequence of special interdisciplinary or generic care,  
 6000 treatment, or other services that:  
 6001 (A) may continue throughout life; and  
 6002 (B) must be individually planned and coordinated.  
 6003 (b) "Disability" does not include a condition due solely to:  
 6004 (i) mental illness;  
 6005 (ii) personality disorder;  
 6006 (iii) deafness or being hard of hearing;  
 6007 (iv) visual impairment;  
 6008 (v) learning disability;  
 6009 (vi) behavior disorder;  
 6010 (vii) substance abuse; or  
 6011 (viii) the aging process.  
 6012 (10) "Division" means the Division of Services for People with Disabilities.  
 6013 (11) "Eligible to receive division services" or "eligibility" means qualification, based  
 6014 on criteria established by the division, to receive services that are administered by the division.  
 6015 (12) "Endorsed program" means a facility or program that:  
 6016 (a) is operated:  
 6017 (i) by the division; or  
 6018 (ii) under contract with the division; or  
 6019 (b) provides services to a person committed to the division under Part [3] 6, Admission  
 6020 to an Intermediate Care Facility for People with an Intellectual Disability.  
 6021 (13) "Licensed physician" means:  
 6022 (a) an individual licensed to practice medicine under:

6023 (i) Title 58, Chapter 67, Utah Medical Practice Act; or  
6024 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or  
6025 (b) a medical officer of the United States Government while in this state in the  
6026 performance of official duties.

6027 (14) "Limited support services" means services that are administered by the division to  
6028 individuals with a disability:

6029 (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for  
6030 Medicare and Medicaid Services that permits the division to limit services to an individual who  
6031 is eligible to receive division services; and

6032 (b) through a program that:

6033 (i) was not operated by the division on or before January 1, 2020; and  
6034 (ii) (A) limits the kinds of services that an individual may receive; or  
6035 (B) sets a maximum total dollar amount for program services provided to each  
6036 individual.

6037 (15) "Physical disability" means a medically determinable physical impairment that has  
6038 resulted in the functional loss of two or more of a person's limbs.

6039 (16) "Public funds" means state or federal funds that are disbursed by the division.

6040 (17) "Resident" means an individual under observation, care, or treatment in an  
6041 intermediate care facility for people with an intellectual disability.

6042 (18) "Sustainability fund" means the Utah State Developmental Center Long-Term  
6043 Sustainability Fund created in Section ~~[62A-5-206.7]~~ 26B-1-331.

6044 Section 163. Section **26B-6-402**, which is renumbered from Section 62A-5-102 is  
6045 renumbered and amended to read:

6046 ~~[62A-5-102]~~. **26B-6-402. Division of Services for People with Disabilities --**  
6047 **Creation -- Authority -- Direction -- Provision of services.**

6048 (1) There is created within the department the Division of Services for People with  
6049 Disabilities, under the administrative direction of the executive director of the department.

(2) In accordance with this ~~chapter~~ part, the division has the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families in this state.

(3) Within appropriations from the Legislature, the division shall provide services to any individual with a disability who is eligible to receive division services.

(4) (a) Except as provided in Subsection (4)(c), any new appropriations designated to serve eligible individuals waiting for services from the division shall be allocated, as determined by the division by rule based on the:

- (i) severity of the disability;
- (ii) urgency of the need for services;
- (iii) ability of a parent or guardian to provide the individual with appropriate care and supervision; and
- (iv) length of time during which the individual has not received services from the division.

(b) Funds from Subsection (4)(a) that are not spent by the division at the end of the fiscal year may be used as set forth in Subsection (7).

(c) Subsections (4)(a) and (b) do not apply to any new appropriations designated to provide limited support services.

(5) The division:

(a) has the functions, powers, duties, rights, and responsibilities described in Section ~~[62A-5-103]~~ 26B-6-403; and

(b) is authorized to work in cooperation with other state, governmental, and private agencies to carry out the responsibilities described in Subsection (5)(a).

(6) Within appropriations authorized by the Legislature, and to the extent allowed under Title XIX of the Social Security Act, the division shall ensure that the services and support that the division provides to an individual with a disability:

- (a) are provided in the least restrictive and most enabling environment;

- 6077 (b) ensure opportunities to access employment; and  
6078 (c) enable reasonable personal choice in selecting services and support that:  
6079 (i) best meet individual needs; and  
6080 (ii) promote:  
6081 (A) independence;  
6082 (B) productivity; and  
6083 (C) integration in community life.
- 6084 (7) (a) Appropriations to the division are nonlapsing.
- 6085 (b) After an individual stops receiving services under this section, the division shall use  
6086 the funds that paid for the individual's services to provide services under this section to another  
6087 eligible individual in an intermediate care facility transitioning to division services, if the funds  
6088 were allocated under a program established under Section [~~26-18-3~~] [26B-3-108](#) to transition  
6089 individuals with intellectual disabilities from an intermediate care facility.
- 6090 (c) Except as provided in Subsection (7)(b), if an individual receiving services under  
6091 Subsection (4)(a) ceases to receive those services, the division shall use the funds that were  
6092 allocated to that individual to provide services to another eligible individual waiting for  
6093 services as described in Subsection (4)(a).
- 6094 (d) Funds unexpended by the division at the end of the fiscal year may be used only for  
6095 one-time expenditures unless otherwise authorized by the Legislature.
- 6096 (e) A one-time expenditure under this section:  
6097 (i) is not an entitlement;  
6098 (ii) may be withdrawn at any time; and  
6099 (iii) may provide short-term, limited services, including:  
6100 (A) respite care;  
6101 (B) service brokering;  
6102 (C) family skill building and preservation classes;  
6103 (D) after school group services; and

6104 (E) other professional services.

6105 Section 164. Section **26B-6-403**, which is renumbered from Section 62A-5-103 is  
6106 renumbered and amended to read:

6107 **~~[62A-5-103].~~ 26B-6-403. Responsibility and authority of division.**

6108 (1) For purposes of this section "administer" means to:

6109 (a) plan;

6110 (b) develop;

6111 (c) manage;

6112 (d) monitor; and

6113 (e) conduct certification reviews.

6114 (2) The division has the authority and responsibility to:

6115 (a) administer an array of services and supports for persons with disabilities and their  
6116 families throughout the state;

6117 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
6118 Rulemaking Act, that establish eligibility criteria for the services and supports described in  
6119 Subsection (2)(a);

6120 (c) consistent with Section [~~62A-5-206~~] 26B-6-506, supervise the programs and  
6121 facilities of the Developmental Center;

6122 (d) in order to enhance the quality of life for a person with a disability, establish either  
6123 directly, or by contract with private, nonprofit organizations, programs of:

6124 (i) outreach;

6125 (ii) information and referral;

6126 (iii) prevention;

6127 (iv) technical assistance; and

6128 (v) public awareness;

6129 (e) supervise the programs and facilities operated by, or under contract with, the  
6130 division;

6131 (f) cooperate with other state, governmental, and private agencies that provide services  
6132 to a person with a disability;

6133 (g) subject to Subsection (3), ensure that a person with a disability is not deprived of  
6134 that person's constitutionally protected rights without due process procedures designed to  
6135 minimize the risk of error when a person with a disability is admitted to an intermediate care  
6136 facility for people with an intellectual disability, including:

6137 (i) the developmental center; and

6138 (ii) facilities within the community;

6139 (h) determine whether to approve providers;

6140 (i) monitor and sanction approved providers, as specified in the providers' contract;

6141 (j) subject to Section [~~62A-5-103.5~~] [26B-6-410](#), receive and disburse public funds;

6142 (k) review financial actions of a provider who is a representative payee appointed by  
6143 the Social Security Administration;

6144 (l) establish standards and rules for the administration and operation of programs  
6145 conducted by, or under contract with, the division;

6146 (m) approve and monitor division programs to insure compliance with the board's rules  
6147 and standards;

6148 (n) establish standards and rules necessary to fulfill the division's responsibilities under  
6149 Part [2] 5, Utah State Developmental Center, and Part [3] 6, Admission to an Intermediate Care  
6150 Facility for People with an Intellectual Disability, with regard to an intermediate care facility  
6151 for people with an intellectual disability;

6152 (o) assess and collect equitable fees for a person who receives services provided under  
6153 this chapter;

6154 (p) maintain records of, and account for, the funds described in Subsection (2)(o);

6155 (q) establish and apply rules to determine whether to approve, deny, or defer the  
6156 division's services to a person who is:

6157 (i) applying to receive the services; or

- 6158 (ii) currently receiving the services;
- 6159 (r) in accordance with state law, establish rules:
- 6160 (i) relating to an intermediate care facility for people with an intellectual disability that
- 6161 is an endorsed program; and
- 6162 (ii) governing the admission, transfer, and discharge of a person with a disability;
- 6163 (s) manage funds for a person residing in a facility operated by the division:
- 6164 (i) upon request of a parent or guardian of the person; or
- 6165 (ii) under administrative or court order; and
- 6166 (t) fulfill the responsibilities described in [~~Chapter 5a, Coordinating Council for~~
- 6167 ~~Persons with Disabilities~~] Section 26B-1-430.
- 6168 (3) The due process procedures described in Subsection (2)(g):
- 6169 (a) shall include initial and periodic reviews to determine the constitutional
- 6170 appropriateness of the placement; and
- 6171 (b) with regard to facilities in the community, do not require commitment to the
- 6172 division.

6173 Section 165. Section **26B-6-404**, which is renumbered from Section 62A-5-104 is

6174 renumbered and amended to read:

6175 [~~62A-5-104~~]. **26B-6-404. Director -- Qualifications -- Responsibilities.**

- 6176 (1) The director of the division shall be appointed by the executive director.
- 6177 (2) The director shall have a bachelor's degree from an accredited university or college,
- 6178 be experienced in administration, and be knowledgeable in developmental disabilities,
- 6179 intellectual disabilities, and other disabilities.
- 6180 (3) The director is the administrative head of the division.
- 6181 (4) The director shall appoint the superintendent of the developmental center and the
- 6182 necessary and appropriate administrators for other facilities operated by the division with the
- 6183 concurrence of the executive director.

6184 Section 166. Section **26B-6-405**, which is renumbered from Section 62A-5-105 is

6185 renumbered and amended to read:

6186 ~~[62A-5-105].~~ **26B-6-405. Division responsibilities -- Policy mediation.**

6187 (1) The division shall establish its rules in accordance with:

6188 (a) the policy of the Legislature as set forth by this ~~[chapter]~~ part; and

6189 (b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

6190 (2) The division shall:

6191 (a) establish program policy for the division, the developmental center, and programs  
6192 and facilities operated by or under contract with the division;

6193 (b) establish rules for the assessment and collection of fees for programs within the  
6194 division;

6195 (c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay  
6196 and implement the schedule with respect to service recipients and their families where not  
6197 otherwise prohibited by federal law or regulation or not otherwise provided for in Section  
6198 ~~[62A-5-109]~~ 26B-6-411;

6199 (d) establish procedures to ensure that private citizens, consumers, private contract  
6200 providers, allied state and local agencies, and others are provided with an opportunity to  
6201 comment and provide input regarding any new policy or proposed revision to an existing  
6202 policy;

6203 (e) provide a mechanism for systematic and regular review of existing policy and for  
6204 consideration of policy changes proposed by the persons and agencies described under  
6205 Subsection (2)(d);

6206 (f) establish and periodically review the criteria used to determine who may receive  
6207 services from the division and how the delivery of those services is prioritized within available  
6208 funding;

6209 (g) review implementation and compliance by the division with policies established by  
6210 the board to ensure that the policies established by the Legislature in this chapter are carried  
6211 out; and

(h) annually report to the executive director.

(3) The executive director shall mediate any differences which arise between the policies of the division and those of any other policy board or division in the department.

Section 167. Section **26B-6-406**, which is renumbered from Section 62A-5-106 is renumbered and amended to read:

~~[62A-5-106].~~        **26B-6-406. Powers of other state agencies -- Severability.**

Nothing in this part shall be construed to supersede or limit the authority granted by law to any other state agency. If any provision of this part, or the application of any provision to the person or circumstance, is held invalid, the remainder of this part shall not be affected.

Section 168. Section **26B-6-407**, which is renumbered from Section 62A-5-103.1 is renumbered and amended to read:

~~[62A-5-103.1].~~        **26B-6-407. Program for provision of supported employment services.**

(1) There is established a program for the provision of supported employment services to be administered by the division.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the implementation and administration of the program described in this section.

(3) In accordance with Subsection (4), within funds appropriated by the Legislature for the program described in this section, the division shall provide supported employment services to a person with a disability who:

(a) is eligible to receive services from the division;

(b) has applied for, and is waiting to, receive services from the division;

(c) is not receiving other ongoing services from the division;

(d) is not able to receive sufficient supported employment services from other sources;

(e) the division determines would substantially benefit from the provision of supported employment services; and

(f) does not require the provision of other ongoing services from the division in order to substantially benefit from the provision of supported employment services.

(4) (a) The division shall provide supported employment services under this section outside of the prioritization criteria established by the division for the receipt of other services from the division.

(b) The division shall establish criteria to determine the priority, between persons eligible for services under this section, for receiving services under this section.

(5) It is the intent of the Legislature that the services provided under the program described in this section:

(a) shall be provided separately from the Medicaid program described in Title XIX of the Social Security Act;

(b) may not be supported with Medicaid funds;

(c) may not be provided as part of a Medicaid waiver;

(d) do not constitute an entitlement of any kind; and

(e) may be withdrawn from a person at any time.

Section 169. Section **26B-6-408**, which is renumbered from Section 62A-5-103.2 is renumbered and amended to read:

**[62A-5-103.2].      26B-6-408. Pilot Program for the Provision of Family Preservation Services.**

(1) There is established a pilot program for the provision of family preservation services to a person with a disability and that person's family, beginning on July 1, 2007, and ending on July 1, 2009.

(2) The family preservation services described in Subsection (1) may include:

(a) family skill building classes;

(b) respite hours for class attendance; or

(c) professional intervention.

(3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

6266 Administrative Rulemaking Act, as necessary for the implementation and administration of this  
6267 section.

6268 (4) In accordance with Subsection (5), within funds appropriated by the Legislature for  
6269 the pilot program described in this section, the division shall provide family preservation  
6270 services to a person with a disability, and that person's family, if that person:

6271 (a) is eligible to receive services from the division;

6272 (b) has applied for, and is willing to receive, services from the division;

6273 (c) is not receiving other ongoing services from the division;

6274 (d) is not able to receive sufficient family preservation services from other sources;

6275 (e) is determined by the division to be a person who would substantially benefit from  
6276 the provision of family preservation services; and

6277 (f) does not require the provision of other ongoing services from the division in order  
6278 to substantially benefit from the provision of family preservation services.

6279 (5) (a) The division shall provide family preservation services under this section  
6280 outside of the prioritization criteria established by the division for the receipt of other services  
6281 from the division.

6282 (b) The division shall establish criteria to determine the priority, between persons  
6283 eligible for services under this section, for receiving services under this section.

6284 (6) It is the intent of the Legislature that the services provided under the pilot program  
6285 described in this section:

6286 (a) shall be provided separately from the Medicaid program described in Title XIX of  
6287 the Social Security Act;

6288 (b) may not be supported with Medicaid funds;

6289 (c) may not be provided as part of a Medicaid waiver;

6290 (d) do not constitute an entitlement of any kind; and

6291 (e) may be withdrawn from a person at any time.

6292 Section 170. Section **26B-6-409**, which is renumbered from Section 62A-5-103.3 is

6293 renumbered and amended to read:

6294           ~~[62A-5-103.3].~~       **26B-6-409.** **Employment first emphasis on the provision of**  
6295 **services.**

6296           (1) When providing services to a person with a disability under this chapter, the  
6297 division shall, within funds appropriated by the Legislature and in accordance with the  
6298 requirements of federal and state law, give priority to providing services that assist the person  
6299 in obtaining and retaining meaningful and gainful employment that enables the person to:

- 6300           (a) purchase goods and services;  
6301           (b) establish self-sufficiency; and  
6302           (c) exercise economic control of the person's life.

6303           (2) The division shall develop a written plan to implement the policy described in  
6304 Subsection (1) that includes:

- 6305           (a) assessing the strengths and needs of a person with a disability;  
6306           (b) customizing strength-based approaches to obtaining employment;  
6307           (c) expecting, encouraging, providing, and rewarding:  
6308           (i) integrated employment in the workplace at competitive wages and benefits; and  
6309           (ii) self-employment;  
6310           (d) developing partnerships with potential employers;  
6311           (e) maximizing appropriate employment training opportunities;  
6312           (f) coordinating services with other government agencies and community resources;  
6313           (g) to the extent possible, eliminating practices and policies that interfere with the  
6314 policy described in Subsection (1); and  
6315           (h) arranging sub-minimum wage work or volunteer work when employment at market  
6316 rates cannot be obtained.

6317           (3) The division shall, on an annual basis:

- 6318           (a) set goals to implement the policy described in Subsection (1) and the plan described  
6319 in Subsection (2);

6320 (b) determine whether the goals for the previous year have been met; and

6321 (c) modify the plan described in Subsection (2) as needed.

6322 Section 171. Section **26B-6-410**, which is renumbered from Section 62A-5-103.5 is

6323 renumbered and amended to read:

6324 ~~[62A-5-103.5].~~ **26B-6-410. Disbursal of public funds -- Background check of**  
6325 **a direct service worker.**

6326 (1) For purposes of this section, "office" means the same as that term is defined in

6327 Section ~~[62A-2-101]~~ 26B-2-101.

6328 (2) Public funds may not be disbursed to pay a direct service worker for personal  
6329 services rendered to a person unless the office approves the direct service worker to have direct  
6330 access and provide services to a child or a vulnerable adult pursuant to Section ~~[62A-2-120]~~  
6331 26B-2-120.

6332 (3) For purposes of Subsection (2), the office shall conduct a background check of a  
6333 direct service worker:

6334 (a) before public funds are disbursed to pay the direct service worker for the personal  
6335 services described in Subsection (2); and

6336 (b) using the same procedures established for a background check of an applicant for a  
6337 license under Section ~~[62A-2-120]~~ 26B-2-120.

6338 (4) A child who is in the legal custody of the department or any of the department's  
6339 divisions may not be placed with a direct service worker unless, before the child is placed with  
6340 the direct service worker, the direct service worker passes a background check, pursuant to the  
6341 requirements of Subsection ~~[62A-2-120]~~ 26B-2-120(14).

6342 (5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public  
6343 Transit District Act, contracts with the division to provide services:

6344 (a) the provisions of this section are not applicable to a direct service worker employed  
6345 by the public transit district; and

6346 (b) the division may not reimburse the public transit district for services provided

unless a direct service worker hired or transferred internally after July 1, 2013, by the public transit district to drive a paratransit route:

(i) is approved by the office to have direct access to children and vulnerable adults in accordance with Section [~~62A-2-120~~] 26B-2-120; and

(ii) is subject to a background check established in a statute or rule governing a public transit district or other public transit district policy.

Section 172. Section **26B-6-411**, which is renumbered from Section 62A-5-109 is renumbered and amended to read:

**~~[62A-5-109].~~            26B-6-411. Parent liable for cost and support of minor -- Guardian liable for costs.**

(1) Parents of a person who receives services or support from the division, who are financially responsible, are liable for the cost of the actual care and maintenance of that person and for the support of the child in accordance with Title 78B, Chapter 12, Utah Child Support Act, and [~~Title 62A, Chapter 11,~~] Chapter 9, Part 1, Office of Recovery Services, until the person reaches 18 years [~~of age~~] old.

(2) A guardian of a person who receives services or support from the division is liable for the cost of actual care and maintenance of that person, regardless of his age, where funds are available in the guardianship estate established on his behalf for that purpose. However, if the person who receives services is a beneficiary of a trust created in accordance with Section [~~62A-5-110~~] 26B-6-412, or if the guardianship estate meets the requirements of a trust described in that section, the trust income prior to distribution to the beneficiary, and the trust principal are not subject to payment for services or support for that person.

(3) If, at the time a person who receives services or support from the division is discharged from a facility or program owned or operated by or under contract with the division, or after the death and burial of a resident of the developmental center, there remains in the custody of the division or the superintendent any money paid by a parent or guardian for the support or maintenance of that person, it shall be repaid upon demand.

Section 173. Section **26B-6-412**, which is renumbered from Section 62A-5-110 is renumbered and amended to read:

~~[62A-5-110]~~. **26B-6-412. Discretionary trust for an individual with a disability -- Impact on state services.**

(1) For purposes of this section:

(a) "Discretionary trust for an individual with a disability" means a trust:

(i) that is established for the benefit of an individual who, at the time the trust is created, is under ~~[age]~~ 65 years old and has a disability, as defined in 42 U.S.C. Sec. 1382c;

(ii) under which the trustee has discretionary power to determine distributions;

(iii) under which the individual may not control or demand payments unless an abuse of the trustee's duties or discretion is shown;

(iv) that contains the assets of the individual and is established for the benefit of the individual by the individual, a court, or a parent, grandparent, or legal guardian of the individual;

(v) that is irrevocable, except that the trust document may provide that the trust be terminated if the individual no longer has a disability, as defined in 42 U.S.C. Sec. 1382c;

(vi) that is invalid as to any portion funded by property that is or may be subject to a lien by the state; and

(vii) that provides that, upon the death of the individual, the state will receive all amounts remaining in the trust, up to an amount equal to the total medical assistance paid on behalf of the individual.

(b) "Medical assistance" means the same as that term is defined in Section ~~[26-18-2]~~ 26B-3-101.

(2) A state agency providing services or support to an individual with a disability may:

(a) waive application of Subsection (1)(a)(v) with respect to that individual if the state agency determines that application of the criteria would place an undue hardship upon that individual; and

6401 (b) define, by rule, what constitutes "undue hardship" for purposes of this section.

6402 (3) A discretionary trust for an individual with a disability is not liable for  
6403 reimbursement or payment to the state or any state agency, for financial aid or services  
6404 provided to that individual except:

6405 (a) to the extent that the trust property has been distributed directly to or is otherwise  
6406 under the control of the beneficiary with a disability; or

6407 (b) as provided in Subsection (1)(a)(vi).

6408 (4) Property, goods, and services that are purchased or owned by a discretionary trust  
6409 for an individual with a disability and that are used or consumed by a beneficiary with a  
6410 disability shall not be considered trust property that is distributed to or under the control of the  
6411 beneficiary.

6412 (5) The benefits that an individual with a disability is otherwise legally entitled to may  
6413 not be reduced, impaired, or diminished in any way because of contribution to a discretionary  
6414 trust for that individual.

6415 (6) All state agencies shall disregard a discretionary trust for an individual with a  
6416 disability as a resource when determining eligibility for services or support except as, and only  
6417 to the extent that it is otherwise prohibited by federal law.

6418 (7) This section applies to all discretionary trusts that meet the requirements contained  
6419 in Subsection (1) created before, on, or after July 1, 1994.

6420 Section 174. Section **26B-6-413**, which is renumbered from Section 62A-5-402 is  
6421 renumbered and amended to read:

6422 ~~[62A-5-402]~~. **26B-6-413. Scope of home based services -- Purpose --**  
6423 **Principles -- Services for individuals younger than 11 years old.**

6424 (1) The purpose of this section is to provide support to families in their role as primary  
6425 caregivers for family members with disabilities.

6426 ~~[(+)]~~ (2) (a) To enable a person with a disability and the person's family to select  
6427 services and supports that best suit their needs and preferences, the division shall, within

6428 appropriations from the Legislature, provide services and supports under this part by giving  
6429 direct financial assistance to the parent or guardian of a person with a disability who resides at  
6430 home.

6431 (b) The dollar value of direct financial assistance is determined by the division based  
6432 on:

6433 (i) appropriations from the Legislature; and

6434 (ii) the needs of the person with a disability.

6435 (c) In determining whether to provide direct financial assistance to the family, the  
6436 division shall consider:

6437 (i) the family's preference; and

6438 (ii) the availability of approved providers in the area where the family resides.

6439 (d) If the division provides direct financial assistance, the division:

6440 (i) shall require the family to account for the use of that financial assistance; and

6441 (ii) shall tell the person with a disability or the person's parent or guardian how long the  
6442 direct financial assistance is intended to provide services and supports before additional direct  
6443 financial assistance is issued.

6444 (e) Except for eligibility determination services directly connected to the provision of  
6445 direct financial assistance, service coordination is not provided under this part by the division  
6446 unless the person with a disability or the person's parent or guardian uses the direct financial  
6447 assistance to purchase such services.

6448 ~~[(2)]~~ (3) The following principles shall be used as the basis for supporting families who  
6449 care for family members with disabilities:

6450 (a) all children, regardless of disability, should reside in a family-like environment;

6451 (b) families should receive the support they need to care for their children at home;

6452 (c) services should:

6453 (i) focus on the person with a disability;

6454 (ii) take into consideration the family of the person described in Subsection ~~[(2)]~~

6455 (3)(c)(i);

6456 (iii) be sensitive to the unique needs, preferences, and strengths of individual families;

6457 and

6458 (iv) complement and reinforce existing sources of help and support that are available to  
6459 each family.

6460 (4) Except as provided in Subsection (5), after June 30, 1996, the division may not  
6461 provide residential services to persons with disabilities who are under 11 years old.

6462 (5) The prohibition of Subsection (4) does not include residential services that are  
6463 provided:

6464 (a) for persons in the custody of the Division of Child and Family Services;

6465 (b) under a plan for home-based services, including respite and temporary residential  
6466 care or services provided by a professional parent under contract with the division; or

6467 (c) after a written finding by the director that out-of-home residential placement is the  
6468 most appropriate way to meet the needs of the person with disabilities and his family.

6469 Section 175. Section **26B-6-501** is enacted to read:

6470 **Part 5. Utah State Developmental Center**

6471 **26B-6-501. Definitions.**

6472 The definitions in Section [26B-6-401](#) apply to this part.

6473 Section 176. Section **26B-6-502**, which is renumbered from Section 62A-5-201 is  
6474 renumbered and amended to read:

6475 ~~**[62A-5-201].**~~ **26B-6-502. Utah State Developmental Center.**

6476 (1) The intermediate care facility for people with an intellectual disability located in  
6477 American Fork City, Utah County, shall be known as the "Utah State Developmental Center."

6478 (2) Within appropriations authorized by the Legislature, the role and function of the  
6479 developmental center is to:

6480 (a) provide care, services, and treatment to persons described in Subsection (3); and

6481 (b) provide the following services and support to persons with disabilities who do not

6482 reside at the developmental center:

- 6483 (i) psychiatric testing;
- 6484 (ii) specialized medical treatment and evaluation;
- 6485 (iii) specialized dental treatment and evaluation;
- 6486 (iv) family and client special intervention;
- 6487 (v) crisis management;
- 6488 (vi) occupational, physical, speech, and audiology services; and
- 6489 (vii) professional services, such as education, evaluation, and consultation, for families,
- 6490 public organizations, providers of community and family support services, and courts.

6491 (3) Except as provided in Subsection (6), within appropriations authorized by the  
6492 Legislature, and notwithstanding the provisions of Part [3] 6, Admission to an Intermediate  
6493 Care Facility for People with an Intellectual Disability, only the following persons may be  
6494 residents of, be admitted to, or receive care, services, or treatment at the developmental center:

- 6495 (a) persons with an intellectual disability;
- 6496 (b) persons who receive services and supports under Subsection (2)(b); and
- 6497 (c) persons who require at least one of the following services from the developmental  
6498 center:

- 6499 (i) continuous medical care;
- 6500 (ii) intervention for conduct that is dangerous to self or others; or
- 6501 (iii) temporary residential assessment and evaluation.

6502 (4) (a) Except as provided in Subsection (6), the division shall, in the division's  
6503 discretion:

- 6504 (i) place residents from the developmental center into appropriate less restrictive  
6505 placements; and

6506 (ii) determine each year the number to be placed based upon the individual assessed  
6507 needs of the residents.

- 6508 (b) The division shall confer with parents and guardians to ensure the most appropriate

6509 placement for each resident.

6510 (5) Except as provided in Subsection (7), within appropriations authorized by the  
6511 Legislature, and notwithstanding the provisions of Subsection (3) and Part [3] 6, Admission to  
6512 an Intermediate Care Facility for People with an Intellectual Disability, a person who is under  
6513 18 years [~~of age~~] old may be a resident of, admitted to, or receive care, services, or treatment at  
6514 the developmental center only if the director certifies in writing that the developmental center  
6515 is the most appropriate placement for that person.

6516 (6) (a) If the division determines, pursuant to Utah's Community Supports Waiver for  
6517 Individuals with Intellectual Disabilities and Other Related Conditions, that a person who  
6518 otherwise qualifies for placement in an intermediate care facility for people with an intellectual  
6519 disability should receive services in a home or community-based setting, the division shall:

6520 (i) if the person does not have a legal representative or legal guardian:

6521 (A) inform the person of any feasible alternatives under the waiver; and

6522 (B) give the person the choice of being placed in an intermediate care facility for  
6523 people with an intellectual disability or receiving services in a home or community-based  
6524 setting; or

6525 (ii) if the person has a legal representative or legal guardian:

6526 (A) inform the legal representative or legal guardian of any feasible alternatives under  
6527 the waiver; and

6528 (B) give the legal representative or legal guardian the choice of having the person  
6529 placed in an intermediate care facility for people with an intellectual disability or receiving  
6530 services in a home or community-based setting.

6531 (b) If a person chooses, under Subsection (6)(a)(i), to be placed in an intermediate care  
6532 facility for people with an intellectual disability instead of receiving services in a home or  
6533 community-based setting, the division shall:

6534 (i) ask the person whether the person prefers to be placed in the developmental center  
6535 rather than a private intermediate care facility for people with an intellectual disability; and

- 6536 (ii) if the person expresses a preference to be placed in the developmental center:
- 6537 (A) place the person in the developmental center if the cost of placing the person in the
- 6538 developmental center is equal to, or less than, the cost of placing the person in a private
- 6539 intermediate care facility for people with an intellectual disability; or
- 6540 (B) (I) strongly consider the person's preference to be placed in the developmental
- 6541 center if the cost of placing the person in the developmental center exceeds the cost of placing
- 6542 the person in a private intermediate care facility for people with an intellectual disability; and
- 6543 (II) place the person in the developmental center or a private intermediate care facility
- 6544 for people with an intellectual disability.
- 6545 (c) If a legal representative or legal guardian chooses, under Subsection (6)(a)(ii), to
- 6546 have the person placed in an intermediate care facility for people with an intellectual disability
- 6547 instead of receiving services in a home or community-based setting, the division shall:
- 6548 (i) ask the legal representative or legal guardian whether the legal representative or
- 6549 legal guardian prefers to have the person placed in the developmental center rather than a
- 6550 private intermediate care facility for people with an intellectual disability; and
- 6551 (ii) if the legal representative or legal guardian expresses a preference to have the
- 6552 person placed in the developmental center:
- 6553 (A) place the person in the developmental center if the cost of placing the person in the
- 6554 developmental center is equal to, or less than, the cost of placing the person in a private
- 6555 intermediate care facility for people with an intellectual disability; or
- 6556 (B) (I) strongly consider the legal representative's or legal guardian's preference for the
- 6557 person's placement if the cost of placing the person in the developmental center exceeds the
- 6558 cost of placing the person in a private intermediate care facility for people with an intellectual
- 6559 disability; and
- 6560 (II) place the person in the developmental center or a private intermediate care facility
- 6561 for people with an intellectual disability.
- 6562 (7) The certification described in Subsection (5) is not required for a person who

6563 receives services and support under Subsection (2)(b).

6564 Section 177. Section **26B-6-503**, which is renumbered from Section 62A-5-202 is  
6565 renumbered and amended to read:

6566 **[62A-5-202]. 26B-6-503. Developmental center within division.**

6567 The programs and facilities of the developmental center are within the division, and  
6568 under the policy direction of the division.

6569 Section 178. Section **26B-6-504**, which is renumbered from Section 62A-5-203 is  
6570 renumbered and amended to read:

6571 **[62A-5-203]. 26B-6-504. Operation, maintenance, and repair of**  
6572 **developmental center buildings and grounds.**

6573 (1) The division shall operate, maintain, and repair the buildings, grounds, and physical  
6574 properties of the developmental center. However, the roads and driveways on the grounds of  
6575 the developmental center shall be maintained by the Department of Transportation.

6576 (2) The division has authority to make improvements to the buildings, grounds, and  
6577 physical properties of the developmental center, as it deems necessary for the care and safety of  
6578 the residents.

6579 Section 179. Section **26B-6-505**, which is renumbered from Section 62A-5-205 is  
6580 renumbered and amended to read:

6581 **[62A-5-205]. 26B-6-505. State Board of Education -- Education of**  
6582 **children at developmental center.**

6583 (1) The State Board of Education is responsible for the education of school-aged  
6584 children at the developmental center.

6585 (2) In order to fulfill its responsibility under Subsection (1), the State Board of  
6586 Education shall, where feasible, contract with local school districts or other appropriate  
6587 agencies to provide educational and related administrative services.

6588 (3) Medical, residential, and other services that are not the responsibility of the State  
6589 Board of Education or other state agencies are the responsibility of the division.

Section 180. Section **26B-6-506**, which is renumbered from Section 62A-5-206 is renumbered and amended to read:

**~~[62A-5-206].~~        26B-6-506. Powers and duties of division.**

The powers and duties of the division, with respect to the developmental center are as follows:

- (1) to establish rules, not inconsistent with law, for the government of the developmental center;
- (2) to establish rules governing the admission and discharge of persons with an intellectual disability in accordance with state law;
- (3) to employ necessary medical and other professional personnel to assist in establishing rules relating to the developmental center and to the treatment and training of persons with an intellectual disability at the center;
- (4) to transfer a person who has been committed to the developmental center under Part [3] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, to any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facilities or programs available meet the needs indicated, and if transfer would be in the best interest of that person. A person transferred shall remain under the jurisdiction of the division;
- (5) the developmental center may receive a person who meets the requirements of Subsection [~~62A-5-201~~] 26B-6-502(3) from any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facility or programs of the developmental center meet those needs, and if transfer would be in the best interest of that person. A person so received by the developmental center remains under the jurisdiction of the division;
- (6) to manage funds for a person residing in the developmental center, upon request by that person's parent or guardian, or upon administrative or court order;
- (7) to charge and collect a fair and equitable fee from developmental center residents,

6617 parents who have the ability to pay, or guardians where funds for that purpose are available;  
6618 and

6619 (8) supervision and administration of security responsibilities for the developmental  
6620 center is vested in the division. The executive director may designate, as special function  
6621 officers, individuals to perform special security functions for the developmental center that  
6622 require peace officer authority. Those special function officers may not become or be  
6623 designated as members of the Public Safety Retirement System.

6624 Section 181. Section **26B-6-507**, which is renumbered from Section 62A-5-206.6 is  
6625 renumbered and amended to read:

6626 ~~[62A-5-206.6].~~ **26B-6-507. Utah State Developmental Center land and water**  
6627 **rights.**

6628 (1) As used in this section, "long-term lease" means:

6629 (a) a lease with a term of five years or more; or

6630 (b) a lease with a term of less than five years that may be unilaterally renewed by the  
6631 lessee.

6632 (2) (a) Notwithstanding Section ~~65A-4-1~~, any sale, long-term lease, or other disposition  
6633 of real property, water rights, or water shares associated with the developmental center shall be  
6634 conducted as provided in this Subsection (2).

6635 (b) The board shall:

6636 (i) approve the sale, long-term lease, or other disposition of real property, water rights,  
6637 or water shares associated with the developmental center;

6638 (ii) secure the approval of the Legislature before offering the real property, water  
6639 rights, or water shares for sale, long-term lease, or other disposition; and

6640 (iii) if the Legislature's approval is secured, as described in Subsection (2)(b)(ii), direct  
6641 the Division of Facilities Construction and Management to convey, lease, or dispose of the real  
6642 property, water rights, or water shares associated with the developmental center according to  
6643 the board's determination.

Section 182. Section **26B-6-508**, which is renumbered from Section 62A-5-207 is renumbered and amended to read:

**[62A-5-207].            26B-6-508. Superintendent -- Qualifications.**

The superintendent of the developmental center, appointed in accordance with Subsection [~~62A-5-104~~] 26B-6-404(4), shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in developmental disabilities and intellectual disability.

Section 183. Section **26B-6-509**, which is renumbered from Section 62A-5-208 is renumbered and amended to read:

**[62A-5-208].            26B-6-509. Powers and duties of superintendent.**

The chief administrative officer of the developmental center is the superintendent, and has the following powers and duties:

(1) to manage the developmental center and administer the division's rules governing the developmental center;

(2) to hire, control, and remove all employees, and to fix their compensation according to state law; and

(3) with the approval of the division, to make any expenditures necessary in the performance of his duties.

Section 184. Section **26B-6-510**, which is renumbered from Section 62A-5-211 is renumbered and amended to read:

**[62A-5-211].            26B-6-510. Dental services reporting.**

The superintendent of the developmental center shall provide to the Health and Human Services Interim Committee an annual report that contains:

(1) a statewide assessment of resources that provide dental services for individuals with intellectual disabilities;

(2) an accounting of the funds appropriated to provide specialized dental treatment and evaluation under Subsection [~~62A-5-201~~] 26B-6-502(2)(b)(iii), including the number of

6671 individuals served and the services provided; and

6672 (3) the progress toward the establishment of a financially independent dental clinic  
6673 that:

6674 (a) has a full-time dentist who has specialized training to treat an individual with an  
6675 intellectual disability; and

6676 (b) has the facility, equipment, and staff necessary to legally and safely perform dental  
6677 procedures and examinations and to administer general anesthesia.

6678 Section 185. Section **26B-6-601** is enacted to read:

6679 **Part 6. Admission to an Intermediate Care Facility for People with an Intellectual**  
6680 **Disability**

6681 **26B-6-601. Definitions.**

6682 The definitions in Section [26B-6-401](#) apply to this part.

6683 Section 186. Section **26B-6-602**, which is renumbered from Section 62A-5-302 is  
6684 renumbered and amended to read:

6685 **[62A-5-302]. 26B-6-602. Division responsibility.**

6686 The division is responsible:

6687 (1) for the supervision, care, and treatment of persons with an intellectual disability in  
6688 this state who are committed to the division's jurisdiction under the provisions of this part; and

6689 (2) to evaluate and determine the most appropriate, least restrictive setting for an  
6690 individual with an intellectual disability.

6691 Section 187. Section **26B-6-603**, which is renumbered from Section 62A-5-305 is  
6692 renumbered and amended to read:

6693 **[62A-5-305]. 26B-6-603. Residency requirements -- Transportation of**  
6694 **person to another state.**

6695 (1) A person with an intellectual disability who has a parent or guardian residing in this  
6696 state may be admitted to an intermediate care facility for people with an intellectual disability  
6697 in accordance with the provisions of this part.

(2) If a person with an intellectual disability enters Utah from another state, the division may have that person transported to the home of a relative or friend located outside of this state, or to an appropriate facility in the state where the person with the intellectual disability is domiciled.

(3) This section does not prevent a person with an intellectual disability who is temporarily located in this state from being temporarily admitted or committed to an intermediate care facility for people with an intellectual disability in this state.

Section 188. Section **26B-6-604**, which is renumbered from Section 62A-5-308 is renumbered and amended to read:

~~[62A-5-308].~~        **26B-6-604. Commitment -- Individual who is under 18 years old.**

(1) The director of the division, or the director's designee, may commit an individual under 18 years old who has an intellectual disability or symptoms of an intellectual disability, to the division for observation, diagnosis, care, and treatment if that commitment is based on:

- (a) an emergency commitment in accordance with Section ~~[62A-5-311]~~ 26B-6-607; or
- (b) involuntary commitment in accordance with Section ~~[62A-5-312]~~ 26B-6-608.

(2) A proceeding for involuntary commitment under Subsection (1)(a) may be commenced by filing a written petition with the juvenile court under Section ~~[62A-5-312]~~ 26B-6-608.

(3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as described in Subsection ~~78A-6-103~~(2)(f).

(b) A juvenile court shall proceed with the written petition in the same manner and with the same authority as the district court.

(4) If an individual who is under 18 years old is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

6725 Section 189. Section **26B-6-605**, which is renumbered from Section 62A-5-309 is  
6726 renumbered and amended to read:

6727 ~~[62A-5-309].~~ **26B-6-605. Commitment -- Individual who is 18 years old or**  
6728 **older.**

6729 (1) The director, or the director's designee may commit to the division an individual 18  
6730 years old or older who has an intellectual disability, for observation, diagnosis, care, and  
6731 treatment if that commitment is based on:

6732 (a) involuntary commitment in accordance with Section ~~[62A-5-312]~~ 26B-6-608; or

6733 (b) temporary emergency commitment in accordance with Section ~~[62A-5-311]~~  
6734 26B-6-607.

6735 (2) If an individual who is 18 years old or older is committed to the custody of the Utah  
6736 State Developmental Center by the juvenile court, the director or the director's designee shall  
6737 give the juvenile court written notice of the intention to release the individual not fewer than  
6738 five days before the day on which the individual is released.

6739 Section 190. Section **26B-6-606**, which is renumbered from Section 62A-5-310 is  
6740 renumbered and amended to read:

6741 ~~[62A-5-310].~~ **26B-6-606. Involuntary commitment.**

6742 An individual may not be involuntarily committed to an intermediate care facility for  
6743 people with an intellectual disability except in accordance with Sections ~~[62A-5-311 and~~  
6744 ~~62A-5-312]~~ 26B-6-607 and 26B-6-608.

6745 Section 191. Section **26B-6-607**, which is renumbered from Section 62A-5-311 is  
6746 renumbered and amended to read:

6747 ~~[62A-5-311].~~ **26B-6-607. Temporary emergency commitment --**  
6748 **Observation and evaluation.**

6749 (1) The director of the division or his designee may temporarily commit an individual  
6750 to the division and therefore, as a matter of course, to an intermediate care facility for people  
6751 with an intellectual disability for observation and evaluation upon:

(a) written application by a responsible person who has reason to know that the individual is in need of commitment, stating:

(i) a belief that the individual has an intellectual disability and is likely to cause serious injury to self or others if not immediately committed;

(ii) personal knowledge of the individual's condition; and

(iii) the circumstances supporting that belief; or

(b) certification by a licensed physician or designated intellectual disability professional stating that the physician or designated intellectual disability professional:

(i) has examined the individual within a three-day period immediately preceding the certification; and

(ii) is of the opinion that the individual has an intellectual disability, and that because of the individual's intellectual disability is likely to injure self or others if not immediately committed.

(2) If the individual in need of commitment is not placed in the custody of the director or the director's designee by the person submitting the application, the director's or the director's designee may certify, either in writing or orally that the individual is in need of immediate commitment to prevent injury to self or others.

(3) Upon receipt of the application required by Subsection (1)(a) and the certifications required by Subsections (1)(b) and (2), a peace officer may take the individual named in the application and certificates into custody, and may transport the individual to a designated intermediate care facility for people with an intellectual disability.

(4) (a) An individual committed under this section may be held for a maximum of 24 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time, the individual shall be released unless proceedings for involuntary commitment have been commenced under Section [~~62A-5-312~~] 26B-6-608.

(b) After proceedings for involuntary commitment have been commenced the individual shall be released unless an order of detention is issued in accordance with Section

6779 [~~62A-5-312~~] 26B-6-608.

6780 (5) If an individual is committed to the division under this section on the application of  
6781 any person other than the individual's legal guardian, spouse, parent, or next of kin, the director  
6782 or his designee shall immediately give notice of the commitment to the individual's legal  
6783 guardian, spouse, parent, or next of kin, if known.

6784 Section 192. Section **26B-6-608**, which is renumbered from Section 62A-5-312 is  
6785 renumbered and amended to read:

6786 **[~~62A-5-312~~]. 26B-6-608. Involuntary commitment -- Procedures --**  
6787 **Necessary findings -- Periodic review.**

6788 (1) Any responsible person who has reason to know that an individual is in need of  
6789 commitment, who has a belief that the individual has an intellectual disability, and who has  
6790 personal knowledge of the conditions and circumstances supporting that belief, may commence  
6791 proceedings for involuntary commitment by filing a written petition with the district court, or if  
6792 the subject of the petition is less than 18 years [~~of age~~] old with the juvenile court, of the  
6793 county in which the individual to be committed is physically located at the time the petition is  
6794 filed. The application shall be accompanied by:

6795 (a) a certificate of a licensed physician or a designated intellectual disability  
6796 professional, stating that within a seven-day period immediately preceding the certification, the  
6797 physician or designated intellectual disability professional examined the individual and  
6798 believes that the individual has an intellectual disability and is in need of involuntary  
6799 commitment; or

6800 (b) a written statement by the petitioner that:

6801 (i) states that the individual was requested to, but refused to, submit to an examination  
6802 for an intellectual disability by a licensed physician or designated intellectual disability  
6803 professional, and that the individual refuses to voluntarily go to the division or an intermediate  
6804 care facility for people with an intellectual disability recommended by the division for  
6805 treatment;

6806 (ii) is under oath; and

6807 (iii) sets forth the facts on which the statement is based.

6808 (2) Before issuing a detention order, the court may require the petitioner to consult  
6809 with personnel at the division or at an intermediate care facility for people with an intellectual  
6810 disability and may direct a designated intellectual disability professional to interview the  
6811 petitioner and the individual to be committed, to determine the existing facts, and to report  
6812 them to the court.

6813 (3) The court may issue a detention order and may direct a peace officer to immediately  
6814 take the individual to an intermediate care facility for people with an intellectual disability to  
6815 be detained for purposes of an examination if the court finds from the petition, from other  
6816 statements under oath, or from reports of physicians or designated intellectual disability  
6817 professionals that there is a reasonable basis to believe that the individual to be committed:

6818 (a) poses an immediate danger of physical injury to self or others;

6819 (b) requires involuntary commitment pending examination and hearing;

6820 (c) the individual was requested but refused to submit to an examination by a licensed  
6821 physician or designated intellectual disability professional; or

6822 (d) the individual refused to voluntarily go to the division or to an intermediate care  
6823 facility for people with an intellectual disability recommended by the division.

6824 (4) (a) If the court issues a detention order based on an application that did not include  
6825 a certification by a designated intellectual disability professional or physician in accordance  
6826 with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the  
6827 detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual,  
6828 report the results of the examination to the court and inform the court:

6829 (i) whether the director or his designee believes that the individual has an intellectual  
6830 disability; and

6831 (ii) whether appropriate treatment programs are available and will be used by the  
6832 individual without court proceedings.

(b) If the report of the director or his designee is based on an oral report of the examiner, the examiner shall immediately send the results of the examination in writing to the clerk of the court.

(5) Immediately after an individual is involuntarily committed under a detention order or under Section [~~62A-5-311~~] 26B-6-607, the director or his designee shall inform the individual, orally and in writing, of his right to communicate with an attorney. If an individual desires to communicate with an attorney, the director or his designee shall take immediate steps to assist the individual in contacting and communicating with an attorney.

(6) (a) Immediately after commencement of proceedings for involuntary commitment, the court shall give notice of commencement of the proceedings to:

- (i) the individual to be committed;
- (ii) the applicant;
- (iii) any legal guardian of the individual;
- (iv) adult members of the individual's immediate family;
- (v) legal counsel of the individual to be committed, if any;
- (vi) the division; and
- (vii) any other person to whom the individual requests, or the court designates, notice to be given.

(b) If an individual cannot or refuses to disclose the identity of persons to be notified, the extent of notice shall be determined by the court.

(7) That notice shall:

- (a) set forth the allegations of the petition and all supporting facts;
- (b) be accompanied by a copy of any detention order issued under Subsection (3); and
- (c) state that a hearing will be held within the time provided by law, and give the time and place for that hearing.

(8) The court may transfer the case and the custody of the individual to be committed to any other district court within the state, if:

(a) there are no appropriate facilities for persons with an intellectual disability within the judicial district; and

(b) the transfer will not be adverse to the interests of the individual.

(9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any order or commitment under a detention order, the court shall appoint two designated intellectual disability professionals to examine the individual. If requested by the individual's counsel, the court shall appoint a reasonably available, qualified person designated by counsel to be one of the examining designated intellectual disability professionals. The examinations shall be conducted:

(i) separately;

(ii) at the home of the individual to be committed, a hospital, an intermediate care facility for people with an intellectual disability, or any other suitable place not likely to have a harmful effect on the individual; and

(iii) within a reasonable period of time after appointment of the examiners by the court.

(b) The court shall set a time for a hearing to be held within 10 court days of the appointment of the examiners. However, the court may immediately terminate the proceedings and dismiss the application if, prior to the hearing date, the examiners, the director, or his designee informs the court that:

(i) the individual does not have an intellectual disability; or

(ii) treatment programs are available and will be used by the individual without court proceedings.

(10) (a) Each individual has the right to be represented by counsel at the commitment hearing and in all preliminary proceedings. If neither the individual nor others provide counsel, the court shall appoint counsel and allow sufficient time for counsel to consult with the individual prior to any hearing.

(b) If the individual is indigent, the county in which the individual was physically located when taken into custody shall pay reasonable attorney fees as determined by the court.

6887           (11) The division or a designated intellectual disability professional in charge of the  
6888 individual's care shall provide all documented information on the individual to be committed  
6889 and to the court at the time of the hearing. The individual's attorney shall have access to all  
6890 documented information on the individual at the time of and prior to the hearing.

6891           (12) (a) The court shall provide an opportunity to the individual, the petitioner, and all  
6892 other persons to whom notice is required to be given to appear at the hearing, to testify, and to  
6893 present and cross-examine witnesses.

6894           (b) The court may, in its discretion:

6895               (i) receive the testimony of any other person;

6896               (ii) allow a waiver of the right to appear only for good cause shown;

6897               (iii) exclude from the hearing all persons not necessary to conduct the proceedings; and

6898               (iv) upon motion of counsel, require the testimony of each examiner to be given out of  
6899 the presence of any other examiner.

6900           (c) The hearing shall be conducted in as informal a manner as may be consistent with  
6901 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the  
6902 individual. The Utah Rules of Evidence apply, and the hearing shall be a matter of court  
6903 record. A verbatim record of the proceedings shall be maintained.

6904           (13) The court may order commitment if, upon completion of the hearing and  
6905 consideration of the record, it finds by clear and convincing evidence that all of the following  
6906 conditions are met:

6907               (a) the individual to be committed has an intellectual disability;

6908               (b) because of the individual's intellectual disability one or more of the following  
6909 conditions exist:

6910                   (i) the individual poses an immediate danger of physical injury to self or others;

6911                   (ii) the individual lacks the capacity to provide the basic necessities of life, such as  
6912 food, clothing, or shelter; or

6913                   (iii) the individual is in immediate need of habilitation, rehabilitation, care, or

6914 treatment to minimize the effects of the condition which poses a threat of serious physical or  
6915 psychological injury to the individual, and the individual lacks the capacity to engage in a  
6916 rational decision-making process concerning the need for habilitation, rehabilitation, care, or  
6917 treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or  
6918 treatment and the alternatives to it;

6919 (c) there is no appropriate, less restrictive alternative reasonably available; and

6920 (d) the division or the intermediate care facility for people with an intellectual  
6921 disability recommended by the division in which the individual is to be committed can provide  
6922 the individual with treatment, care, habilitation, or rehabilitation that is adequate and  
6923 appropriate to the individual's condition and needs.

6924 (14) In the absence of any of the required findings by the court, described in Subsection  
6925 (13), the court shall dismiss the proceedings.

6926 (15) (a) The order of commitment shall designate the period for which the individual  
6927 will be committed. An initial commitment may not exceed six months. Before the end of the  
6928 initial commitment period, the administrator of the intermediate care facility for people with an  
6929 intellectual disability shall commence a review hearing on behalf of the individual.

6930 (b) At the conclusion of the review hearing, the court may issue an order of  
6931 commitment for up to a one-year period.

6932 (16) An individual committed under this part has the right to a rehearing, upon filing a  
6933 petition with the court within 30 days after entry of the court's order. If the petition for  
6934 rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial  
6935 licensed physician and two impartial designated intellectual disability professionals who have  
6936 not previously been involved in the case to examine the individual. The rehearing shall, in all  
6937 other respects, be conducted in accordance with this part.

6938 (17) (a) The court shall maintain a current list of all individuals under its orders of  
6939 commitment. That list shall be reviewed in order to determine those patients who have been  
6940 under an order of commitment for the designated period.

(b) At least two weeks prior to the expiration of the designated period of any commitment order still in effect, the court that entered the original order shall inform the director of the division of the impending expiration of the designated commitment period.

(c) The staff of the division shall immediately:

(i) reexamine the reasons upon which the order of commitment was based and report the results of the examination to the court;

(ii) discharge the resident from involuntary commitment if the conditions justifying commitment no longer exist; and

(iii) immediately inform the court of any discharge.

(d) If the director of the division reports to the court that the conditions justifying commitment no longer exist, and the administrator of the intermediate care facility for people with an intellectual disability does not discharge the individual at the end of the designated period, the court shall order the immediate discharge of the individual, unless involuntary commitment proceedings are again commenced in accordance with this section.

(e) If the director of the division, or the director's designee reports to the court that the conditions designated in Subsection (13) still exist, the court may extend the commitment order for up to one year. At the end of any extension, the individual must be reexamined in accordance with this section, or discharged.

(18) When a resident is discharged under this subsection, the division shall provide any further support services available and required to meet the resident's needs.

Section 193. Section **26B-6-609**, which is renumbered from Section 62A-5-313 is renumbered and amended to read:

**[62A-5-313].**            **26B-6-609. Transfer -- Procedures.**

(1) The director of the division, or the director's designee, may place an involuntarily committed resident in appropriate care or treatment outside the intermediate care facility for people with an intellectual disability. During that placement, the order of commitment shall remain in effect, until the resident is discharged or the order is terminated.

(2) If the resident, or the resident's parent or guardian, objects to a proposed placement under this section, the resident may appeal the decision to the executive director or the executive director's designee. Those appeals shall be conducted in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. If an objection is made, the proposed placement may not take effect until the committee holds that hearing and the executive director makes a final decision on the placement.

Section 194. Section **26B-6-610**, which is renumbered from Section 62A-5-315 is renumbered and amended to read:

**[62A-5-315].            26B-6-610. Petition for reexamination.**

(1) A resident committed under Section [62A-5-312] 26B-6-608, or his parent, spouse, legal guardian, relative, or attorney, may file a petition for reexamination with the district court of the county in which the resident is domiciled or detained.

(2) Upon receipt of that petition, the court shall conduct proceedings under Section [62A-5-312] 26B-6-608.

Section 195. Section **26B-6-611**, which is renumbered from Section 62A-5-316 is renumbered and amended to read:

**[62A-5-316].            26B-6-611. Temporary detention.**

(1) Pending removal to an intermediate care facility for people with an intellectual disability, an individual taken into custody or ordered to be committed under this part may be detained in the individual's home, or in some other suitable facility.

(2) The individual shall not, however, be detained in a nonmedical facility used for detention of individuals charged with or convicted of penal offenses, except in a situation of extreme emergency.

(3) The division shall take reasonable measures, as may be necessary, to assure proper care of an individual temporarily detained under this part.

Section 196. Section **26B-6-612**, which is renumbered from Section 62A-5-317 is renumbered and amended to read:

6995           ~~[62A-5-317].~~           **26B-6-612. Authority to transfer resident.**

6996           (1) The administrator of an intermediate care facility for people with an intellectual  
6997 disability, or the administrator's designee, may transfer or authorize the transfer of a resident to  
6998 another intermediate care facility for people with an intellectual disability if, before the  
6999 transfer, the administrator conducts a careful evaluation of the resident and the resident's  
7000 treatment needs, and determines that a transfer would be in the best interest of that resident. If  
7001 a resident is transferred, the administrator shall give immediate notice of the transfer to the  
7002 resident's spouse, guardian, parent, or advocate or, if none of those persons are known, to the  
7003 resident's nearest known relative.

7004           (2) If a resident, or the resident's parent or guardian, objects to a proposed transfer  
7005 under this section, the administrator shall conduct a hearing on the objection before a  
7006 committee composed of persons selected by the administrator. That committee shall hear all  
7007 evidence and make a recommendation to the administrator concerning the proposed transfer.  
7008 The transfer may not take effect until the committee holds that hearing and the administrator  
7009 renders a final decision on the proposed transfer.

7010           Section 197. Section **26B-6-613**, which is renumbered from Section 62A-5-318 is  
7011 renumbered and amended to read:

7012           ~~[62A-5-318].~~           **26B-6-613. Involuntary treatment with medication --**  
7013 **Committee -- Findings.**

7014           (1) If, after commitment, a resident elects to refuse treatment with medication, the  
7015 director, the administrator of the intermediate care facility for people with an intellectual  
7016 disability, or a designee, shall submit documentation regarding the resident's proposed  
7017 treatment to a committee composed of:

7018           (a) a licensed physician experienced in treating persons with an intellectual disability,  
7019 who is not directly involved in the resident's treatment or diagnosis, and who is not biased  
7020 toward any one facility;

7021           (b) a psychologist who is a designated intellectual disability professional who is not

7022 directly involved in the resident's treatment or diagnosis; and

7023 (c) another designated intellectual disability professional of the facility for persons with  
7024 an intellectual disability, or a designee.

7025 (2) Based upon the court's finding, under Subsection [~~62A-5-312~~] 26B-6-608(13), that  
7026 the resident lacks the ability to engage in a rational decision-making process regarding the need  
7027 for habilitation, rehabilitation, care, or treatment, as demonstrated by evidence of inability to  
7028 weigh the possible costs and benefits of treatment, the committee may authorize involuntary  
7029 treatment with medication if it determines that:

7030 (a) the proposed treatment is in the medical best interest of the resident, taking into  
7031 account the possible side effects as well as the potential benefits of the medication; and

7032 (b) the proposed treatment is in accordance with prevailing standards of accepted  
7033 medical practice.

7034 (3) In making the determination described in Subsection (2), the committee shall  
7035 consider the resident's general history and present condition, the specific need for medication  
7036 and its possible side effects, and any previous reaction to the same or comparable medication.

7037 (4) Any authorization of involuntary treatment under this section shall be periodically  
7038 reviewed in accordance with rules promulgated by the division.

7039 Section 198. Section **26B-6-701**, which is renumbered from Section 62A-5-501 is  
7040 renumbered and amended to read:

7041 **Part 7. Disability Ombudsman**

7042 [~~62A-5-501~~]. **26B-6-701. Definitions.**

7043 [As] In addition to the definitions in Section 26B-6-401, as used in this part:

7044 (1) "Complainant" means a person who initiates a complaint.

7045 (2) "Complaint" means a complaint initiated with the ombudsman identifying a person  
7046 who has violated the rights and privileges of an individual with a disability.

7047 (3) "Ombudsman" means the ombudsman appointed in Section [~~62A-5-502~~]  
7048 26B-6-702.

(4) "Rights and privileges of an individual with a disability" means the rights and privileges of an individual with a disability described in Subsections [~~62A-5b-103~~] 26B-6-802(1) through (3).

Section 199. Section **26B-6-702**, which is renumbered from Section 62A-5-502 is renumbered and amended to read:

~~[62A-5-502].~~        **26B-6-702. Disability ombudsman -- Purpose -- Appointment -- Qualifications -- Staff.**

(1) There is created within the [~~division~~] department the position of disability ombudsman for the purpose of promoting, advocating, and ensuring the rights and privileges of an individual with a disability are upheld.

(2) The director shall appoint an ombudsman who has:

(a) recognized executive and administrative capacity; and

(b) experience in laws and policies regarding individuals with a disability.

(3) The ombudsman may hire staff as necessary to carry out the duties of the ombudsman under this part.

Section 200. Section **26B-6-703**, which is renumbered from Section 62A-5-503 is renumbered and amended to read:

~~[62A-5-503].~~        **26B-6-703. Powers and duties of ombudsman.**

The ombudsman shall:

(1) develop and maintain expertise in laws and policies governing the rights and privileges of an individual with a disability;

(2) provide training and information to private citizens, civic groups, governmental entities, and other interested parties across the state regarding:

(a) the role and duties of the ombudsman;

(b) the rights and privileges of an individual with a disability; and

(c) services available in the state to an individual with a disability;

(3) develop a website to provide the information described in Subsection (2) in a form

7076 that is easily accessible;

7077 (4) receive, process, and investigate complaints in accordance with this part;

7078 (5) review periodically the procedures of state entities that serve individuals with a  
7079 disability;

7080 (6) cooperate and coordinate with governmental entities and other organizations in the  
7081 community in exercising the duties under this section, including the long-term care  
7082 ombudsman program, created in Section [~~62A-3-203~~] 26B-2-303, and the child protection  
7083 ombudsman, appointed under Section [~~62A-4a-208~~] 80-2-1104, when there is overlap between  
7084 the responsibilities of the ombudsman and the long-term care ombudsman program or the child  
7085 protection ombudsman;

7086 (7) as appropriate, make recommendations to the division regarding rules to be made in  
7087 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the  
7088 ombudsman considers necessary to carry out the ombudsman's duties under this part;

7089 (8) submit annually, by July 1, to the Health and Human Services Interim Committee, a  
7090 report describing:

7091 (a) the work of the ombudsman; and

7092 (b) any recommendations for statutory changes to improve the effectiveness of the  
7093 ombudsman in performing the duties under this section; and

7094 (9) perform other duties required by law.

7095 Section 201. Section **26B-6-704**, which is renumbered from Section 62A-5-504 is  
7096 renumbered and amended to read:

7097 ~~[62A-5-504].~~ **26B-6-704. Investigation of complaints -- Procedures --**  
7098 **Rulemaking.**

7099 (1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a  
7100 complaint, investigate the complaint.

7101 (2) An ombudsman's investigation of a complaint may include:

7102 (a) a referral to a governmental entity or other services;

- 7103 (b) the collection of facts, information, or documentation;  
7104 (c) holding an investigatory hearing; or  
7105 (d) an inspection of the premises of the person named in the complaint.  
7106 (3) (a) The ombudsman may decline to investigate a complaint.  
7107 (b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify  
7108 the complainant and the division of the declination.  
7109 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
7110 Administrative Rulemaking Act, that govern the ombudsman's process for:  
7111 (a) receiving and processing complaints; and  
7112 (b) conducting an investigation in accordance with this section.  
7113 Section 202. Section **26B-6-705**, which is renumbered from Section 62A-5-505 is  
7114 renumbered and amended to read:  
7115 ~~[62A-5-505].~~ **26B-6-705. Confidentiality of materials relating to**  
7116 **complaints or investigations -- Rulemaking.**  
7117 (1) The division shall establish procedures by rule made in accordance with Title 63G,  
7118 Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the  
7119 ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.  
7120 (2) The identity of a complainant or a party named in the complaint may not be  
7121 disclosed by the ombudsman unless:  
7122 (a) the complainant or a legal representative of the complainant consents to the  
7123 disclosure;  
7124 (b) disclosure is ordered by a court of competent jurisdiction; or  
7125 (c) the disclosure is approved by the ombudsman and is made, as part of an  
7126 investigation involving the complainant, to an agency or entity in the community that:  
7127 (i) has statutory responsibility for the complainant, over the action alleged in the  
7128 complaint, or another party named in the complaint;  
7129 (ii) is able to assist the ombudsman to achieve resolution of the complaint; or

(iii) is able to provide expertise that would benefit the complainant.

(3) Neither the ombudsman nor the ombudsman's designee may be required to testify in court with respect to confidential matters, except as the court finds necessary to enforce this part.

Section 203. Section **26B-6-801**, which is renumbered from Section 62A-5b-102 is renumbered and amended to read:

**Part 8. Rights and Privileges of Minors and Individuals with a Disability**

~~[62A-5b-102]~~. **26B-6-801. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Disability" has the same meaning as defined in 42 U.S.C. Sec. 12102 of the Americans With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. Sec. 36.104 of the Code of Federal Regulations, as may be amended in the future.

(2) "Informed consent" means consent that is voluntary and based on an understanding by the person to be sterilized of the nature and consequences of sterilization, the reasonably foreseeable risks and benefits of sterilization, and the available alternative methods of contraception.

(3) "Institutionalized" means residing in the Utah State Developmental Center, the Utah State Hospital, a residential facility for persons with a disability as defined in Sections 10-9a-103 and 17-27a-103, a group home for persons with a disability, a nursing home, or a foster care home or facility.

~~[(2)]~~ (4) (a) "Service animal" includes any dog that:

(i) is trained, or is in training, to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability; and

(ii) performs work or tasks, or is in training to perform work or tasks, that are directly related to the individual's disability, including:

(A) assisting an individual who is blind or has low vision with navigation or other

7157 tasks;

7158 (B) alerting an individual who is deaf or hard of hearing to the presence of people or

7159 sounds;

7160 (C) providing non-violent protection or rescue work;

7161 (D) pulling a wheelchair;

7162 (E) assisting an individual during a seizure;

7163 (F) alerting an individual to the presence of an allergen;

7164 (G) retrieving an item for the individual;

7165 (H) providing physical support and assistance with balance and stability; or

7166 (I) helping an individual with a psychiatric or neurological disability by preventing or

7167 interrupting impulsive or destructive behaviors.

7168 (b) "Service animal" does not include:

7169 (i) an animal other than a dog, whether wild or domestic, trained or untrained; or

7170 (ii) an animal used solely to provide:

7171 (A) a crime deterrent;

7172 (B) emotional support;

7173 (C) well-being;

7174 (D) comfort; or

7175 (E) companionship.

7176 (5) "Sterilization" means any medical procedure, treatment, or operation rendering an

7177 individual permanently incapable of procreation.

7178 ~~[(3)]~~ (6) "Support animal" means an animal, other than a service animal, that qualifies

7179 as a reasonable accommodation under federal law for an individual with a disability.

7180 Section 204. Section **26B-6-802**, which is renumbered from Section 62A-5b-103 is

7181 renumbered and amended to read:

7182 ~~[62A-5b-103].~~ **26B-6-802. Rights and privileges of an individual with a**

7183 **disability.**

(1) An individual with a disability has the same rights and privileges in the use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other public areas as an individual who is not an individual with a disability.

(2) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by common carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this state.

(3) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by hotels, motels, lodges, and all other places of public accommodation in this state, and to places of amusement or resort to which the public is invited.

(4) (a) An individual with a disability has equal rights and access to public and private housing accommodations offered for rent, lease, or other compensation in this state.

(b) This chapter does not require a person renting, leasing, or selling private housing or real property to modify the housing or property in order to accommodate an individual with a disability or to provide a higher degree of care for that individual than for someone who is not an individual with a disability.

(c) A person renting, leasing, or selling private housing or real property to an individual with a disability shall comply with the provisions of Section [~~62A-5b-104~~] [26B-6-803](#).

Section 205. Section **26B-6-803**, which is renumbered from Section 62A-5b-104 is renumbered and amended to read:

~~[62A-5b-104]~~. **26B-6-803. Right to be accompanied by service animal or support animal -- Security deposits -- Discrimination -- Liability.**

(1) (a) An individual with a disability has the right to be accompanied by a service animal, unless the service animal is a danger or nuisance to others as interpreted under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

(i) in any of the places specified in Section [~~62A-5b-103~~] [26B-6-802](#); and

(ii) without additional charge for the service animal.

7211 (b) An owner or lessor of private housing accommodations:  
7212 (i) may not, in any manner, discriminate against an individual with a disability on the  
7213 basis of the individual's possession of a service animal or a support animal, including by  
7214 charging an extra fee or deposit for a service animal or a support animal; and  
7215 (ii) may recover a reasonable cost to repair damage caused by a service animal or a  
7216 support animal.

7217 (2) An individual who is not an individual with a disability has the right to be  
7218 accompanied by an animal that is in training to become a service animal or a police service  
7219 canine, as defined in Section [53-16-102](#):

7220 (a) in any of the places specified in Section [~~62A-5b-103~~] [26B-6-802](#); and

7221 (b) without additional charge for the animal.

7222 (3) An individual described in Subsection (1) or (2) is liable for any loss or damage the  
7223 individual's accompanying service animal, support animal, or animal described in Subsection  
7224 (2) causes or inflicts to the premises of a place specified in Section [~~62A-5b-103~~] [26B-6-802](#).

7225 (4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a  
7226 service animal or a support animal from a place described in Section [~~62A-5b-103~~] [26B-6-802](#).

7227 Section 206. Section **26B-6-804**, which is renumbered from Section 62A-5b-105 is  
7228 renumbered and amended to read:

7229 ~~[62A-5b-105]~~. **26B-6-804. Policy of state to employ individuals with a**  
7230 **disability.**

7231 It is the policy of this state that an individual with a disability is employed in the state  
7232 service, the service of the political subdivisions of the state, in the public schools, and in all  
7233 other employment supported in whole or in part by public funds on the same terms and  
7234 conditions as an individual who is not an individual with a disability, unless it is shown that the  
7235 particular disability prevents the performance of the work involved.

7236 Section 207. Section **26B-6-805**, which is renumbered from Section 62A-5b-106 is  
7237 renumbered and amended to read:

7238           ~~[62A-5b-106].~~           **26B-6-805.** Interference with rights provided in this part --  
7239 **Misrepresentation of rights under this part.**

7240           (1) Any individual, or agent of any individual, who denies or interferes with the rights  
7241 provided in this chapter is guilty of a class C misdemeanor.

7242           (2) An individual is guilty of a class C misdemeanor if:

7243           (a) the individual intentionally and knowingly falsely represents to another person that  
7244 an animal is a service animal or a support animal;

7245           (b) the individual knowingly and intentionally misrepresents a material fact to a health  
7246 care provider for the purpose of obtaining documentation from the health care provider  
7247 necessary to designate an animal as a service animal or a support animal; or

7248           (c) the individual, except for an individual with a disability, uses an animal to gain  
7249 treatment or benefits only provided for an individual with a disability.

7250           (3) This section does not affect the enforceability of any criminal law, including  
7251 Subsection ~~76-6-501~~(2).

7252           (4) An agent of a protection and advocacy agency, acting in the agent's professional  
7253 capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., and  
7254 42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).

7255           Section 208. Section **26B-6-806**, which is renumbered from Section 62A-6-102 is  
7256 renumbered and amended to read:

7257           ~~[62A-6-102].~~           **26B-6-806.** Sterilization of persons 18 years old or older.

7258           (1) It is lawful for a physician to sterilize a person who is 18 years ~~[of age]~~ old or older  
7259 and who has the capacity to give informed consent.

7260           (2) It is unlawful for a physician to sterilize a person who is 18 years ~~[of age]~~ old or  
7261 older and who is institutionalized, unless:

7262           (a) the physician, through careful examination and counseling, ensures that the person  
7263 is capable of giving informed consent and that no undue influence or coercion to consent has  
7264 been placed on that person by nature of the fact that he is institutionalized; or

(b) the person is not capable of giving informed consent, a petition has been filed in accordance with Section ~~[62A-6-107]~~ 26B-6-811, and an order authorizing the sterilization has been entered by a court of competent jurisdiction.

(3) It is unlawful for a physician to sterilize a person who is 18 years ~~[of age]~~ old or older and who is not capable of giving informed consent unless a petition has been filed in accordance with Section ~~[62A-6-107]~~ 26B-6-811 and an order authorizing sterilization has been entered by a court of competent jurisdiction.

Section 209. Section **26B-6-807**, which is renumbered from Section 62A-6-103 is renumbered and amended to read:

~~[62A-6-103].~~            **26B-6-807. Sterilization of persons under 18 years old.**

It is unlawful for a physician to sterilize a person who is under 18 years ~~[of age]~~ old unless:

(1) the person is married or otherwise emancipated and the physician, through careful examination and counseling, ensures that the person is capable of giving informed consent. If that person is institutionalized, the physician shall also ensure that no undue influence or coercion to consent has been placed on the person by nature of the fact that ~~[he]~~ the person is institutionalized; or

(2) a petition has been filed in accordance with Section ~~[62A-6-107]~~ 26B-6-811, and an order authorizing sterilization has been entered by a court of competent jurisdiction.

Section 210. Section **26B-6-808**, which is renumbered from Section 62A-6-104 is renumbered and amended to read:

~~[62A-6-104].~~            **26B-6-808. Emergency -- Medical necessity.**

If an emergency situation exists that prevents compliance with Section ~~[62A-6-102 or 62A-6-103]~~ 26B-6-806 or 26B-6-807 because of medical necessity, if delay in performing the sterilization could result in serious physical injury or death to the person, the attending physician shall certify, in writing, the specific medical reasons that necessitated suspension of those requirements. That certified statement shall become a permanent part of the sterilized

7292 person's medical record.

7293 Section 211. Section **26B-6-809**, which is renumbered from Section 62A-6-105 is  
7294 renumbered and amended to read:

7295 ~~[62A-6-105].~~ **26B-6-809. Persons who may give informed consent.**

7296 For purposes of this ~~[chapter]~~ part, the following persons may give informed consent to  
7297 sterilization:

7298 (1) a person who is the subject of sterilization, if ~~[he]~~ the person is capable of giving  
7299 informed consent; and

7300 (2) a person appointed by the court to give informed consent on behalf of a subject of  
7301 sterilization who is incapable of giving informed consent.

7302 Section 212. Section **26B-6-810**, which is renumbered from Section 62A-6-106 is  
7303 renumbered and amended to read:

7304 ~~[62A-6-106].~~ **26B-6-810. Declaration of capacity to give informed consent**  
7305 **-- Hearing.**

7306 (1) A person who desires sterilization but whose capacity to give informed consent is  
7307 questioned by any interested party may file a petition for declaration of capacity to give  
7308 informed consent.

7309 (2) If, after hearing all the relevant evidence, the court finds by a preponderance of the  
7310 evidence that the person is capable of giving informed consent, the court shall enter an order  
7311 declaring that the person has the capacity to give informed consent.

7312 Section 213. Section **26B-6-811**, which is renumbered from Section 62A-6-107 is  
7313 renumbered and amended to read:

7314 ~~[62A-6-107].~~ **26B-6-811. Petition for order authorizing sterilization.**

7315 (1) A petition for an order authorizing sterilization may be filed by a person who  
7316 desires sterilization, or by ~~[his]~~ the person's parent, spouse, guardian, custodian, or other  
7317 interested party.

7318 (2) The court shall adjudicate the petition for sterilization in accordance with Section

7319 [~~62A-6-108~~] 26B-6-812.

7320 Section 214. Section **26B-6-812**, which is renumbered from Section 62A-6-108 is  
7321 renumbered and amended to read:

7322 ~~[62A-6-108]~~. **26B-6-812. Factors to be considered by court -- Evaluations**  
7323 **-- Interview -- Findings of fact.**

7324 (1) If the court finds that the subject of sterilization is not capable of giving informed  
7325 consent, the court shall consider, but not by way of limitation, the following factors concerning  
7326 that person:

7327 (a) the nature and degree of [~~his~~] the person's mental impairment, and the likelihood  
7328 that the condition is permanent;

7329 (b) the level of [~~his~~] the person's understanding regarding the concepts of reproduction  
7330 and contraception, and whether [~~his~~] the person's ability to understand those concepts is likely  
7331 to improve;

7332 (c) [~~his~~] the person's capability for procreation or reproduction[~~. It is~~], with a  
7333 rebuttable presumption that the ability to procreate and reproduce exists in a person of normal  
7334 physical development;

7335 (d) the potentially injurious physical and psychological effects from sterilization,  
7336 pregnancy, childbirth, and parenthood;

7337 (e) the alternative methods of birth control presently available including, but not  
7338 limited to, drugs, intrauterine devices, education and training, and the feasibility of one or more  
7339 of those methods as an alternative to sterilization;

7340 (f) the likelihood that [~~he~~] the person will engage in sexual activity or could be  
7341 sexually abused or exploited;

7342 (g) the method of sterilization that is medically advisable, and least intrusive and  
7343 destructive of [~~his~~] the person's rights to bodily and psychological integrity;

7344 (h) the advisability of postponing sterilization until a later date; and

7345 (i) the likelihood that [~~he~~] the person could adequately care and provide for a child.

(2) (a) The court may require that independent medical, psychological, and social evaluations of the subject of sterilization be made prior to ruling on a petition for sterilization.

(b) The court may appoint experts to perform those examinations and evaluations and may require the petitioner, to the extent of the petitioner's ability, to bear the costs incurred.

(3) (a) The court shall interview the subject of sterilization to determine [his] the person's understanding of and desire for sterilization.

(b) The expressed preference of the person shall be made a part of the record, and shall be considered by the court in rendering its decision.

(c) The court is not bound by the expressed preference of the subject of sterilization; however, if the person expresses a preference not to be sterilized, the court shall deny the petition unless the petitioner proves beyond a reasonable doubt that the person will suffer serious physical or psychological injury if the petition is denied.

(4) (a) When adjudicating a petition for sterilization the court shall determine, on the basis of all the evidence, what decision regarding sterilization would have been made by the subject of sterilization, if [he] the person were capable of giving informed consent to sterilization.

(b) The decision regarding sterilization shall be in the best interest of the person to be sterilized.

(5) If the court grants a petition for sterilization, [it] the court shall make appropriate findings of fact in support of its order.

Section 215. Section **26B-6-813**, which is renumbered from Section 62A-6-109 is renumbered and amended to read:

~~[62A-6-109].~~            **26B-6-813. Advanced hearing.**

On motion by the person seeking sterilization or by any other party to the proceeding, the court may advance hearing on the petition.

Section 216. Section **26B-6-814**, which is renumbered from Section 62A-6-110 is renumbered and amended to read:

7373           ~~[62A-6-110].~~           **26B-6-814. Notice of hearing -- Service.**

7374           (1) A copy of the petition and notice of the hearing shall be served personally on the  
7375 person to be sterilized not less than 20 days before the hearing date.

7376           (2) The notice shall state the date, time, and place of the hearing, and shall specifically  
7377 state that the hearing is to adjudicate either a petition for declaration of capacity to give  
7378 informed consent to sterilization or a petition for sterilization.

7379           (3) Notice shall be served on that person's parents, spouse, guardian, or custodian and  
7380 on his attorney by the clerk of the court, by certified mail, not less than 10 days before the  
7381 hearing date.

7382           Section 217. Section **26B-6-815**, which is renumbered from Section 62A-6-111 is  
7383 renumbered and amended to read:

7384           ~~[62A-6-111].~~           **26B-6-815. Guardian ad litem -- Procedural rights.**

7385           (1) The court shall appoint an attorney to act as guardian ad litem to defend the rights  
7386 and interests of the person to be sterilized.

7387           (2) The person to be sterilized is entitled to appear and testify at the hearing, to  
7388 examine and cross examine witnesses, and to compel the attendance of witnesses.

7389           (3) (a) The person who is the subject of a sterilization proceeding may, on motion to  
7390 the court and for good cause shown, waive the right to be present at the hearing.

7391           (b) If the court grants that motion, the person shall be represented by a guardian ad  
7392 litem at the hearing.

7393           Section 218. Section **26B-6-816**, which is renumbered from Section 62A-6-112 is  
7394 renumbered and amended to read:

7395           ~~[62A-6-112].~~           **26B-6-816. Jury -- Rules of evidence -- Transcript -- Burden**  
7396 **of proof.**

7397           (1) The petitioner is entitled to request a jury to hear the petition.

7398           (2) The rules of evidence apply in any hearing on a petition for sterilization.

7399           (3) A transcript shall be made of the hearing and shall be made a permanent part of the

7400 record.

7401           [(2)] (4) The burden of producing evidence and the burden of proof shall be upon the  
7402 petitioner to prove by clear and convincing evidence that the petition for or order authorizing  
7403 sterilization should be granted.

7404           Section 219. Section **26B-6-817**, which is renumbered from Section 62A-6-113 is  
7405 renumbered and amended to read:

7406           ~~[62A-6-113].~~           **26B-6-817. Appeal to Supreme Court -- Stay.**

7407           (1) Any party to a proceeding under this chapter may file a notice of appeal from any  
7408 adverse decision with the Supreme Court in accordance with Rule 73, Utah Rules of Civil  
7409 Procedure.

7410           (2) The pendency of an appeal in the Supreme Court shall stay the proceedings until  
7411 the appeal is finally determined.

7412           Section 220. Section **26B-6-818**, which is renumbered from Section 62A-6-114 is  
7413 renumbered and amended to read:

7414           ~~[62A-6-114].~~           **26B-6-818. Treatment for therapeutic reasons unaffected.**

7415           Nothing in this chapter shall be construed to prevent the medical or surgical treatment,  
7416 for sound therapeutic reasons, of any person by a physician or surgeon licensed by this state,  
7417 which treatment may incidentally involve destruction of reproductive functions.

7418           Section 221. Section **26B-6-819**, which is renumbered from Section 62A-6-115 is  
7419 renumbered and amended to read:

7420           ~~[62A-6-115].~~           **26B-6-819. Immunity.**

7421           (1) A physician, assistant, or any other person acting pursuant to an order authorizing  
7422 sterilization, as provided in this ~~[chapter]~~ part, is not civilly or criminally liable for  
7423 participation in or assistance to sterilization.

7424           (2) This section does not apply to negligent acts committed in the performance of  
7425 sterilization.

7426           Section 222. Section **26B-6-820**, which is renumbered from Section 62A-6-116 is

7427 renumbered and amended to read:

7428 ~~[62A-6-116].~~ **26B-6-820.** **Unauthorized sterilization -- Criminal penalty.**

7429 Except as authorized by this ~~[chapter]~~ part, any person who intentionally performs,  
7430 encourages, assists in, or otherwise promotes the performance of a sterilization procedure for  
7431 the purpose of destroying the power to procreate the human species, with knowledge that the  
7432 provisions of this ~~[chapter]~~ part have not been met, is guilty of a third degree felony.

7433 Section 223. Section **26B-6-821**, which is renumbered from Section 62A-5b-107 is  
7434 renumbered and amended to read:

7435 ~~[62A-5b-107].~~ **26B-6-821.** **Annual "White Cane Safety Day" proclaimed.**

7436 Each year the governor shall take notice of October 15 as White Cane Safety Day.

7437 Section 224. Section **26B-7-101** is amended to read:

7438 **CHAPTER 7. PUBLIC HEALTH AND PREVENTION**

7439 **Part 1. Health Promotion and Risk Reduction**

7440 **26B-7-101. Definitions.**

7441 ~~[Reserved]~~ As used in this part:

7442 (1) "Down syndrome" means a genetic condition associated with an extra chromosome  
7443 21, in whole or in part, or an effective trisomy for chromosome 21.

7444 (2) "Maternal and child health services" means:

7445 (a) the provision of educational, preventative, diagnostic, and treatment services,  
7446 including medical care, hospitalization, and other institutional care and aftercare, appliances,  
7447 and facilitating services directed toward reducing infant mortality and improving the health of  
7448 mothers and children provided, however, that nothing in this Subsection (2) shall be construed  
7449 to allow any agency of the state to interfere with the rights of the parent of an unmarried minor  
7450 in decisions about the providing of health information or services;

7451 (b) the development, strengthening, and improvement of standards and techniques  
7452 relating to the services and care;

7453 (c) the training of personnel engaged in the provision, development, strengthening, or

7454 improvement of the services and care; and

7455 (d) necessary administrative services connected with Subsections (2)(a), (b), and (c).

7456 (3) "Minor" means a person under 18 years old.

7457 (4) "Services to children with disabilities" means:

7458 (a) the early location of children with a disability, provided that any program of  
7459 prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn  
7460 child will not be used for screening, but rather will be utilized only when there are medical or  
7461 genetic indications that warrant diagnosis;

7462 (b) the provision for children described in Subsection (4)(a), of preventive, diagnosis,  
7463 and treatment services, including medical care, hospitalization, and other institutional care and  
7464 aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of  
7465 those children or toward the restoration of the children to maximum physical and mental  
7466 health;

7467 (c) the development, strengthening, and improvement of standards and techniques  
7468 relating to services and care described in this Subsection (4);

7469 (d) the training of personnel engaged in the provision, development, strengthening, or  
7470 improvement of services and care described in this Subsection (4); and

7471 (e) necessary administrative services connected with Subsections (4)(a), (b), and (c).

7472 Section 225. Section **26B-7-102**, which is renumbered from Section 26-10-3 is  
7473 renumbered and amended to read:

7474 **[26-10-3]. 26B-7-102. Director of family health services programs.**

7475 The executive director may appoint a director of family health services programs who  
7476 shall be a board certified pediatrician or obstetrician with at least two years experience in  
7477 public health programs.

7478 Section 226. Section **26B-7-103**, which is renumbered from Section 26-10-4 is  
7479 renumbered and amended to read:

7480 **[26-10-4]. 26B-7-103. State plan for maternal and child health services.**

7481           The department shall prepare and submit a state plan for maternal and child health  
7482 services as required by Title II of the Public Health Services Act. The plan shall be the official  
7483 state plan for the state and shall be used as the basis for administration of Title V programs  
7484 within the state.

7485           Section 227. Section **26B-7-104**, which is renumbered from Section 26-10-5.5 is  
7486 renumbered and amended to read:

7487           ~~[26-10-5.5].~~   **26B-7-104.**   **Child literacy -- Distribution of information kits.**

7488           (1) The Legislature recognizes that effective child literacy programs can have a  
7489 dramatic long-term impact on each child's ability to:

- 7490           (a) succeed in school;  
7491           (b) successfully compete in a global society; and  
7492           (c) become a productive, responsible citizen.

7493           (2) (a) To help further this end, the department may make available to parents of  
7494 new-born infants, as a resource, an information kit regarding child development, the  
7495 development of emerging literacy skills, and activities which promote and enhance emerging  
7496 literacy skills, including reading aloud to the child on a regular basis.

7497           (b) The department shall seek private funding to help support this program.

7498           (3) (a) The department may seek assistance from the State Board of Education and  
7499 local hospitals in making the information kit available to parents on a voluntary basis.

7500           (b) The department may also seek assistance from private entities in making the kits  
7501 available to parents.

7502           Section 228. Section **26B-7-105**, which is renumbered from Section 26-10-10 is  
7503 renumbered and amended to read:

7504           ~~[26-10-10].~~   **26B-7-105.**   **Cytomegalovirus (CMV) public education and testing.**

7505           (1) As used in this section "CMV" means cytomegalovirus.

7506           (2) The department shall establish and conduct a public education program to inform  
7507 pregnant women and women who may become pregnant regarding:

7508 (a) the incidence of CMV;

7509 (b) the transmission of CMV to pregnant women and women who may become

7510 pregnant;

7511 (c) birth defects caused by congenital CMV;

7512 (d) methods of diagnosing congenital CMV; and

7513 (e) available preventative measures.

7514 (3) The department shall provide the information described in Subsection (2) to:

7515 (a) child care programs licensed under ~~[Title 26, Chapter 39, Utah Child Care~~

7516 ~~Licensing Act]~~ Chapter 2, Part 4, Child Care Licensing, and their employees;

7517 (b) a person described in Subsection ~~[26-39-403]~~ [26B-2-405](#)(1)(a)(iii) and Subsections

7518 ~~[26-39-403]~~ [26B-2-405](#)(2)(a), (b), (c), (e), and (f);

7519 (c) a person serving as a school nurse under Section [53G-9-204](#);

7520 (d) a person offering health education in a school district;

7521 (e) health care providers offering care to pregnant women and infants; and

7522 (f) religious, ecclesiastical, or denominational organizations offering children's

7523 programs as a part of worship services.

7524 (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection

7525 ~~[26-10-6]~~ [26B-4-319](#)(1), a medical practitioner shall:

7526 (a) test the newborn infant for CMV before the newborn is 21 days ~~[of age]~~ old, unless

7527 a parent of the newborn infant objects; and

7528 (b) provide to the parents of the newborn infant information regarding:

7529 (i) birth defects caused by congenital CMV; and

7530 (ii) available methods of treatment.

7531 (5) The department shall provide to the family and the medical practitioner, if known,

7532 information regarding the testing requirements under Subsection (4) when providing results

7533 indicating that an infant has failed the newborn hearing screening test(s) under Subsection

7534 ~~[26-10-6]~~ [26B-4-319](#)(1).

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Section 229. Section **26B-7-106**, which is renumbered from Section 26-10-14 is renumbered and amended to read:

**[26-10-14]. 26B-7-106. Down syndrome diagnosis -- Information and support.**

(1) The department shall provide contact information for state and national Down syndrome organizations that are nonprofit and that provide information and support services for parents, including first-call programs and information hotlines specific to Down syndrome, resource centers or clearinghouses, and other education and support programs for Down syndrome.

(2) The department shall:

(a) post the information described in Subsection (1) on the department's website; and

(b) create an informational support sheet with the information described in Subsection (1) and the web address described in Subsection (2)(a).

(3) A Down syndrome organization may request that the department include the organization's informational material and contact information on the website. The department may add the information to the website, if the information meets the description under Subsection (1).

(4) Upon request, the department shall provide a health care facility or health care provider a copy of the informational support sheet described in Subsection (2)(b) to give to a pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn child has or may have Down syndrome.

Section 230. Section **26B-7-107**, which is renumbered from Section 26-10-15 is renumbered and amended to read:

**[26-10-15]. 26B-7-107. Lead exposure public education and testing.**

(1) The department shall establish a child blood lead epidemiology and surveillance program to:

(a) encourage pediatric health care providers to include a lead test in accordance with the department's recommendations under Subsection (2); and

(b) conduct a public education program to inform parents of children who are two years old or younger regarding:

(i) the effects of lead exposure in children;

(ii) the availability of free screening and testing for lead exposure; and

(iii) other available preventative measures.

(2) The department may recommend consideration of screening and testing during the first year or second year well child clinical visit.

(3) (a) The department shall provide the information described in Subsection (1) to organizations that regularly provide care or services for children who are 5 years old or younger.

(b) The department may work with the following organizations to share the information described in Subsection (1):

(i) a child care program licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Chapter 2, Part 4, Child Care Licensing, and the employees of the child care program;

(ii) a health care facility licensed under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection [~~Act~~];

(iii) a person providing child care under a program that is described in Subsection [~~26-39-403~~] 26B-2-405(2);

(iv) an individual offering health education in a school district, including a school nurse under Section 53G-9-204;

(v) a health care provider offering care to pregnant women and infants;

(vi) a religious, ecclesiastical, or denominational organization offering children's programs as a part of worship services;

(vii) an organization that advocates for public education, testing, and screening of

children for lead exposure;

(viii) a local health department as defined in Section [26A-1-102](#); and

(ix) any other person that the department believes would advance public education regarding the effects of lead exposure on children.

(4) The department shall seek grant funding to fund the program created in this section.

Section 231. Section **26B-7-108**, which is renumbered from Section 26-1-23.5 is renumbered and amended to read:

**[26-1-23.5]. 26B-7-108. Rules for sale of drugs, cosmetics, and medical devices.**

The department shall establish and enforce rules for the sale or distribution of human drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more stringent than those established by federal law.

Section 232. Section **26B-7-109**, which is renumbered from Section 26-1-26 is renumbered and amended to read:

**[26-1-26]. 26B-7-109. Director of community health nursing appointed by executive director.**

~~[There shall be within the department]~~ The executive director shall appoint a director of community health nursing ~~[appointed by the executive director]~~ who shall develop, implement, monitor, and evaluate community health nursing standards and services and participate in the formulation of policies for administration of health services.

Section 233. Section **26B-7-110**, which is renumbered from Section 26-1-36 is renumbered and amended to read:

**[26-1-36]. 26B-7-110. Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain.**

(1) As used in this section, "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(2) In addition to the duties listed in Section ~~[26-1-30]~~ [26B-1-202](#), the department shall

7616 develop and implement a two-year program in coordination with the Division of Professional  
7617 Licensing, the Utah Labor Commission, and the Utah attorney general, to:

7618 (a) investigate the causes of and risk factors for death and nonfatal complications of  
7619 prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled  
7620 Substance Database created in Section 58-37f-201;

7621 (b) study the risks, warning signs, and solutions to the risks associated with  
7622 prescription opiate medications for chronic pain, including risks and prevention of misuse and  
7623 diversion of those medications;

7624 (c) provide education to health care providers, patients, insurers, and the general public  
7625 on the appropriate management of chronic pain, including the effective use of medical  
7626 treatment and quality care guidelines that are scientifically based and peer reviewed; and

7627 (d) educate the public regarding:

7628 (i) the purpose of the Controlled Substance Database established in Section  
7629 58-37f-201; and

7630 (ii) the requirement that a person's name and prescription information be recorded on  
7631 the database when the person fills a prescription for a schedule II, III, IV, or V controlled  
7632 substance.

7633 Section 234. Section **26B-7-111**, which is renumbered from Section 26-1-38 is  
7634 renumbered and amended to read:

7635 ~~[26-1-38]~~. **26B-7-111**. **Local health emergency assistance program.**

7636 (1) As used in this section:

7637 (a) "Local health department" means the same as that term is defined in Section  
7638 26A-1-102.

7639 (b) "Local health emergency" means an unusual event or series of events causing or  
7640 resulting in a substantial risk or substantial potential risk to the health of a significant portion  
7641 of the population within the boundary of a local health department, as determined by the local  
7642 health department.

(c) "Program" means the local health emergency assistance program that the department is required to establish under this section.

(d) "Program fund" means money that the Legislature appropriates to the department for use in the program and other money otherwise made available for use in the program.

(2) The department shall establish, to the extent of funds appropriated by the Legislature or otherwise made available to the program fund, a local health emergency assistance program.

(3) Under the program, the department shall:

(a) provide a method for a local health department to seek reimbursement from the program fund for local health department expenses incurred in responding to a local health emergency;

(b) require matching funds from any local health department seeking reimbursement from the program fund;

(c) establish a method for apportioning money in the program fund to multiple local health departments when the total amount of concurrent requests for reimbursement by multiple local health departments exceeds the balance in the program fund; and

(d) establish by rule other provisions that the department considers necessary or advisable to implement the program.

(4) (a) (i) Subject to Subsection (4)(a)(ii), the department shall use money in the program fund exclusively for purposes of the program.

(ii) The department may use money in the program fund to cover its costs of administering the program.

(b) Money that the Legislature appropriates to the program fund is nonlapsing in accordance with Section [63J-1-602.1](#).

(c) Any interest earned on money in the program fund shall be deposited to the General Fund.

Section 235. Section **26B-7-112**, which is renumbered from Section 26-1-42 is

7670 renumbered and amended to read:

7671 ~~[26-1-42]~~. **26B-7-112. Health care grant requests and funding.**

7672 (1) Any time the United States Department of Health and Human Services accepts  
7673 grant applications, the department shall apply for a grant under Title X of the Public Health  
7674 Service Act, 42 U.S.C. Sec. 300 et seq.

7675 (2) (a) As part of the application described in Subsection (1), the department shall  
7676 request that the United States Department of Health and Human Services waive the  
7677 requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4)  
7678 pertaining to providing certain services to a minor without parental consent.

7679 (b) If the department's application described in Subsection (1) is denied, and at such  
7680 time the United States Department of Health and Human Services creates a waiver application  
7681 process, the department shall apply for a waiver from compliance with the requirements found  
7682 in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental  
7683 consent in order to be eligible for a grant under Title X of the Public Health Service Act, 42  
7684 U.S.C. Sec. 300 et seq.

7685 (3) If the department receives a grant under Subsection (1), the department shall  
7686 prioritize disbursement of grant funds in the prioritization order described in Subsection (4).

7687 (4) (a) (i) When disbursing grant funds, the department shall give first priority to  
7688 nonpublic entities that provide family planning services as well as other comprehensive  
7689 services to enable women to give birth and parent or place for adoption.

7690 (ii) The department shall give preference to entities described in Subsection (4)(a)(i)  
7691 that:

7692 (A) expand availability of prenatal and postnatal care in low-income and under-served  
7693 areas of the state;

7694 (B) provide support for a woman to carry a baby to term;

7695 (C) emphasize the health and viability of the fetus; and

7696 (D) provide education and maternity support.

7697 (iii) If the department receives applications from qualifying nonpublic entities as  
7698 described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying  
7699 nonpublic entities described in Subsection (4)(a).

7700 (b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for  
7701 grant funding under the criteria described in Subsection (4)(a), the department shall give  
7702 second priority for grant funds to nonpublic entities that provide:

7703 (i) family planning services; and

7704 (ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

7705 (c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity  
7706 qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the  
7707 department shall give third priority for grant funds to public entities that provide family  
7708 planning services, including state, county, or local community health clinics, and community  
7709 action organizations.

7710 (d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no  
7711 entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c),  
7712 the department shall give fourth priority for grant funds to nonpublic entities that provide  
7713 family planning services but do not provide required primary health services as described in 42  
7714 U.S.C. Sec. 254b(b)(1)(A).

7715 Section 236. Section **26B-7-113**, which is renumbered from Section 26-7-1 is  
7716 renumbered and amended to read:

7717 **~~[26-7-1]~~. 26B-7-113. Identification of major risk factors by department --**  
7718 **Education of public -- Establishment of programs.**

7719 The department shall identify the major risk factors contributing to injury, sickness,  
7720 death, and disability within the state and where it determines that a need exists, educate the  
7721 public regarding these risk factors, and the department may establish programs to reduce or  
7722 eliminate these factors except that such programs may not be established if adequate programs  
7723 exist in the private sector.

Section 237. Section **26B-7-114**, which is renumbered from Section 26-7-2 is renumbered and amended to read:

**[26-7-2].      26B-7-114. Office of Health Equity -- Duties.**

(1) As used in this section:

(a) "Multicultural or minority health issue" means a health issue, including a mental and oral health issue, of particular interest to cultural, ethnic, racial, or other subpopulations, including:

(i) disparities in:

(A) disease incidence, prevalence, morbidity, mortality, treatment, and treatment response; and

(B) access to care; and

(ii) cultural competency in the delivery of health care.

(b) "Office" means the Office of Health ~~[Disparities Reduction]~~ Equity created in this section.

(2) There is created within the department the Office of Health ~~[Disparities Reduction]~~ Equity.

(3) The office shall:

(a) promote and coordinate the research, data production, dissemination, education, and health promotion activities of the following that relate to a multicultural or minority health issue:

(i) the department;

(ii) local health departments;

(iii) local mental health authorities;

(iv) public schools;

(v) community-based organizations; and

(vi) other organizations within the state;

(b) assist in the development and implementation of one or more programs to address a

7751 multicultural or minority health issue;

7752 (c) promote the dissemination and use of information on a multicultural or minority

7753 health issue by minority populations, health care providers, and others;

7754 (d) seek federal funding and other resources to accomplish the office's mission;

7755 (e) provide technical assistance to organizations within the state seeking funding to

7756 study or address a multicultural or minority health issue;

7757 (f) develop and increase the capacity of the office to:

7758 (i) ensure the delivery of qualified timely culturally appropriate translation services

7759 across department programs; and

7760 (ii) provide, when appropriate, linguistically competent translation and communication

7761 services for limited English proficiency individuals;

7762 (g) provide staff assistance to any advisory committee created by the department to

7763 study a multicultural or minority health issue; and

7764 (h) annually report to the Legislature on its activities and accomplishments.

7765 Section 238. Section **26B-7-115**, which is renumbered from Section 26-7-4 is

7766 renumbered and amended to read:

7767 **[26-7-4]. 26B-7-115. Utah Registry of Autism and Developmental Disabilities.**

7768 (1) As used in this section, "URADD" means the Utah Registry of Autism and

7769 Developmental Disabilities.

7770 (2) The department may enter into an agreement with:

7771 (a) the University of Utah or another person for the operation of URADD; and

7772 (b) a person to conduct a public education campaign to:

7773 (i) improve public awareness of the early warning signs of autism spectrum disorders

7774 and developmental disabilities; and

7775 (ii) promote the early identification of autism spectrum disorders and developmental

7776 disabilities.

7777 (3) URADD shall consist of a database that collects information on people in the state

7778 who have an autism spectrum disorder or a developmental disability.

7779 (4) The purpose of URADD is to assist health care providers to:

7780 (a) determine the risk factors and causes of autism spectrum disorders and  
7781 developmental disabilities;

7782 (b) plan for and develop resources, therapies, methods of diagnoses, and other services  
7783 for people with an autism spectrum disorder or a developmental disability;

7784 (c) facilitate measuring and tracking of treatment outcomes;

7785 (d) gather statistics relating to autism spectrum disorders and developmental  
7786 disabilities; and

7787 (e) improve coordination and cooperation between agencies and other programs that  
7788 provide services to people with an autism spectrum disorder or a developmental disability.

7789 Section 239. Section **26B-7-116**, which is renumbered from Section 26-7-7 is  
7790 renumbered and amended to read:

7791 ~~[26-7-7]~~. **26B-7-116. Radon awareness campaign.**

7792 The department shall, in consultation with the Division of Waste Management and  
7793 Radiation Control, develop a statewide electronic awareness campaign to educate the public  
7794 regarding:

7795 (1) the existence and prevalence of radon gas in buildings and structures;

7796 (2) the health risks associated with radon gas;

7797 (3) options for radon gas testing; and

7798 (4) options for radon gas remediation.

7799 Section 240. Section **26B-7-117**, which is renumbered from Section 26-7-8 is  
7800 renumbered and amended to read:

7801 ~~[26-7-8]~~. **26B-7-117. Syringe exchange and education.**

7802 (1) The following may operate a syringe exchange program in the state to prevent the  
7803 transmission of disease and reduce morbidity and mortality among individuals who inject  
7804 drugs, and those individuals' contacts:

- 7805 (a) a government entity, including:
- 7806 (i) the department;
- 7807 (ii) a local health department~~[, as defined in Section 26A-1-102]; or~~
- 7808 ~~[(iii) the Division of Substance Abuse and Mental Health within the Department of~~
- 7809 ~~Human Services; or]~~
- 7810 ~~[(iv)]~~ (iii) a local substance abuse authority, as defined in Section [~~62A-15-102]~~
- 7811 26B-5-101;
- 7812 (b) a nongovernment entity, including:
- 7813 (i) a nonprofit organization; or
- 7814 (ii) a for-profit organization; or
- 7815 (c) any other entity that complies with Subsections (2) and (4).
- 7816 (2) An entity operating a syringe exchange program in the state shall:
- 7817 (a) facilitate the exchange of an individual's used syringe for one or more new syringes
- 7818 in sealed sterile packages;
- 7819 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
- 7820 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis
- 7821 C and human immunodeficiency virus; and
- 7822 (ii) options for obtaining:
- 7823 (A) services for the treatment of a substance use disorder;
- 7824 (B) testing for a blood-borne disease; and
- 7825 (C) an opiate antagonist ~~[under Chapter 55, Opiate Overdose Response Act]; and~~
- 7826 (c) report annually to the department the following information about the program's
- 7827 activities:
- 7828 (i) the number of individuals who have exchanged syringes;
- 7829 (ii) the number of used syringes exchanged for new syringes; and
- 7830 (iii) the number of new syringes provided in exchange for used syringes.
- 7831 (3) No later than October 1, 2017, and every two years thereafter, the department shall

report to the Legislature's Health and Human Services Interim Committee on:

(a) the activities and outcomes of syringe programs operating in the state, including:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes;

(iii) the number of new syringes provided in exchange for used syringes;

(iv) the impact of the programs on blood-borne infection rates; and

(v) the impact of the programs on the number of individuals receiving treatment for a substance use disorder;

(b) the potential for additional reductions in the number of syringes contaminated with blood-borne disease if the programs receive additional funding;

(c) the potential for additional reductions in state and local government spending if the programs receive additional funding;

(d) whether the programs promote illicit use of drugs; and

(e) whether the programs should be continued, continued with modifications, or terminated.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

Section 241. Section **26B-7-118**, which is renumbered from Section 26-7-9 is renumbered and amended to read:

**~~[26-7-9]~~.      26B-7-118. Online public health education module for vaccine-preventable diseases.**

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section **78B-3-403**.

(b) "Nonimmune" means that a child or an individual:

(i) has not received each vaccine required in Section **53G-9-305** and has not developed

7859 a natural immunity through previous illness to a vaccine-preventable disease, as documented  
7860 by a health care provider;

7861 (ii) cannot receive each vaccine required in Section 53G-9-305; or

7862 (iii) is otherwise known to not be immune to a vaccine-preventable disease.

7863 (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by  
7864 a vaccination required in Section 53G-9-305.

7865 (2) The department shall develop an online education module regarding  
7866 vaccine-preventable diseases:

7867 (a) to assist a parent of a nonimmune child to:

7868 (i) recognize the symptoms of vaccine-preventable diseases;

7869 (ii) respond in the case of an outbreak of a vaccine-preventable disease;

7870 (iii) protect children who contract a vaccine-preventable disease; and

7871 (iv) prevent the spread of vaccine-preventable diseases;

7872 (b) that contains only the following:

7873 (i) information about vaccine-preventable diseases necessary to achieve the goals  
7874 stated in Subsection (2)(a), including the best practices to prevent the spread of

7875 vaccine-preventable diseases;

7876 (ii) recommendations to reduce the likelihood of a nonimmune individual contracting  
7877 or transmitting a vaccine-preventable disease; and

7878 (iii) information about additional available resources related to vaccine-preventable  
7879 diseases and the availability of low-cost vaccines;

7880 (c) that includes interactive questions or activities; and

7881 (d) that is expected to take an average user 20 minutes or less to complete, based on  
7882 user testing.

7883 (3) In developing the online education module described in Subsection (2), the  
7884 department shall consult with individuals interested in vaccination or vaccine-preventable  
7885 diseases, including:

- 7886 (a) representatives from organizations of health care professionals; and  
7887 (b) parents of nonimmune children.

7888 (4) The department shall make the online education module described in Subsection  
7889 (2) publicly available to parents through:

- 7890 (a) a link on the department's website;  
7891 (b) county health departments, as that term is defined in Section 26A-1-102;  
7892 (c) local health departments, as that term is defined in Section 26A-1-102;  
7893 (d) local education agencies, as that term is defined in Section 53E-1-102; and  
7894 (e) other public health programs or organizations.

7895 Section 242. Section **26B-7-119**, which is renumbered from Section 26-7-11 is  
7896 renumbered and amended to read:

7897 **[~~26-7-11~~]. 26B-7-119. Hepatitis C Outreach Pilot Program.**

7898 (1) As used in this section, "Hepatitis C outreach organization" means a private  
7899 nonprofit organization that:

7900 (a) has an established relationship with individuals who are at risk of acquiring acute  
7901 Hepatitis C;

7902 (b) helps individuals who need Hepatitis C treatment, but who do not qualify for  
7903 payment of the treatment by the Medicaid program or another health insurer, to obtain  
7904 treatment;

7905 (c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and  
7906 diagnosis, including clinical staff with the training and ability to provide:

7907 (i) specimen collection for Hepatitis C testing;

7908 (ii) clinical assessments;

7909 (iii) consultation regarding blood-borne diseases; and

7910 (iv) case management services for patient support during Hepatitis C treatment; or

7911 (d) has a partnership with a health care facility that can provide clinical follow-up and  
7912 medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.

7913 (2) There is created within the department the Hepatitis C Outreach Pilot Program.

7914 (3) Before September 1, 2020, the department shall, as funding permits, make grants to  
7915 Hepatitis C outreach organizations in accordance with criteria established by the department  
7916 under Subsection (4).

7917 (4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G,  
7918 Chapter 3, Utah Administrative Rulemaking Act, to:

7919 (a) create application requirements for a grant from the program;

7920 (b) establish criteria for determining:

7921 (i) whether a grant is awarded, including criteria that ensure grants are awarded to areas  
7922 of the state, including rural areas, that would benefit most from the grant; and

7923 (ii) the amount of a grant; and

7924 (c) specify reporting requirements for the recipient of a grant under this section.

7925 (5) Before October 1, 2021, and before October 1 every year thereafter, the department  
7926 shall submit a report to the Health and Human Services Interim Committee and the Social  
7927 Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot  
7928 Program.

7929 Section 243. Section **26B-7-201**, which is renumbered from Section 26-6-2 is  
7930 renumbered and amended to read:

7931 **Part 2. Detection and Management of Chronic and Communicable Diseases and**  
7932 **Public Health Emergencies**

7933 **~~[26-6-2]~~. 26B-7-201. Definitions.**

7934 As used in this [chapter] part:

7935 (1) "Ambulatory surgical center" [~~is as~~] means the same as that term is defined in  
7936 Section [~~26-21-2~~] 26B-2-201.

7937 (2) "Carrier" means an infected individual or animal who harbors a specific infectious  
7938 agent in the absence of discernible clinical disease and serves as a potential source of infection  
7939 for man. The carrier state may occur in an individual with an infection that is inapparent

throughout its course, commonly known as healthy or asymptomatic carrier, or during the incubation period, convalescence, and postconvalescence of an individual with a clinically recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under either circumstance the carrier state may be of short duration, as a temporary or transient carrier, or long duration, as a chronic carrier.

(3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.

(4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to ~~[man]~~ a human, or from an infected ~~[man]~~ human to an animal, including arthropods.

(5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.

(6) "End stage renal disease facility" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

(7) (a) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(b) The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence.

(c) Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.

(8) "General acute hospital" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

(9) "Incubation period" means the time interval between exposure to an infectious

7967 agent and appearance of the first sign or symptom of the disease in question.

7968 (10) "Infected individual" means an individual who harbors an infectious agent and  
7969 who has manifest disease or inapparent infection. An infected individual is one from whom the  
7970 infectious agent can be naturally acquired.

7971 (11) "Infection" means the entry and development or multiplication of an infectious  
7972 agent in the body of man or animals. Infection is not synonymous with infectious disease; the  
7973 result may be inapparent or manifest. The presence of living infectious agents on exterior  
7974 surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but  
7975 contamination of such surfaces and articles.

7976 (12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus,  
7977 protozoan, or helminth that is capable of producing infection or infectious disease.

7978 (13) "Infectious disease" means a disease of man or animals resulting from an  
7979 infection.

7980 (14) "Isolation" means the separation, for the period of communicability, of infected  
7981 individuals or animals from others, in such places and under such conditions as to prevent the  
7982 direct or indirect conveyance of the infectious agent from those infected to those who are  
7983 susceptible or who may spread the agent to others.

7984 (15) "Order of constraint" means the same as that term is defined in Section  
7985 ~~[26-23b-102]~~ [26B-7-301](#).

7986 (16) "Quarantine" means the restriction of the activities of well individuals or animals  
7987 who have been exposed to a communicable disease during its period of communicability to  
7988 prevent disease transmission.

7989 (17) "School" means a public, private, or parochial nursery school, licensed or  
7990 unlicensed day care center, child care facility, family care home, ~~[headstart]~~ Head Start  
7991 program, kindergarten, elementary, or secondary school through grade 12.

7992 (18) "Sexually transmitted disease" means those diseases transmitted through sexual  
7993 intercourse or any other sexual contact.

7994 (19) "Specialty hospital" is as defined in Section [~~26-21-2~~] [26B-2-201](#).

7995 Section 244. Section **26B-7-202**, which is renumbered from Section 26-6-3 is  
7996 renumbered and amended to read:

7997 **[~~26-6-3~~]. 26B-7-202. Authority to investigate and control epidemic infections**  
7998 **and communicable disease.**

7999 (1) Subject to Subsection (3) and the restrictions in this title, the department has  
8000 authority to investigate and control the causes of epidemic infections and communicable  
8001 disease, and shall provide for the detection, reporting, prevention, and control of communicable  
8002 diseases and epidemic infections or any other health hazard which may affect the public health.

8003 (2) (a) As part of the requirements of Subsection (1), the department shall distribute to  
8004 the public and to health care professionals:

8005 (i) medically accurate information about sexually transmitted diseases that may cause  
8006 infertility and sterility if left untreated, including descriptions of:

8007 (A) the probable side effects resulting from an untreated sexually transmitted disease,  
8008 including infertility and sterility;

8009 (B) medically accepted treatment for sexually transmitted diseases;

8010 (C) the medical risks commonly associated with the medical treatment of sexually  
8011 transmitted diseases; and

8012 (D) suggested screening by a private physician or physician assistant; and

8013 (ii) information about:

8014 (A) public services and agencies available to assist individuals with obtaining  
8015 treatment for the sexually transmitted disease;

8016 (B) medical assistance benefits that may be available to the individual with the  
8017 sexually transmitted disease; and

8018 (C) abstinence before marriage and fidelity after marriage being the surest prevention  
8019 of sexually transmitted disease.

8020 (b) The information required by Subsection (2)(a):

8021 (i) shall be distributed by the department and by local health departments free of  
8022 charge;

8023 (ii) shall be relevant to the geographic location in which the information is distributed  
8024 by:

8025 (A) listing addresses and telephone numbers for public clinics and agencies providing  
8026 services in the geographic area in which the information is distributed; and

8027 (B) providing the information in English as well as other languages that may be  
8028 appropriate for the geographic area.

8029 (c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written  
8030 material that includes the information required by this Subsection (2).

8031 (ii) In addition to the written materials required by Subsection (2)(c)(i), the department  
8032 may distribute the information required by this Subsection (2) by any other methods the  
8033 department determines is appropriate to educate the public, excluding public schools, including  
8034 websites, toll free telephone numbers, and the media.

8035 (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the  
8036 written pamphlet developed by the department, the written material shall include either a  
8037 website, or a 24-hour toll free telephone number that the public may use to obtain that  
8038 information.

8039 (3) (a) The Legislature may at any time terminate by joint resolution an order of  
8040 constraint issued by the department as described in this section in response to a declared public  
8041 health emergency.

8042 (b) A county governing body may at any time terminate by majority vote an order of  
8043 constraint issued by the relevant local health department as described in this section in response  
8044 to a declared public health emergency.

8045 Section 245. Section **26B-7-203**, which is renumbered from Section 26-6-3.5 is  
8046 renumbered and amended to read:

8047 **[26-6-3.5]. 26B-7-203. Reporting AIDS and HIV infection -- Anonymous**

8048 **testing.**

8049 (1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome  
8050 and Human Immunodeficiency Virus infection, the department shall:

8051 (a) require reporting of those conditions; and

8052 (b) utilize contact tracing and other methods for "partner" identification and  
8053 notification. The department shall, by rule, define individuals who are considered "partners" for  
8054 purposes of this section.

8055 (2) (a) The requirements of Subsection (1) do not apply to seroprevalence and other  
8056 epidemiological studies conducted by the department.

8057 (b) The requirements of Subsection (1) do not apply to, and anonymity shall be  
8058 provided in, research studies conducted by universities or hospitals, under the authority of  
8059 institutional review boards if those studies are funded in whole or in part by research grants and  
8060 if anonymity is required in order to obtain the research grant or to carry out the research.

8061 (3) For all purposes of ~~[this chapter]~~ Sections [26B-7-201](#) through [26B-7-223](#), Acquired  
8062 Immunodeficiency Syndrome and Human Immunodeficiency Virus infection are considered  
8063 communicable and infectious diseases.

8064 (4) The department may establish or allow one site or agency within the state to  
8065 provide anonymous testing.

8066 (a) The site or agency that provides anonymous testing shall maintain accurate records  
8067 regarding:

8068 (i) the number of HIV positive individuals that it is able to contact or inform of their  
8069 condition;

8070 (ii) the number of HIV positive individuals who receive extensive counseling;

8071 (iii) how many HIV positive individuals provide verifiable information for partner  
8072 notification; and

8073 (iv) how many cases in which partner notification is carried through.

8074 (b) If the information maintained under Subsection (4)(a) indicates anonymous testing

is not resulting in partner notification, the department shall phase out the anonymous testing program allowed by this Subsection (4).

Section 246. Section **26B-7-204**, which is renumbered from Section 26-6-4 is renumbered and amended to read:

~~[26-6-4].~~      **26B-7-204. Involuntary examination, treatment, isolation, and quarantine.**

(1) The following individuals or groups of individuals are subject to examination, treatment, quarantine, or isolation under a department order of restriction:

(a) an individual who is infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department or the local health department to prevent spread of the disease;

(b) an individual who is contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health and that could be spread to others if remedial action is not taken;

(c) an individual who is in a condition or suspected condition which, if exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed will pose a threat to public health; and

(d) an individual who is contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.

(2) If an individual refuses to take action as required by the department or the local health department to prevent the spread of a communicable disease, infectious agent, or contamination, the department or the local health department may order involuntary examination, treatment, quarantine, or isolation of the individual and may petition the ~~[district]~~ court to order involuntary examination, treatment, quarantine, or isolation in accordance with ~~[Title 26, Chapter 6b, Communicable Diseases=]~~ Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases.

8102           Section 247. Section **26B-7-205**, which is renumbered from Section 26-6-5 is  
8103 renumbered and amended to read:

8104           ~~[26-6-5].~~       **26B-7-205.** **Willful introduction of communicable disease a**  
8105 **misdemeanor.**

8106           Any person who willfully or knowingly introduces any communicable or infectious  
8107 disease into any county, municipality, or community is guilty of a class A misdemeanor, except  
8108 as provided in Section ~~76-10-1309~~.

8109           Section 248. Section **26B-7-206**, which is renumbered from Section 26-6-6 is  
8110 renumbered and amended to read:

8111           ~~[26-6-6].~~       **26B-7-206.** **Duty to report individual suspected of having**  
8112 **communicable disease.**

8113           The following shall report to the department or the local health department regarding  
8114 any individual suffering from or suspected of having a disease that is communicable, as  
8115 required by department rule:

- 8116           (1) health care providers as defined in Section ~~78B-3-403~~;
- 8117           (2) facilities licensed under ~~[Title 26, Chapter 21,]~~ Chapter 2, Part 2, Health Care  
8118 Facility Licensing and Inspection ~~[Act]~~;
- 8119           (3) health care facilities operated by the federal government;
- 8120           (4) mental health facilities;
- 8121           (5) care facilities licensed by the ~~[Department of Human Services]~~ department;
- 8122           (6) nursing homes and other care facilities;
- 8123           (7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for  
8124 individuals who are suffering from a disease suspected of being communicable;
- 8125           (8) individuals who have knowledge of others who have a communicable disease;
- 8126           (9) individuals in charge of schools having responsibility for any individuals who have  
8127 a disease suspected of being communicable; and
- 8128           (10) child care programs, as defined in Section ~~[26-39-102]~~ 26B-2-401.

8129 Section 249. Section **26B-7-207**, which is renumbered from Section 26-6-7 is  
8130 renumbered and amended to read:

8131 ~~[26-6-7].~~ **26B-7-207. Designation of communicable diseases by department --**  
8132 **Establishment of rules for detection, reporting, investigation, prevention, and control.**

8133 The department may designate those diseases which are communicable, of concern to  
8134 the public health, and reportable; and establish rules for the detection, reporting, investigation,  
8135 prevention, and control of communicable diseases, epidemic infections, and other health  
8136 hazards that affect the public health.

8137 Section 250. Section **26B-7-208**, which is renumbered from Section 26-6-8 is  
8138 renumbered and amended to read:

8139 ~~[26-6-8].~~ **26B-7-208. Tuberculosis -- Duty of department to investigate,**  
8140 **control, and monitor.**

8141 (1) The department shall conduct or oversee the investigation, control, and monitoring  
8142 of suspected or confirmed tuberculosis infection and disease within the state. Local health  
8143 departments shall investigate, control, and monitor suspected or confirmed tuberculosis  
8144 infection and disease within their respective jurisdictions.

8145 (2) A health care provider who treats an individual with suspected or confirmed  
8146 tuberculosis shall treat the individual according to guidelines established by the department.

8147 Section 251. Section **26B-7-209**, which is renumbered from Section 26-6-9 is  
8148 renumbered and amended to read:

8149 ~~[26-6-9].~~ **26B-7-209. Tuberculosis -- Testing of high risk individuals.**

8150 Individuals at high risk for tuberculosis shall be tested as required by department rule[  
8151 ~~The department rule~~], which:

8152 (1) shall establish criteria to identify individuals who are at high risk for tuberculosis;  
8153 and

8154 (2) may establish who is responsible for the costs of the testing.

8155 Section 252. Section **26B-7-210**, which is renumbered from Section 26-6-11 is

8156 renumbered and amended to read:

8157           ~~[26-6-11]~~.     **26B-7-210. Rabies or other animal disease -- Investigation and**  
8158 **order of quarantine.**

8159           (1) As used in this section, "quarantine" means strict confinement upon the private  
8160 premises of the owners, under restraint by leash, closed cage or paddock of all animals  
8161 specified by the order.

8162           (2) (a) Whenever rabies or any other animal disease dangerous to the health of human  
8163 beings is reported, the department shall investigate to determine whether such disease exists,  
8164 and the probable area of the state in which man or beast is thereby endangered.

8165           (b) If the department finds that such disease exists, a quarantine may be declared  
8166 against all animals designated in the quarantine order and within the area specified in the order.

8167           (c) If the quarantine is for the purpose of preventing the spread of rabies or  
8168 hydrophobia, the order shall contain a warning to the owners of dogs within the quarantined  
8169 area to confine or muzzle all dogs to prevent biting.

8170           (d) Any dog not muzzled found running at large in a quarantined area or any dog  
8171 known to have been removed from or escaped from such area, may be killed by any person  
8172 without liability therefor.

8173           (3) Following the order of quarantine the department shall make a thorough  
8174 investigation as to the extent of the disease, the probable number of persons and beasts  
8175 exposed, and the area involved.

8176           (4) During the period any quarantine order is in force all peace officers may kill or  
8177 capture and hold for further action by the department all animals in a quarantined area not held  
8178 in restraint on private premises.

8179           Section 253. Section **26B-7-211**, which is renumbered from Section 26-6-15 is  
8180 renumbered and amended to read:

8181           ~~[26-6-15]~~.     **26B-7-211. Rabies or other animal disease -- Possession of animal in**  
8182 **violation of part a misdemeanor.**

8183 Any person in possession of any animal being held in violation of [~~this chapter~~]  
8184 Sections 26B-7-201 through 26B-7-223 is guilty of a class C misdemeanor.

8185 Section 254. Section **26B-7-212**, which is renumbered from Section 26-6-16 is  
8186 renumbered and amended to read:

8187 ~~[26-6-16].~~ **26B-7-212. Sexually transmitted infections declared dangerous to**  
8188 **public health.**

8189 Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby  
8190 declared to be contagious, infectious, communicable and dangerous to the public health.

8191 Section 255. Section **26B-7-213**, which is renumbered from Section 26-6-17 is  
8192 renumbered and amended to read:

8193 ~~[26-6-17].~~ **26B-7-213. Sexually transmitted infections -- Examinations by**  
8194 **authorities -- Treatment of infected persons.**

8195 State, county, and municipal health officers within their respective jurisdictions may  
8196 make examinations of persons reasonably suspected of being infected with venereal disease.  
8197 Persons infected with venereal disease shall be required to report for treatment to either a  
8198 reputable physician or physician assistant and continue treatment until cured or to submit to  
8199 treatment provided at public expense until cured.

8200 Section 256. Section **26B-7-214**, which is renumbered from Section 26-6-18 is  
8201 renumbered and amended to read:

8202 ~~[26-6-18].~~ **26B-7-214. Sexually transmitted infections -- Consent of minor to**  
8203 **treatment.**

8204 (1) A consent to medical care or services by a hospital or public clinic or the  
8205 performance of medical care or services by a licensed physician or physician assistant executed  
8206 by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the  
8207 same legal effect upon the minor and the same legal obligations with regard to the giving of  
8208 consent as a consent given by a person of full legal age and capacity, the infancy of the minor  
8209 and any contrary provision of law notwithstanding.

(2) The consent of the minor is not subject to later disaffirmance by reason of minority at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician or physician assistant.

(3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician or physician assistant for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.

Section 257. Section **26B-7-215**, which is renumbered from Section 26-6-19 is renumbered and amended to read:

**~~[26-6-19].~~     26B-7-215. Sexually transmitted infections -- Examination and treatment of persons in prison or jail.**

(1) (a) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for venereal diseases by the health authorities.

(b) The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with venereal disease at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.

(2) (a) The department may require persons suffering with venereal disease at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation.

(b) Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Section 258. Section **26B-7-216**, which is renumbered from Section 26-6-20 is renumbered and amended to read:

**~~[26-6-20].~~     26B-7-216. Serological testing of pregnant or recently delivered**

8237 **women.**

8238 (1) As used in this section, a "standard serological test" means a test for syphilis  
8239 approved by the department and made at an approved laboratory.

8240 ~~[(+)]~~ (2) (a) Every licensed physician and surgeon attending a pregnant or recently  
8241 delivered woman for conditions relating to her pregnancy shall take or cause to be taken a  
8242 sample of blood of the woman at the time of first examination or within 10 days thereafter.

8243 (b) The blood sample shall be submitted to an approved laboratory for a standard  
8244 serological test for syphilis.

8245 (c) The provisions of this section do not apply to any female who objects thereto on the  
8246 grounds that she is a bona fide member of a specified, well recognized religious organization  
8247 whose teachings are contrary to the tests.

8248 ~~[(2)]~~ (3) (a) Every other person attending a pregnant or recently delivered woman, who  
8249 is not permitted by law to take blood samples, shall within 10 days from the time of first  
8250 attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

8251 (b) The blood sample shall be submitted to an approved laboratory for a standard  
8252 serological test for syphilis.

8253 ~~[(3)]~~ (4) (a) An approved laboratory is a laboratory approved by the department  
8254 according to its rules governing the approval of laboratories for the purpose of this title.

8255 (b) In submitting the sample to the laboratory the physician or physician assistant shall  
8256 designate whether it is a prenatal test or a test following recent delivery.

8257 ~~[(4) For the purpose of this chapter, a "standard serological test" means a test for~~  
8258 ~~syphilis approved by the department and made at an approved laboratory.]~~

8259 (5) The laboratory shall transmit a detailed report of the standard serological test,  
8260 showing the result thereof to the physician or physician assistant.

8261 Section 259. Section **26B-7-217**, which is renumbered from Section 26-6-27 is  
8262 renumbered and amended to read:

8263 ~~[26-6-27].~~ **26B-7-217. Information regarding communicable or reportable**

**diseases confidentiality -- Exceptions.**

(1) (a) Information collected [~~pursuant to this chapter~~] under Sections [26B-7-201](#) through [26B-7-223](#) in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under [~~this chapter~~] Sections [26B-7-201](#) through [26B-7-223](#) shall be held by the department and local health departments as strictly confidential.

(b) The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of [~~this chapter~~] Sections [26B-7-201](#) through [26B-7-223](#) and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, [~~his~~] the individual's next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention, or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the [~~age of~~] 18 years old, the information may be released to the Division of Child and Family Services within the

8291 [~~Department of Human Services~~] department in accordance with Section ~~80-2-602~~<sup>[F]</sup>, and if  
8292 that information is required in a court proceeding involving child abuse or sexual abuse under  
8293 Title 76, Chapter 5, Offenses Against the Individual, the information shall be disclosed in  
8294 camera and sealed by the court upon conclusion of the proceedings;

8295 (e) specific medical or epidemiological information may be released to authorized  
8296 personnel in the department or in local health departments, and to the courts, to carry out the  
8297 provisions of this title, and rules adopted by the department in accordance with this title;

8298 (f) specific medical or epidemiological information may be released to blood banks,  
8299 organ and tissue banks, and similar institutions for the purpose of identifying individuals with  
8300 communicable diseases. The department may, by rule, designate the diseases about which  
8301 information may be disclosed under this subsection, and may choose to release the name of an  
8302 infected individual to those organizations without disclosing the specific disease;

8303 (g) specific medical or epidemiological information may be released in such a way that  
8304 no individual is identifiable;

8305 (h) specific medical or epidemiological information may be released to a <sup>[u]</sup>health care  
8306 provider<sup>[u]</sup> as defined in Section ~~78B-3-403~~, health care personnel, and public health personnel  
8307 who have a legitimate need to have access to the information in order to assist the patient, or to  
8308 protect the health of others closely associated with the patient;

8309 (i) specific medical or epidemiological information regarding a health care provider, as  
8310 defined in Section ~~78B-3-403~~, may be released to the department, the appropriate local health  
8311 department, and the Division of Professional Licensing within the Department of Commerce, if  
8312 the identified health care provider is endangering the safety or life of any individual by his  
8313 continued practice of health care;

8314 (j) specific medical or epidemiological information may be released in accordance with  
8315 Section ~~[26-6-31]~~ 26B-7-221 if an individual is not identifiable; and

8316 (k) specific medical or epidemiological information may be released to a state agency  
8317 as defined in Section ~~67-27-102~~, to perform the analysis described in Subsection ~~[26-6-32]~~

8318 [26B-7-222](#)(4) if the state agency agrees to act in accordance with the requirements in this  
8319 ~~[chapter]~~ part.

8320 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is  
8321 intended only to aid health care providers in their treatment and containment of infectious  
8322 disease.

8323 Section 260. Section **26B-7-218**, which is renumbered from Section 26-6-28 is  
8324 renumbered and amended to read:

8325 ~~[26-6-28].~~ **26B-7-218. Protection from examination in legal proceedings --**  
8326 **Exceptions.**

8327 (1) Except as provided in Subsection (2), an officer or employee of the department or  
8328 of a local health department may not be examined in a legal proceeding of any kind or  
8329 character as to the existence or content of information retained pursuant to ~~[this chapter]~~  
8330 Sections [26B-7-201](#) through [26B-7-223](#) or obtained as a result of an investigation conducted  
8331 pursuant to ~~[this chapter]~~ Sections [26B-7-201](#) through [26B-7-223](#), without the written consent  
8332 of the individual who is identified in the information or, if that individual is deceased, the  
8333 consent of ~~[his]~~ the individual's next-of-kin.

8334 (2) This section does not restrict testimony and evidence provided by an employee or  
8335 officer of the department or a local health department about:

8336 (a) persons who are under restrictive actions taken by the department in accordance  
8337 with Subsection ~~[26-6-27]~~ [26B-7-217](#)(2)(e); or

8338 (b) individuals or groups of individuals subject to examination, treatment, isolation,  
8339 and quarantine actions under ~~[Chapter 6b, Communicable Diseases=]~~ Part 3, Treatment,  
8340 Isolation, and Quarantine Procedures for Communicable Diseases.

8341 Section 261. Section **26B-7-219**, which is renumbered from Section 26-6-29 is  
8342 renumbered and amended to read:

8343 ~~[26-6-29].~~ **26B-7-219. Violation -- Penalty.**

8344 (1) Any individual or entity entitled to receive confidential information from the

~~[Department of Health]~~ department or a local health department under ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, other than the individual identified in that information, who violates ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223 by releasing or making public confidential information, or by otherwise breaching the confidentiality requirements of ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, is guilty of a class B misdemeanor.

(2) ~~[This chapter does]~~ Sections 26B-7-201 through 26B-7-223 do not apply to any individual or entity that holds or receives information relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, if that individual or entity has obtained the information from a source other than the department or a local health department.

Section 262. Section **26B-7-220**, which is renumbered from Section 26-6-30 is renumbered and amended to read:

~~[26-6-30].~~     **26B-7-220. Exclusions from confidentiality requirements.**

(1) The provisions of ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223 do not apply to:

(a) information that relates to an individual who is in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the ~~[Department of Human Services]~~ department;

(b) information that relates to an individual who has been in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the ~~[Department of Human Services]~~ department, if liability of either of those departments, a county, or a division, or of an employee of a department, division, or county, is alleged by that individual in a lawsuit concerning transmission of an infectious or communicable disease; or

(c) any information relating to an individual who willfully or maliciously or with reckless disregard for the welfare of others transmits a communicable or infectious disease.

(2) Nothing in ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223 limits the right of the individual identified in the information described in Subsection ~~[26-6-27]~~ 26B-7-217(1) to disclose that information.

Section 263. Section **26B-7-221**, which is renumbered from Section 26-6-31 is renumbered and amended to read:

~~[26-6-31]~~. **26B-7-221. Public reporting of health care associated infections.**

(1) (a) An ambulatory surgical facility, a general acute hospital, a specialty hospital, an end stage renal disease facility, and other facilities as required by rules of the Center for Medicare and Medicaid Services shall give the department access to the facility's data on the incidence and rate of health care associated infections that the facility submits to the National Healthcare Safety Network in the ~~[Center]~~ United States Centers for Disease Control and Prevention pursuant to the ~~[Center]~~ Centers for Medicare and Medicaid Services rules for infection reporting.

(b) Access to data under this Subsection (1) may include data sharing through the National Healthcare Safety Network.

(2) (a) The department shall, beginning May 1, 2013, use the data submitted by the facilities in accordance with Subsection (1) to compile an annual report on health care associated infections in ambulatory surgical facilities, general acute hospitals, and specialty hospitals for public distribution in accordance with the requirements of this subsection. The department shall publish the report on the department's website and the Utah Health Exchange.

(b) The department's report under this section shall:

(i) include the following health care associated infections as required by the Center for Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety Network in the ~~[Center]~~ Centers for Disease Control and Prevention:

(A) central line associated bloodstream infections;

(B) catheter associated urinary tract infections;

(C) surgical site infections from procedures on the colon or an abdominal

8399 hysterectomy;

8400 (D) methicillin-resistant staphylococcus aureus bacteremia;

8401 (E) clostridium difficile of the colon; and

8402 (F) other health care associated infections when reporting is required by the Center for

8403 Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety

8404 Network in the [~~Center~~] Centers for Disease Control and Prevention;

8405 (ii) include data on the rate of health care associated infections:

8406 (A) for the infection types described in Subsection (2)(b)(i); and

8407 (B) by health care facility or hospital;

8408 (iii) include data on how the rate of health care associated infections in ambulatory

8409 surgical facilities, general acute hospitals, and specialty hospitals compares with the rates in

8410 other states;

8411 (iv) in compiling the report described in Subsection (2)(a), use analytical

8412 methodologies that meet accepted standards of validity and reliability;

8413 (v) clearly identify and acknowledge, in the report, the limitations of the data sources

8414 and analytic methodologies used to develop comparative facility or hospital information;

8415 (vi) decide whether information supplied by a facility or hospital under Subsection (1)

8416 is appropriate to include in the report;

8417 (vii) adjust comparisons among facilities and hospitals for patient case mix and other

8418 relevant factors, when appropriate; and

8419 (viii) control for provider peer groups, when appropriate.

8420 (3) Before posting or releasing the report described in Subsection (2)(a), the

8421 department shall:

8422 (a) disclose to each ambulatory surgical facility, general acute hospital, and specialty

8423 hospital whose data is included in the report:

8424 (i) the entire methodology for analyzing the data; and

8425 (ii) the comparative facility or hospital information and other information the

8426 department has compiled for the facility or hospital; and

8427 (b) give the facility or hospital 30 days to suggest corrections or add explanatory  
8428 comments about the data.

8429 (4) The department shall develop and implement effective safeguards to protect against  
8430 the unauthorized use or disclosure of ambulatory surgical facility, general acute hospital, and  
8431 specialty hospital data, including the dissemination of inconsistent, incomplete, invalid,  
8432 inaccurate, or subjective data.

8433 (5) The report described in Subsection (2)(a):

8434 (a) may include data that compare and identify general acute hospitals, ambulatory  
8435 surgical centers, and specialty hospitals;

8436 (b) shall contain only statistical, non-identifying information and may not disclose the  
8437 identity of:

8438 (i) an employee of an ambulatory surgical facility, a general acute hospital, or a  
8439 specialty hospital;

8440 (ii) a patient; or

8441 (iii) a health care provider licensed under Title 58, Occupations and Professions; and

8442 (c) may not be used as evidence in a criminal, civil, or administrative proceeding.

8443 (6) This section does not limit the department's authority to investigate and collect data  
8444 regarding infections and communicable diseases under other provisions of state or federal law.

8445 Section 264. Section **26B-7-222**, which is renumbered from Section 26-6-32 is  
8446 renumbered and amended to read:

8447 **[26-6-32]. 26B-7-222. Testing for COVID-19 for high-risk individuals at care**  
8448 **facilities -- Collection and release of information regarding risk factors and comorbidities**  
8449 **for COVID-19.**

8450 (1) As used in this section:

8451 (a) "Care facility" means a facility described in Subsections ~~[26-6-6]~~ 26B-7-206(2)  
8452 through (6).

8453 (b) "COVID-19" means the same as that term is defined in Section [78B-4-517](#).  
8454 (2) (a) At the request of the department or a local health department, an individual who  
8455 meets the criteria established by the department under Subsection (2)(b) shall submit to testing  
8456 for COVID-19.

8457 (b) The department:  
8458 (i) shall establish protocols to identify and test individuals who are present at a care  
8459 facility and are at high risk for contracting COVID-19;  
8460 (ii) may establish criteria to identify care facilities where individuals are at high risk for  
8461 COVID-19; and  
8462 (iii) may establish who is responsible for the costs of the testing.

8463 (c) (i) The protocols described in Subsection (2)(b)(i) shall:  
8464 (A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care  
8465 facility to refuse testing; and  
8466 (B) specify criteria for when an individual's refusal to submit to testing under  
8467 Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

8468 (ii) Notwithstanding any other provision of state law, a care facility may discharge a  
8469 resident who declines testing requested by the department under Subsection (2)(a) if:  
8470 (A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the  
8471 resident's refusal to submit to testing endangers the health or safety of other individuals at the  
8472 care facility; and  
8473 (B) discharging the resident does not violate federal law.

8474 (3) The department may establish protocols to collect information regarding the  
8475 individual's age and relevant comorbidities from an individual who receives a positive test  
8476 result for COVID-19.

8477 (4) (a) The department shall publish deidentified information regarding comorbidities  
8478 and other risk factors for COVID-19 in a manner that is accessible to the public.

8479 (b) The department may work with a state agency as defined in Section [67-27-102](#), to

8480 perform the analysis or publish the information described in Subsection (4)(a).

8481 Section 265. Section **26B-7-223**, which is renumbered from Section 26-6-42 is  
8482 renumbered and amended to read:

8483 **[26-6-42]. 26B-7-223. Department support for local education agency test to**  
8484 **stay programs -- Department guidance for local education agencies.**

8485 (1) As used in this section:

8486 (a) "Case threshold" means the same as that term is defined in Section 53G-9-210.

8487 (b) "COVID-19" means the same as that term is defined in Section 53G-9-210.

8488 (c) "Local education agency" or "LEA" means the same as that term is defined in  
8489 Section 53G-9-210.

8490 (d) "Test to stay program" means the same as that term is defined in Section  
8491 53G-9-210.

8492 (2) At the request of an LEA, the department shall provide support for the LEA's test to  
8493 stay program if a school in the LEA reaches the case threshold, including by providing:

8494 (a) COVID-19 testing supplies;

8495 (b) a mobile testing unit; and

8496 (c) other support requested by the LEA related to the LEA's test to stay program.

8497 (3) The department shall ensure that guidance the department provides to LEAs related  
8498 to test to stay programs complies with Section 53G-9-210, including the determination of  
8499 whether a school meets a case threshold described in Subsection 53G-9-210(3).

8500 (4) Subsection (2) regarding the requirement to support an LEA's test to stay program  
8501 does not apply after February 2, 2022, unless the test to stay requirement is triggered under  
8502 Subsection 53G-9-210(2)(c).

8503 Section 266. Section **26B-7-224**, which is renumbered from Section 26-7-14 is  
8504 renumbered and amended to read:

8505 **[26-7-14]. 26B-7-224. Study on violent incidents and fatalities involving**  
8506 **substance abuse -- Report.**

8507 (1) As used in this section:

8508 (a) "Drug overdose event" means an acute condition, including a decreased level of  
8509 consciousness or respiratory depression resulting from the consumption or use of a controlled  
8510 substance, or another substance with which a controlled substance or alcohol was combined,  
8511 that results in an individual requiring medical assistance.

8512 (b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or  
8513 substances.

8514 (c) "Violent incident" means:

8515 (i) aggravated assault as described in Section 76-5-103;

8516 (ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and  
8517 76-5-114;

8518 (iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

8519 (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

8520 (v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

8521 (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

8522 (vii) a domestic violence offense, as defined in Section 77-36-1; and

8523 (viii) any other violent offense, as determined by the department.

8524 (2) In 2021 and continuing every other year, the department shall provide a report  
8525 before October 1 to the Health and Human Services Interim Committee regarding the number  
8526 of:

8527 (a) violent incidents and fatalities that occurred in the state during the preceding  
8528 calendar year that, at the time of occurrence, involved substance abuse;

8529 (b) drug overdose events in the state during the preceding calendar year; and

8530 (c) recommendations for legislation, if any, to prevent the occurrence of the events  
8531 described in Subsections (2)(a) and (b).

8532 ~~[(3) Before October 1, 2020, the department shall:]~~

8533 ~~[(a) determine what information is necessary to complete the report described in~~

8534 Subsection (2) and from which local, state, and federal agencies the information may be  
8535 obtained;]

8536 [(b) determine the cost of any research or data collection that is necessary to complete  
8537 the report described in Subsection (2);]

8538 [(c) make recommendations for legislation, if any, that is necessary to facilitate the  
8539 research or data collection described in Subsection (3)(b), including recommendations for  
8540 legislation to assist with information sharing between local, state, federal, and private entities  
8541 and the department; and]

8542 [(d) report the findings described in Subsections (3)(a) through (c) to the Health and  
8543 Human Services Interim Committee;]

8544 [(4)] (3) The department may contract with another state agency, private entity, or  
8545 research institution to assist the department with the report described in Subsection (2).

8546 Section 267. Section **26B-7-225**, which is renumbered from Section 26-8d-102 is  
8547 renumbered and amended to read:

8548 ~~[26-8d-102].~~ **26B-7-225. Statewide stroke registry.**

8549 (1) The department shall establish and supervise a statewide stroke registry to:

8550 (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation  
8551 of stroke;

8552 (b) promote optimal care for stroke patients;

8553 (c) alleviate unnecessary death and disability from stroke;

8554 (d) encourage the efficient and effective continuum of patient care, including  
8555 prevention, prehospital care, hospital care, and rehabilitative care; and

8556 (e) minimize the overall cost of stroke.

8557 (2) The department shall utilize the registry established under Subsection (1) to assess:

8558 (a) the effectiveness of the data collected by the registry; and

8559 (b) the impact of the statewide stroke registry on the provision of stroke care.

8560 (3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah

8561 Administrative Rulemaking Act, to establish:

8562 (i) the data elements that general acute hospitals shall report to the registry; and

8563 (ii) the time frame and format for reporting.

8564 (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics  
8565 consistent with data elements used in nationally recognized data set platforms for stroke care.

8566 (c) The department shall permit a general acute hospital to submit data required under  
8567 this section through an electronic exchange of clinical health information that meets the  
8568 standards established by the department under Section ~~[26-1-37]~~ 26B-8-411.

8569 (4) A general acute hospital shall submit stroke data in accordance with rules  
8570 established under Subsection (3).

8571 (5) Data collected under this section shall be subject to ~~[Chapter 3,]~~ Chapter 8, Part 4,  
8572 Health Statistics.

8573 (6) No person may be held civilly liable for providing data to the department in  
8574 accordance with this section.

8575 Section 268. Section **26B-7-226**, which is renumbered from Section 26-8d-103 is  
8576 renumbered and amended to read:

8577 ~~[26-8d-103].~~ **26B-7-226. Statewide cardiac registry.**

8578 (1) The department shall establish and supervise a statewide cardiac registry to:

8579 (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation  
8580 of cardiac diseases;

8581 (b) promote optimal care for cardiac patients;

8582 (c) alleviate unnecessary death and disability from cardiac diseases;

8583 (d) encourage the efficient and effective continuum of patient care, including  
8584 prevention, prehospital care, hospital care, and rehabilitative care; and

8585 (e) minimize the overall cost of cardiac care.

8586 (2) The department shall utilize the registry established under Subsection (1) to assess:

8587 (a) the effectiveness of the data collected by the registry; and

8588 (b) the impact of the statewide cardiac registry on the provision of cardiac care.

8589 (3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
8590 Administrative Rulemaking Act, to establish:

8591 (i) the data elements that general acute hospitals shall report to the registry; and

8592 (ii) the time frame and format for reporting.

8593 (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics  
8594 consistent with data elements used in nationally recognized data set platforms for cardiac care.

8595 (c) The department shall permit a general acute hospital to submit data required under  
8596 this section through an electronic exchange of clinical health information that meets the  
8597 standards established by the department under Section ~~[26-1-37]~~ 26B-8-411.

8598 (4) A general acute hospital shall submit cardiac data in accordance with rules  
8599 established under Subsection (3).

8600 (5) Data collected under this section shall be subject to ~~[Chapter 3]~~ Chapter 8, Part 4,  
8601 Health Statistics.

8602 (6) No person may be held civilly liable for providing data to the department in  
8603 accordance with this section.

8604 Section 269. Section **26B-7-227**, which is renumbered from Section 26-5-1 is  
8605 renumbered and amended to read:

8606 ~~[26-5-1]~~. **26B-7-227. Chronic disease control -- Establishing a prevention**  
8607 **program -- Detection, monitoring, and community education.**

8608 (1) As used in this ~~[chapter]~~ section, "chronic disease" means an impairment or  
8609 deviation from the normal functioning of the human body having one or more of the following  
8610 characteristics:

8611 ~~[(1)-It]~~ (a) is permanent;

8612 ~~[(2)-It]~~ (b) leaves residual disability;

8613 ~~[(3)-It]~~ (c) is caused by nonreversible pathological alterations;

8614 ~~[(4)-It]~~ (d) requires special patient education and instruction for rehabilitation; or

~~[(5) It]~~ (e) may require a long period of supervision, observation and care.

(2) The department shall establish and operate reasonable programs to prevent, delay, and detect the onset of chronic diseases including cancer, diabetes, cardiovascular and pulmonary diseases, genetic diseases, and such other chronic diseases as the department determines are important in promoting, protecting, and maintaining the public's health.

(3) (a) The department shall develop and maintain a system for detecting and monitoring chronic diseases within the state and shall investigate and determine the epidemiology of those conditions which contributed to preventable and premature sickness, or both, and to death and disability.

(b) The department shall consider the disease known as "lupus" a chronic disease subject to the detection and monitoring provisions of Subsection (3)(a).

(4) The department shall establish programs of community and professional education relevant to the detection, prevention, and control of chronic diseases.

Section 270. Section **26B-7-301**, which is renumbered from Section 26-23b-102 is renumbered and amended to read:

**Part 3. Treatment, Isolation, and Quarantine Procedures for Communicable Diseases**

~~[26-23b-102].~~ **26B-7-301. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis,

8642 final diagnosis, and any pertinent lab results.

8643 (3) "Epidemic or pandemic disease":

8644 (a) means the occurrence in a community or region of cases of an illness clearly in  
8645 excess of normal expectancy; and

8646 (b) includes diseases designated by the department which have the potential to cause  
8647 serious illness or death.

8648 (4) "Exigent circumstances" means a significant change in circumstances following the  
8649 expiration of a public health emergency declared in accordance with this title that:

8650 (a) substantially increases the threat to public safety or health relative to the  
8651 circumstances in existence when the public health emergency expired;

8652 (b) poses an imminent threat to public safety or health; and

8653 (c) was not known or foreseen and could not have been known or foreseen at the time  
8654 the public health emergency expired.

8655 (5) "First responder" means:

8656 (a) a law enforcement officer as defined in Section [53-13-103](#);

8657 (b) emergency medical service personnel as defined in Section [26B-4-101](#);

8658 (c) firefighters; and

8659 (d) public health personnel having jurisdiction over the location where an individual  
8660 subject to restriction is found.

8661 [~~(5)~~] (6) "Health care provider" means the same as that term is defined in Section  
8662 [78B-3-403](#).

8663 [~~(6)~~] (7) "Legislative emergency response committee" means the same as that term is  
8664 defined in Section [53-2a-203](#).

8665 [~~(7)~~] (8) (a) "Order of constraint" means an order, rule, or regulation issued in response  
8666 to a declared public health emergency under this ~~[chapter]~~ part, that:

8667 (i) applies to all or substantially all:

8668 (A) individuals or a certain group of individuals; or

8669 (B) public places or certain types of public places; and  
 8670 (ii) for the protection of the public health and in response to the declared public health  
 8671 emergency:

8672 (A) establishes, maintains, or enforces isolation or quarantine;  
 8673 (B) establishes, maintains, or enforces a stay-at-home order;  
 8674 (C) exercises physical control over property or individuals;  
 8675 (D) requires an individual to perform a certain action or engage in certain behavior; or  
 8676 (E) closes theaters, schools, or other public places or prohibits gatherings of people to  
 8677 protect the public health.

8678 (b) "Order of constraint" includes a stay-at-home order.

8679 (9) "Order of restriction" means an order issued by a department or a district court  
 8680 which requires an individual or group of individuals who are subject to restriction to submit to  
 8681 an examination, treatment, isolation, or quarantine.

8682 ~~[(8)]~~ (10) "Public health emergency" means an occurrence or imminent credible threat  
 8683 of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or  
 8684 novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a  
 8685 significant number of human fatalities or incidents of permanent or long-term disability. Such  
 8686 illness or health condition includes an illness or health condition resulting from a natural  
 8687 disaster.

8688 (11) "Public health official" means:

8689 (a) the executive director or the executive director's authorized representative; or

8690 (b) the executive director of a local health department or the executive director's  
 8691 authorized representative.

8692 ~~[(9)]~~ (12) "Reportable emergency illness and health condition" includes the diseases,  
 8693 conditions, or syndromes designated by the department.

8694 ~~[(10)]~~ (13) "Stay-at-home order" means an order of constraint that:

8695 (a) restricts movement of the general population to suppress or mitigate an epidemic or

8696 pandemic disease by directing individuals within a defined geographic area to remain in their  
8697 respective residences; and

8698 (b) may include exceptions for certain essential tasks.

8699 (14) "Subject to restriction" as applied to an individual, or a group of individuals,  
8700 means the individual or group of individuals is:

8701 (a) infected or suspected to be infected with a communicable disease that poses a threat  
8702 to the public health and who does not take action as required by the department to prevent  
8703 spread of the disease;

8704 (b) contaminated or suspected to be contaminated with an infectious agent that poses a  
8705 threat to the public health, and that could be spread to others if remedial action is not taken;

8706 (c) in a condition or suspected condition which, if the individual is exposed to others,  
8707 poses a threat to public health, or is in a condition which if treatment is not completed the  
8708 individual will pose a threat to public health; or

8709 (d) contaminated or suspected to be contaminated with a chemical or biological agent  
8710 that poses a threat to the public health and that could be spread to others if remedial action is  
8711 not taken.

8712 Section 271. Section **26B-7-302**, which is renumbered from Section 26-1-12 is  
8713 renumbered and amended to read:

8714 **[26-1-12]. 26B-7-302. Executive director -- Power to order abatement of**  
8715 **public health hazard.**

8716 If the executive director finds that a condition of filth, sanitation, or other health hazard  
8717 exists which creates a clear present hazard to the public health and which requires immediate  
8718 action to protect human health or safety, the executive director with the concurrence of the  
8719 governor may order persons causing or contributing to the condition to reduce, discontinue, or  
8720 ameliorate it to the extent that the public health hazard is eliminated.

8721 Section 272. Section **26B-7-303**, which is renumbered from Section 26-6b-1 is  
8722 renumbered and amended to read:

~~[26-6b-1].~~     **26B-7-303. Applicability -- Administrative procedures.**

(1) ~~[This chapter applies]~~ Sections [26B-7-304](#) through [26B-7-315](#) apply to involuntary examination, treatment, isolation, and quarantine actions applied to individuals or groups of individuals by the department or a local health department.

(2) The provisions of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-315](#) supersede the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(3) The ~~[Department of Health]~~ department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-315](#).

Section 273. Section **26B-7-304**, which is renumbered from Section 26-6b-3 is renumbered and amended to read:

~~[26-6b-3].~~     **26B-7-304. Order of restriction.**

(1) Subject to Subsection (5), the department or a local health department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:

(a) issue a written order of restriction for the individual or group of individuals pursuant to Section ~~[26-1-30]~~ [26B-1-202](#) or Subsection [26A-1-114](#)(1)(b) upon compliance with the requirements of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-314](#); and

(b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).

(2) (a) A department or local health department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department or local health department, including:

(i) observation;

(ii) information that the department or local health department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as

8750 may be established by the [~~Department of Health~~] department by administrative rule.

8751 (b) An order of restriction issued by the department or a local health department shall:

8752 (i) in the opinion of the public health official, be for the shortest reasonable period of  
8753 time necessary to protect the public health;

8754 (ii) use the least intrusive method of restriction that, in the opinion of the department or  
8755 local health department, is reasonable based on the totality of circumstances known to the  
8756 department or local health department issuing the order of restriction;

8757 (iii) be in writing unless the provisions of Subsection (2)(c) apply; and

8758 (iv) contain notice of an individual's rights as required in Section [~~26-6b-3.3~~]

8759 26B-7-307.

8760 (c) (i) [~~A~~] The department or a local health department may issue a verbal order of  
8761 restriction, without prior notice to the individual or group of individuals if the delay in  
8762 imposing a written order of restriction would significantly jeopardize the department or local  
8763 health department's ability to prevent or limit:

8764 (A) the transmission of a communicable or possibly communicable disease that poses a  
8765 threat to public health;

8766 (B) the transmission of an infectious agent or possibly infectious agent that poses a  
8767 threat to public health;

8768 (C) the exposure or possible exposure of a chemical or biological agent that poses a  
8769 threat to public health; or

8770 (D) the exposure or transmission of a condition that poses a threat to public health.

8771 (ii) A verbal order of restriction issued under [~~the provisions of~~] Subsection (2)(c)(i):

8772 (A) is valid for 24 hours from the time the order of restriction is issued;

8773 (B) may be verbally communicated to the individuals or group of individuals subject to  
8774 restriction by a first responder;

8775 (C) may be enforced by the first responder until the department or local health  
8776 department is able to establish and maintain the place of restriction; and

8777 (D) may only be continued beyond the initial 24 hours if a written order of restriction is  
8778 issued pursuant to the provisions of Section [~~26-6b-3.3~~] 26B-7-307.

8779 (3) Pending issuance of a written order of restriction under Section [~~26-6b-3.3~~]  
8780 26B-7-307, or judicial review of an order of restriction [~~by the district court pursuant to~~] under  
8781 Section [~~26-6b-6~~] 26B-7-311, an individual who is subject to the order of restriction may be  
8782 required to submit to involuntary examination, quarantine, isolation, or treatment in the  
8783 individual's home, a hospital, or any other suitable facility under reasonable conditions  
8784 prescribed by the department or local health department.

8785 (4) The department or local health department that issued the order of restriction shall  
8786 take reasonable measures, including the provision of medical care, as may be necessary to  
8787 assure proper care related to the reason for the involuntary examination, treatment, isolation, or  
8788 quarantine of an individual ordered to submit to an order of restriction.

8789 (5) (a) The Legislature may at any time terminate by joint resolution an order of  
8790 restriction issued by the department or local health department as described in this section in  
8791 response to a declared public health emergency.

8792 (b) A county governing body may at any time terminate by majority vote an order of  
8793 restriction issued by the relevant local health department [~~as described in~~] under this section  
8794 issued in response to a declared public health emergency.

8795 Section 274. Section **26B-7-305**, which is renumbered from Section 26-6b-3.1 is  
8796 renumbered and amended to read:

8797 [~~26-6b-3.1~~]. **26B-7-305. Consent to order of restriction -- Periodic review.**

8798 (1) (a) The department or a local health department shall either seek judicial review of  
8799 an order of restriction under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311, or  
8800 obtain the consent of an individual subject to an order of restriction.

8801 (b) If the department or a local health department obtains consent, the consent shall be  
8802 in writing and shall inform the individual or group of individuals:

8803 (i) of the terms and duration of the order of restriction;

(ii) of the importance of complying with the order of restriction to protect the public's health;

(iii) that each individual has the right to agree to the order of restriction, or refuse to agree to the order of restriction and seek a judicial review of the order of restriction;

(iv) that for any individual who consents to the order of restriction:

(A) the order of restriction will not be reviewed by the ~~[district]~~ court unless the individual withdraws consent to the order of restriction in accordance with Subsection (1)(b)(iv)(B); and

(B) the individual shall notify the department or local health department in writing, with at least five business day's notice, if the individual intends to withdraw consent to the order of restriction; and

(v) that a breach of a consent agreement prior to the end of the order of restriction may subject the individual to an involuntary order of restriction under Section ~~[26-6b-3.2]~~ 26B-7-306.

(2) (a) The department or local health department responsible for the care of an individual who has consented to the order of restriction shall periodically reexamine the reasons upon which the order of restriction was based. This reexamination shall occur at least once every six months.

(b) (i) If at any time, the department or local health department determines that the conditions justifying the order of restriction for either a group or an individual no longer exist, the department or local health department shall immediately discharge the individual or group from the order of restriction.

(ii) If the department or local health department determines that the conditions justifying the order of restriction continue to exist, the department or local health department shall send to the individual a written notice of:

(A) the department or local health department's findings, the expected duration of the order of restriction, and the reason for the decision; and

(B) the individual's right to a judicial review of the order of restriction by the ~~[district]~~ court if requested by the individual.

(iii) Upon request for judicial review by an individual, the department or local health department shall:

(A) file a petition ~~[in district]~~ with the court within five business days after the individual's request for a judicial review; and

(B) proceed under Sections ~~[26-6b-4]~~ 26B-7-309 through ~~[26-6b-6]~~ 26B-7-311.

Section 275. Section **26B-7-306**, which is renumbered from Section 26-6b-3.2 is renumbered and amended to read:

**~~[26-6b-3.2]. 26B-7-306. Involuntary order of restriction -- Notice -- Effect of order during judicial review.~~**

(1) If the department or local health department cannot obtain consent to the order of restriction from an individual, or if an individual withdraws consent to an order under Subsection ~~[26-6b-3.1]~~ 26B-7-305(1)(b)(iv)(B), the department or local health department shall:

(a) give the individual or group of individuals subject to the order of restriction a written notice of:

(i) the order of restriction and any supporting documentation; and

(ii) the individual's right to a judicial review of the order of restriction; and

(b) file a petition for a judicial review of the order of restriction under Section ~~[26-6b-4]~~ 26B-7-309 in ~~[district]~~ court within:

(i) five business days after issuing the written notice of the order of restriction; or

(ii) if consent has been withdrawn under Subsection ~~[26-6b-3.1]~~ 26B-7-305(1)(b)(iv)(B), within five business days after receiving notice of the individual's withdrawal of consent.

(2) (a) An order of restriction remains in effect during any judicial proceedings to review the order of restriction if the department or local health department files a petition for

8858 judicial review of the order of restriction [~~with the district~~] within the period of time required  
8859 by this section.

8860 (b) Law enforcement officers with jurisdiction in the area where the individual who is  
8861 subject to the order of restriction can be located shall assist the department or local health  
8862 department with enforcing the order of restriction.

8863 Section 276. Section **26B-7-307**, which is renumbered from Section 26-6b-3.3 is  
8864 renumbered and amended to read:

8865 **[26-6b-3.3]. 26B-7-307. Contents of notice of order of restriction -- Rights of**  
8866 **individuals.**

8867 (1) A written order of restriction issued by a department or local health department  
8868 shall include the following information:

8869 (a) the identity of the individual or a description of the group of individuals subject to  
8870 the order of restriction;

8871 (b) the identity or location of any premises that may be subject to restriction;

8872 (c) the date and time for which the restriction begins and the expected duration of the  
8873 restriction;

8874 (d) the suspected communicable disease, infectious, chemical or biological agent, or  
8875 other condition that poses a threat to public health;

8876 (e) the requirements for termination of the order of restriction, such as necessary  
8877 laboratory reports, the expiration of an incubation period, or the completion of treatment for the  
8878 communicable disease;

8879 (f) any conditions on the restriction, such as limitation of visitors or requirements for  
8880 medical monitoring;

8881 (g) the medical or scientific information upon which the restriction is based;

8882 (h) a statement advising of the right to a judicial review of the order of restriction by  
8883 the [~~district~~] court; and

8884 (i) pursuant to Subsection (2), the rights of each individual subject to restriction.

8885 (2) An individual subject to restriction has the following rights:

8886 (a) the right to be represented by legal counsel in any judicial review of the order of

8887 restriction in accordance with Subsection [~~26-6b-4~~] 26B-7-309(3);

8888 (b) the right to be provided with prior notice of the date, time, and location of any

8889 hearing concerning the order of restriction;

8890 (c) the right to participate in any hearing, in a manner established by the court based on

8891 precautions necessary to prevent additional exposure to communicable or possibly

8892 communicable diseases or to protect the public health;

8893 (d) the right to respond and present evidence and arguments on the individual's own

8894 behalf in any hearing;

8895 (e) the right to cross examine witnesses; and

8896 (f) the right to review and copy all records in the possession of the department that

8897 issued the order of restriction which relate to the subject of the written order of restriction.

8898 (3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local

8899 health department issues an order of restriction for a group of individuals, the department or

8900 local health department may modify the method of providing notice to the group or modify the

8901 information contained in the notice, if the public health official determines the modification of

8902 the notice is necessary to:

8903 (i) protect the privacy of medical information of individuals in the group; or

8904 (ii) provide notice to the group in a manner that will efficiently and effectively notify

8905 the individuals in the group within the period of time necessary to protect the public health.

8906 (b) When the department or a local health department modifies notice to a group of

8907 individuals under Subsection (3)(a), the department or local health department shall provide

8908 each individual in the group with notice that complies with the provisions of Subsection (1) as

8909 soon as reasonably practical.

8910 (4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an

8911 individual subject to an order of restriction may not be terminated from employment if the

reason for termination is based solely on the fact that the individual is or was subject to an order of restriction.

(b) The department or local health department issuing the order of restriction shall give the individual subject to the order of restriction notice of the individual's employment rights under Subsection (4)(a).

(c) An employer in the state, including an employer who is the state or a political subdivision of the state, may not violate the provisions of Subsection (4)(a).

Section 277. Section **26B-7-308**, which is renumbered from Section 26-6b-3.4 is renumbered and amended to read:

**[26-6b-3.4]. 26B-7-308. Medical records -- Privacy protections.**

(1) (a) Health care providers as defined in Section **78B-3-403**, health care facilities licensed under ~~[Title 26, Chapter 21]~~ Chapter 2, Part 2, Health Care Facility Licensing and Inspection, ~~[Act]~~ and governmental entities, shall, when requested, provide the public health official and the individual subject to an order of restriction, a copy of medical records that are relevant to the order of restriction.

(b) The records requested under Subsection (1)(a) shall be provided as soon as reasonably possible after the request is submitted to the health care provider or health care facility, or as soon as reasonably possible after the health care provider or facility receives the results of any relevant diagnostic testing of the individual.

(2) (a) The production of records under the provisions of this section is for the benefit of the public health and safety of the citizens of the state. A health care provider or facility is encouraged to provide copies of medical records or other records necessary to carry out the purpose of ~~[this chapter]~~ Sections 26B-7-304 through 26B-7-314 free of charge.

(b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a state governmental entity shall provide medical records or other records necessary to carry out the purposes of ~~[this chapter]~~ Sections 26B-7-304 through 26B-7-314, free of charge.

(c) If a health care provider or health care facility does not provide medical records free

of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility may charge a fee for the records that does not exceed the presumed reasonable charges established for workers' compensation by administrative rule adopted by the Labor Commission.

(3) Medical records held by a court related to orders of restriction under ~~[this chapter]~~ Sections 26B-7-304 through 26B-7-314 shall be sealed by the ~~[district]~~ court at the conclusion of the case.

Section 278. Section **26B-7-309**, which is renumbered from Section 26-6b-4 is renumbered and amended to read:

~~[26-6b-4].~~     **26B-7-309. Judicial review -- Required notice -- Representation by counsel -- Conduct of proceedings.**

(1) The provisions of this section and Sections ~~[26-6b-5]~~ 26B-7-310 through ~~[26-6b-7]~~ 26B-7-312 apply if the department or a local health department issues an order for restriction, and:

(a) an individual subject to the order of restriction refuses to consent to the order of restriction;

(b) an individual subject to an order of restriction has withdrawn consent to an order of restriction under the provisions of Subsection ~~[26-6b-3.1]~~ 26B-7-305(1)(b)(iv)(B); or

(c) the department or local health department chooses to not attempt to obtain consent to an order of restriction and files an action for judicial review of the order of restriction.

(2) (a) If the individual who is subject to an order of restriction is in custody, the department or local health department, which is the petitioner, shall provide to the individual written notice of the petition for judicial review of the order of restriction and hearings held pursuant to Sections ~~[26-6b-5]~~ 26B-7-310 through ~~[26-6b-7]~~ 26B-7-312 as soon as practicable, and shall send the notice to the legal guardian, legal counsel for the parties involved, and any other persons and immediate adult family members whom the individual or the ~~[district]~~ court designates.

(b) The notice described in Subsection (2)(a) shall advise these persons that a hearing may be held within the time provided by this ~~[chapter]~~ part.

~~[(b)]~~ (c) If the individual has refused to permit release of information necessary for the provision of notice under this Subsection (2), the extent of notice shall be determined by the ~~[district]~~ court.

~~[(c)]~~ (d) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines that written notice to each individual in a group of individuals subject to an order of restriction is not practical considering the circumstances of the threat to public health, the court may order the department to provide notice to the individual or group of individuals in a manner determined by the court.

(3) (a) If the individual who is subject to an order of restriction is in custody, he shall be afforded an opportunity to be represented by counsel. If neither the individual nor others provide for counsel, the ~~[district]~~ court shall appoint counsel and allow counsel sufficient time to consult with the individual prior to the hearing. If the individual is indigent, the payment of reasonable attorney fees for counsel, as determined by the ~~[district]~~ court, shall be made by the county in which the individual resides or was found.

(b) The parties may appear at the hearings, to testify, and to present and cross-examine witnesses. The ~~[district]~~ court may, in its discretion, receive the testimony of any other individual.

(c) The ~~[district]~~ court may allow a waiver of the individual's right to appear only for good cause shown, and that cause shall be made a part of the court record.

(d) The ~~[district]~~ court may order that the individual participate in the hearing by telephonic or other electronic means if the individual's condition poses a health threat to those who physically attend the hearing or to others if the individual is transported to the court.

(4) The ~~[district]~~ court may, in its discretion, order that the individual be moved to a more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may transfer the proceedings to any other ~~[district]~~ court within this state where venue is proper,

8993 provided that the transfer will not be adverse to the legal interests of the individual.

8994 (5) All persons to whom notice is required to be given may attend the hearings. The  
8995 [district] court may exclude from the hearing all persons not necessary for the conduct of the  
8996 proceedings.

8997 (6) All hearings shall be conducted in as informal a manner as may be consistent with  
8998 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the  
8999 health of the individual or others required to participate in the hearing.

9000 (7) The [district] court shall receive all relevant and material evidence which is offered,  
9001 subject to Utah Rules of Evidence.

9002 (8) The [district] court may order law enforcement to assist the petitioner in locating  
9003 the individuals subject to restriction and enforcing the order of restriction.

9004 Section 279. Section **26B-7-310**, which is renumbered from Section 26-6b-5 is  
9005 renumbered and amended to read:

9006 **[26-6b-5]. 26B-7-310. Petition for judicial review of order of restriction --**  
9007 **Court-ordered examination period.**

9008 (1) (a) A department may petition for a judicial review of the department's order of  
9009 restriction for an individual or group of individuals who are subject to restriction by filing a  
9010 written petition with the [district] court of the county in which the individual or group of  
9011 individuals reside or are located.

9012 (b) (i) The county attorney for the county where the individual or group of individuals  
9013 reside or are located shall represent the local health department in any proceedings under [~~this~~  
9014 ~~chapter~~] Sections 26B-7-304 through 26B-7-314.

9015 (ii) The Office of the Attorney General shall represent the department when the  
9016 petitioner is the [~~Department of Health~~] department in any proceedings under [~~this chapter~~]  
9017 Sections 26B-7-304 through 26B-7-314.

9018 (2) The petition under Subsection (1) shall be accompanied by:

9019 (a) written affidavit of the department stating:

9020 (i) a belief the individual or group of individuals are subject to restriction;  
9021 (ii) a belief that the individual or group of individuals who are subject to restriction are  
9022 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately  
9023 restrained;  
9024 (iii) this failure would pose a threat to the public health; and  
9025 (iv) the personal knowledge of the individual's or group of individuals' condition or the  
9026 circumstances that lead to that belief; and  
9027 (b) a written statement by a licensed physician or physician assistant indicating the  
9028 physician or physician assistant finds the individual or group of individuals are subject to  
9029 restriction.  
9030 (3) The court shall issue an order of restriction requiring the individual or group of  
9031 individuals to submit to involuntary restriction to protect the public health if the [district] court  
9032 finds:  
9033 (a) there is a reasonable basis to believe that the individual's or group of individuals'  
9034 condition requires involuntary examination, quarantine, treatment, or isolation pending  
9035 examination and hearing; or  
9036 (b) the individual or group of individuals have refused to submit to examination by a  
9037 health professional as directed by the department or to voluntarily submit to examination,  
9038 treatment, quarantine, or isolation.  
9039 (4) If the individual or group of individuals who are subject to restriction are not in  
9040 custody, the court may make its determination and issue its order of restriction in an ex parte  
9041 hearing.  
9042 (5) At least 24 hours prior to the hearing required by Section [~~26-6b-6~~] 26B-7-311, the  
9043 department which is the petitioner, shall report to the court, in writing, the opinion of qualified  
9044 health care providers:  
9045 (a) regarding whether the individual or group of individuals are infected by or  
9046 contaminated with:

- 9047 (i) a communicable or possible communicable disease that poses a threat to public  
9048 health;
- 9049 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;
- 9050 (iii) a chemical or biological agent that poses a threat to public health; or
- 9051 (iv) a condition that poses a threat to public health;
- 9052 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not  
9053 been completed;
- 9054 (c) whether the individual or group of individuals have agreed to voluntarily comply  
9055 with necessary examination, treatment, quarantine, or isolation; and
- 9056 (d) whether the petitioner believes the individual or group of individuals will comply  
9057 without court proceedings.

9058 Section 280. Section **26B-7-311**, which is renumbered from Section 26-6b-6 is  
9059 renumbered and amended to read:

9060 **~~[26-6b-6].~~ 26B-7-311. Court determination for an order of restriction after**  
9061 **examination period.**

9062 (1) The ~~[district]~~ court shall set a hearing regarding the involuntary order of restriction  
9063 of an individual or group of individuals, to be held within 10 business days of the issuance of  
9064 its order of restriction issued pursuant to Section ~~[26-6b-5]~~ 26B-7-310, unless the petitioner  
9065 informs the ~~[district]~~ court prior to this hearing that the individual or group of individuals:

- 9066 (a) are not subject to restriction; or
- 9067 (b) have stipulated to the issuance of an order of restriction.

9068 (2) If the individual or an individual in a group of individuals has stipulated to the  
9069 issuance of an order of restriction, the court may issue an order as provided in Subsection (6)  
9070 for those individuals without further hearing.

9071 (3) (a) If the examination report required in Section ~~[26-6b-5]~~ 26B-7-310 proves the  
9072 individual or group of individuals are not subject to restriction, the court may without further  
9073 hearing terminate the proceedings and dismiss the petition.

(b) The court may, after a hearing at which the individual or group of individuals are present in person or by telephonic or other electronic means and have had the opportunity to be represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possibly communicable disease that poses a threat to public health;

(ii) an infectious agent or possibly infectious agent that poses a threat to public health;

(iii) a chemical or biological agent that poses a threat to public health; or

(iv) a condition that poses a threat to public health, but, despite the exercise of reasonable diligence the diagnostic studies have not been completed.

(4) The petitioner shall, at the time of the hearing, provide the [district] court with the following items, to the extent that they have been issued or are otherwise available:

(a) the order of restriction issued by the petitioner;

(b) admission notes if any individual was hospitalized; and

(c) medical records pertaining to the current order of restriction.

(5) The information provided to the court under Subsection (4) shall also be provided to the individual's or group of individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.

(6) (a) The [district] court shall order the individual and each individual in a group of individuals to submit to the order of restriction if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:

(i) the individual or group of individuals are infected with a communicable disease or infectious agent, are contaminated with a chemical or biological agent, or are in a condition that poses a threat to public health;

(ii) there is no appropriate and less restrictive alternative to a court order of examination, quarantine, isolation, and treatment, or any of them;

9101 (iii) the petitioner can provide the individual or group of individuals with treatment  
9102 that is adequate and appropriate to the individual's or group of individuals' conditions and  
9103 needs; and

9104 (iv) it is in the public interest to order the individual or group of individuals to submit  
9105 to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing  
9106 the following factors:

9107 (A) the personal or religious beliefs, if any, of the individual that are opposed to  
9108 medical examination or treatment;

9109 (B) the ability of the department to control the public health threat with treatment  
9110 alternatives that are requested by the individual;

9111 (C) the economic impact for the department if the individual is permitted to use an  
9112 alternative to the treatment recommended by the department; and

9113 (D) other relevant factors as determined by the court.

9114 (b) If upon completion of the hearing the court does not find all of the conditions listed  
9115 in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

9116 (7) The order of restriction shall designate the period, subject to Subsection (8), for  
9117 which the individual or group of individuals shall be examined, treated, isolated, or  
9118 quarantined.

9119 (8) (a) The order of restriction may not exceed six months without benefit of a [~~district~~]  
9120 court review hearing.

9121 (b) (i) The [~~district~~] court review hearing shall be held prior to the expiration of the  
9122 order of restriction issued under Subsection (7).

9123 (ii) At the review hearing the court may issue an order of restriction for up to an  
9124 indeterminate period, if the [~~district~~] court enters a written finding in the record determining by  
9125 clear and convincing evidence that the required conditions in Subsection (6) will continue for  
9126 an indeterminate period.

9127 Section 281. Section **26B-7-312**, which is renumbered from Section 26-6b-7 is

9128 renumbered and amended to read:

9129 ~~[26-6b-7].~~ **26B-7-312. Periodic review of individuals under court order.**

9130 (1) (a) At least two weeks prior to the expiration of the designated period of any court  
9131 order still in effect, the petitioner shall inform the court that issued the order that the order is  
9132 about to expire.

9133 (b) The petitioner shall immediately reexamine the reasons upon which the court's  
9134 order was based.

9135 (c) If the petitioner determines that the conditions justifying that order no longer exist,  
9136 [it] the petitioner shall discharge the individual from involuntary quarantine, isolation, or  
9137 treatment and report its action to the court for a termination of the order.

9138 (d) ~~[Otherwise]~~ If the conditions justifying the order still exist, the court shall schedule  
9139 a hearing prior to the expiration of ~~[its]~~ the court's order and proceed under Sections ~~[26-6b-4]~~  
9140 26B-7-309 through ~~[26-6b-6]~~ 26B-7-311.

9141 (2) (a) The petitioner responsible for the care of an individual under a court order of  
9142 involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month  
9143 intervals reexamine the reasons upon which the order of indeterminate duration was based.

9144 (b) If the petitioner determines that the conditions justifying that the court's order no  
9145 longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation,  
9146 or treatment and immediately report its action to the court for a termination of the order.

9147 (c) If the petitioner determines that the conditions justifying the involuntary quarantine,  
9148 isolation, or treatment continue to exist, the petitioner shall send a written report of those  
9149 findings to the court.

9150 (d) The petitioner shall notify the individual and his counsel of record in writing that  
9151 the involuntary quarantine, isolation, or treatment will be continued, the reasons for that  
9152 decision, and that the individual has the right to a review hearing by making a request to the  
9153 court.

9154 (e) Upon receiving the request for a review, the court shall immediately set a hearing

9155 date and proceed under Sections ~~[26-6b-4]~~ 26B-6-309 through ~~[26-6b-6]~~ 26B-6-311.

9156 Section 282. Section **26B-7-313**, which is renumbered from Section 26-6b-8 is  
9157 renumbered and amended to read:

9158 ~~[26-6b-8].~~ **26B-7-313. Transportation of individuals subject to temporary or**  
9159 **court-ordered restriction.**

9160 Transportation of an individual subject to an order of restriction to court, or to a place  
9161 for examination, quarantine, isolation, or treatment pursuant a temporary order issued by a  
9162 department or local health department, or pursuant to a court order, shall be conducted by the  
9163 county sheriff where the individual is located.

9164 Section 283. Section **26B-7-314**, which is renumbered from Section 26-6b-9 is  
9165 renumbered and amended to read:

9166 ~~[26-6b-9].~~ **26B-7-314. Examination, quarantine, isolation, and treatment costs.**

9167 If a local health department obtains approval from the ~~[Department of Health]~~  
9168 department, the costs that the local health department would otherwise have to bear for  
9169 examination, quarantine, isolation, and treatment ordered under the provisions of ~~[this chapter]~~  
9170 Sections 26B-7-304 through 26B-7-314 shall be paid by the ~~[Department of Health]~~  
9171 department to the extent that the individual is unable to pay and that other sources and  
9172 insurance do not pay.

9173 Section 284. Section **26B-7-315**, which is renumbered from Section 26-6b-10 is  
9174 renumbered and amended to read:

9175 ~~[26-6b-10].~~ **26B-7-315. Severability.**

9176 ~~[If any provision of this chapter,]~~ With respect to Sections 26B-7-304 through  
9177 26B-7-314, if a provision or the application of [this chapter] a provision to any person or  
9178 circumstance[;] is found to be unconstitutional, the provision that is found to be  
9179 unconstitutional is severable and the balance of ~~[this chapter remains]~~ any sections not found to  
9180 be unconstitutional remain effective, notwithstanding ~~[that unconstitutionality]~~ those sections  
9181 found to be unconstitutional.

Section 285. Section **26B-7-316**, which is renumbered from Section 26-23b-103 is renumbered and amended to read:

~~[26-23b-103].~~      **26B-7-316. Mandatory reporting requirements -- Contents of reports -- Penalties.**

(1) (a) A health care provider shall report to the department any case of any person who the provider knows has a confirmed case of, or who the provider believes in his professional judgment is sufficiently likely to harbor any illness or health condition that may be caused by:

- (i) bioterrorism;
- (ii) epidemic or pandemic disease; or
- (iii) novel and highly fatal infectious agents or biological toxins which might pose a substantial risk of a significant number of human fatalities or incidences of permanent or long-term disability.

(b) A health care provider shall immediately submit the report required by Subsection (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).

(2) (a) A report required by this section shall be submitted electronically, verbally, or in writing to the department or appropriate local health department.

(b) A report submitted pursuant to Subsection (1) shall include, if known:

(i) diagnostic information on the specific illness or health condition that is the subject of the report, and, if transmitted electronically, diagnostic codes assigned to the visit;

(ii) the patient's name, date of birth, sex, race, occupation, and current home and work address and phone number;

(iii) the name, address, and phone number of the health care provider; and

(iv) the name, address, and phone number of the reporting individual.

(3) The department may impose a sanction against a health care provider for failure to make a report required by this section only if the department can show by clear and convincing evidence that a health care provider willfully failed to file a report.

Section 286. Section **26B-7-317**, which is renumbered from Section 26-23b-104 is

9209 renumbered and amended to read:

9210 ~~[26-23b-104].~~ **26B-7-317. Authorization to report -- Declaration of a public**  
9211 **health emergency -- Termination of a public health emergency -- Order of constraint.**

9212 (1) A health care provider is authorized to report to the department any case of a  
9213 reportable emergency illness or health condition in any person when:

9214 (a) the health care provider knows of a confirmed case; or

9215 (b) the health care provider believes, based on the health care provider's professional  
9216 judgment that a person likely harbors a reportable emergency illness or health condition.

9217 (2) A report pursuant to this section shall include, if known:

9218 (a) the name of the facility submitting the report;

9219 (b) a patient identifier that allows linkage with the patient's record for follow-up  
9220 investigation if needed;

9221 (c) the date and time of visit;

9222 (d) the patient's age and sex;

9223 (e) the zip code of the patient's residence;

9224 (f) the reportable illness or condition detected or suspected;

9225 (g) diagnostic information and, if available, diagnostic codes assigned to the visit; and

9226 (h) whether the patient was admitted to the hospital.

9227 (3) (a) Subject to Subsections (3)(b) and (4), if the department determines that a public  
9228 health emergency exists, the department may, with the concurrence of the governor and the  
9229 executive director or in the absence of the executive director, the executive director's designee,  
9230 declare a public health emergency, issue an order of constraint, and mandate reporting under  
9231 this section for a limited reasonable period of time, as necessary to respond to the public health  
9232 emergency.

9233 (b) (i) During a public health emergency that has been in effect for more than 30 days,  
9234 the department may not issue an order of constraint until the department has provided notice of  
9235 the proposed action to the legislative emergency response committee no later than 24 hours

9236 before the department issues the order of constraint.

9237 (ii) The department:

9238 (A) shall provide the notice required by Subsection (3)(b)(i) using the best available  
9239 method under the circumstances as determined by the executive director;

9240 (B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and

9241 (C) shall provide the notice in written form, if practicable.

9242 (c) The department may not mandate reporting under this subsection for more than 90  
9243 days.

9244 (4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by  
9245 the department as described in Subsection (3) expires at the earliest of:

9246 (i) the day on which the department or the governor finds that the threat or danger has  
9247 passed or the public health emergency reduced to the extent that emergency conditions no  
9248 longer exist;

9249 (ii) 30 days after the date on which the department declared the public health  
9250 emergency; or

9251 (iii) the day on which the public health emergency is terminated by a joint resolution of  
9252 the Legislature.

9253 (b) (i) The Legislature, by joint resolution, may extend a public health emergency for a  
9254 time period designated in the joint resolution.

9255 (ii) If the Legislature extends a public health emergency as described in Subsection  
9256 (4)(b)(i), the public health emergency expires on the date designated by the Legislature.

9257 (c) Except as provided in Subsection (4)(d), if a public health emergency declared by  
9258 the department expires as described in Subsection (4)(a) or (b), the department may not declare  
9259 a public health emergency for the same illness or occurrence that precipitated the previous  
9260 public health emergency declaration.

9261 (d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the  
9262 department finds that exigent circumstances exist, after providing notice to the Legislature, the

9263 department may declare a new public health emergency for the same illness or occurrence that  
9264 precipitated a previous public health emergency declaration.

9265 (ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in  
9266 accordance with Subsection (4)(a) or (b).

9267 (e) If the Legislature terminates a public health emergency declared due to exigent  
9268 circumstances as described in Subsection (4)(d)(i), the department may not declare a new  
9269 public health emergency for the same illness, occurrence, or exigent circumstances.

9270 (5) During a declared public health emergency declared under this title:

9271 (a) the Legislature may:

9272 (i) at any time by joint resolution terminate an order of constraint issued by the  
9273 department; or

9274 (ii) by joint resolution terminate an order of constraint issued by a local health  
9275 department in response to a public health emergency that has been in effect for more than 30  
9276 days; and

9277 (b) a county legislative body may at any time terminate an order of constraint issued by  
9278 a local health department in response to a declared public health emergency.

9279 (6) (a) (i) If the department declares a public health emergency as described in this  
9280 ~~[chapter]~~ part, and the department finds that the public health emergency conditions warrant an  
9281 extension of the public health emergency beyond the 30-day term or another date designated by  
9282 the Legislature as described in this section, the department shall provide written notice to the  
9283 speaker of the House of Representatives and the president of the Senate at least 10 days before  
9284 the expiration of the public health emergency.

9285 (ii) If a local health department declares a public health emergency as described in this  
9286 ~~[chapter]~~ part, and the local health department finds that the public health emergency  
9287 conditions warrant an extension of the public health emergency beyond the 30-day term or  
9288 another date designated by the county governing body as described in this section, the local  
9289 health department shall provide written notice to the county governing body at least 10 days

9290 before the expiration of the public health emergency.

9291 (b) If the department provides notice as described in Subsection (6)(a)(i) for a public  
9292 health emergency within the first 30 days from the initial declaration of the public health  
9293 emergency, the speaker of the House of Representatives and the president of the Senate:

9294 (i) shall poll the members of their respective bodies to determine whether the  
9295 Legislature will extend the public health emergency; and

9296 (ii) may jointly convene the committee created in Section 53-2a-218.

9297 (c) If the department provides notice as described in Subsection (6)(a)(i) for a public  
9298 health emergency that has been extended beyond the 30 days from the initial declaration of the  
9299 public health emergency, the speaker of the House of Representatives and the president of the  
9300 Senate shall jointly convene the committee created in Section 53-2a-218.

9301 (7) If the committee created in Section 53-2a-218 is convened as described in  
9302 Subsection (6), the committee shall conduct a public meeting to:

9303 (a) discuss the nature of the public health emergency and conditions of the public  
9304 health emergency;

9305 (b) evaluate options for public health emergency response;

9306 (c) receive testimony from individuals with expertise relevant to the current public  
9307 health emergency;

9308 (d) receive testimony from members of the public; and

9309 (e) provide a recommendation to the Legislature whether to extend the public health  
9310 emergency by joint resolution.

9311 (8) (a) During a public health emergency declared as described in this title:

9312 (i) the department or a local health department may not impose an order of constraint  
9313 on a religious gathering that is more restrictive than an order of constraint that applies to any  
9314 other relevantly similar gathering; and

9315 (ii) an individual, while acting or purporting to act within the course and scope of the  
9316 individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (8).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(9) (a) Unless the provisions of Subsection (3) apply, a health care provider is not subject to penalties for failing to submit a report under this section.

(b) If the provisions of Subsection (3) apply, a health care provider is subject to the penalties of Subsection ~~[26-23b-103]~~ 26B-7-316(3) for failure to make a report under this section.

Section 287. Section **26B-7-318**, which is renumbered from Section 26-23b-105 is renumbered and amended to read:

~~[26-23b-105]~~. **26B-7-318. Pharmacy reporting requirements.**

(1) Notwithstanding the provisions of Subsection ~~[26-23b-103]~~ 26B-7-316(1)(a), a pharmacist shall report unusual drug-related events as described in Subsection (2).

(2) Unusual drug-related events that require a report include:

(a) an unusual increase in the number of prescriptions filled for antimicrobials;

(b) any prescription that treats a disease that has bioterrorism potential if that prescription is unusual or in excess of the expected frequency; and

(c) an unusual increase in the number of requests for information about or sales of over-the-counter pharmaceuticals to treat conditions which may suggest the presence of one of the illnesses or conditions described in Section ~~[26-23b-103]~~ 26B-7-316 or ~~[26-23b-104]~~ 26B-7-317 and which are designated by department rule.

(3) (a) A pharmacist shall submit the report required by this section within 24 hours after the pharmacist suspects, in his professional judgement, that an unusual drug-related event has occurred.

(b) If a pharmacy is part of a health care facility subject to the reporting requirements of ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-324, the pharmacist in charge shall make the report under this section on behalf of the health care facility.

(4) (a) The report required by this section shall be submitted in accordance with Subsection ~~[26-23b-103]~~ 26B-7-316(2)(a).

(b) A report shall include the name and location of the reporting pharmacist, the name and type of pharmaceuticals that are the subject of the unusual increase in use, and if known, the suspected illness or health condition that is the subject of the report.

(5) A pharmacist is subject to the penalties under Subsection ~~[26-23b-103]~~ 26B-7-316(3) for failing to make a report required by this section.

Section 288. Section **26B-7-319**, which is renumbered from Section 26-23b-106 is renumbered and amended to read:

~~[26-23b-106]~~. **26B-7-319. Medical laboratory reporting requirements.**

(1) Notwithstanding the provisions of Subsection ~~[26-23b-103]~~ 26B-7-316(1), the director of a medical laboratory located in this state is responsible for reporting results of a laboratory test that confirm a condition or illness described in Subsection ~~[26-23b-103]~~ 26B-7-316(1) within 24 hours after obtaining the results of the test. This reporting requirement also applies to results obtained on specimens sent to an out-of-state laboratory for analysis.

(2) The director of a medical laboratory located outside this state that receives a specimen obtained inside this state is responsible for reporting the results of any test that confirm a condition or illness described in Subsection ~~[26-23b-103]~~ 26B-7-316(1), within 24 hours of obtaining the results, provided that the laboratory that performs the test has agreed to the reporting requirements of this state.

(3) If a medical laboratory is part of a health care facility subject to the reporting requirements of ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-324, the director of the medical laboratory shall make the report required by this section on behalf of the health care facility.

(4) The report required by this section shall be submitted in accordance with Subsection ~~[26-23b-103]~~ 26B-7-316(2).

(5) The director of a medical laboratory is subject to the penalties of Subsection ~~[26-23b-103]~~ 26B-7-316(3) for failing to make a report required by this section.

Section 289. Section **26B-7-320**, which is renumbered from Section 26-23b-107 is renumbered and amended to read:

~~[26-23b-107].~~        **26B-7-320. Exemptions from liability.**

(1) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report ~~[pursuant to this chapter]~~ under Sections 26B-7-316 through 26B-7-323.

(2) A health care provider may not incur any civil or criminal liability as a result of making any report under ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-323 so long as the report is made in good faith.

Section 290. Section **26B-7-321**, which is renumbered from Section 26-23b-108 is renumbered and amended to read:

~~[26-23b-108].~~        **26B-7-321. Investigation of suspected bioterrorism and diseases -- Termination of orders of constraint.**

(1) Subject to Subsection (6), the department shall:

(a) ascertain the existence of cases of an illness or condition caused by the factors

9398 described in Subsections ~~[26-23b-103]~~ 26B-7-316(1) and ~~[26-23b-104]~~ 26B-7-317(1);

9399 (b) investigate all such cases for sources of infection or exposure;

9400 (c) ensure that any cases, suspected cases, and exposed persons are subject to proper

9401 control measures; and

9402 (d) define the distribution of the suspected illness or health condition.

9403 (2) (a) Acting on information received from the reports required by ~~[this chapter]~~

9404 Sections 26B-7-316 through 26B-7-320, or other reliable information, the department shall

9405 identify all individuals thought to have been exposed to an illness or condition described in

9406 Subsection ~~[26-23b-103]~~ 26B-7-316(1).

9407 (b) The department may request information from a health care provider concerning an

9408 individual's identifying information as described in Subsection ~~[26-23b-103]~~ 26B-7-316(2)(b)

9409 when:

9410 (i) the department is investigating a potential illness or condition described in

9411 Subsection ~~[26-23b-103]~~ 26B-7-316(1) and the health care provider has not submitted a report

9412 to the department with the information requested; or

9413 (ii) the department has received a report from a pharmacist under Section ~~[26-23b-105]~~

9414 26B-7-318, a medical laboratory under Section ~~[26-23b-106]~~ 26B-7-319, or another health care

9415 provider under Subsection ~~[26-23b-104]~~ 26B-7-317(1) and the department believes that further

9416 investigation is necessary to protect the public health.

9417 (c) A health care provider shall submit the information requested under this section to

9418 the department within 24 hours after receiving a request from the department.

9419 (3) The department shall counsel and interview identified individuals as appropriate to:

9420 (a) assist in the positive identification of other cases and exposed individuals;

9421 (b) develop information relating to the source and spread of the illness or condition;

9422 and

9423 (c) obtain the names, addresses, phone numbers, or other identifying information of

9424 any other person from whom the illness or health condition may have been contracted and to

9425 whom the illness or condition may have spread.

9426 (4) The department shall, for examination purposes, close, evacuate, or decontaminate  
9427 any facility when the department reasonably believes that such facility or material may  
9428 endanger the public health due to a condition or illness described in Subsection [~~26-23b-103~~]  
9429 26B-7-316(1).

9430 (5) The department [~~will~~] shall destroy personally identifying health information about  
9431 an individual collected by the department as a result of a report under [~~this chapter~~] Sections  
9432 26B-7-316 through 26B-7-322 upon the earlier of:

9433 (a) the department's determination that the information is no longer necessary to carry  
9434 out an investigation under [~~this chapter~~] Sections 26B-7-316 through 26B-7-324; or

9435 (b) 180 days after the information is collected.

9436 (6) (a) The Legislature may at any time terminate by joint resolution an order of  
9437 constraint issued by the department in response to a declared public health emergency.

9438 (b) A county governing body may at any time terminate by majority vote an order of  
9439 constraint issued by the relevant local health department in response to a declared public health  
9440 emergency.

9441 Section 291. Section **26B-7-322**, which is renumbered from Section 26-23b-109 is  
9442 renumbered and amended to read:

9443 [~~26-23b-109~~]. **26B-7-322. Enforcement.**

9444 The department may enforce the provisions of [~~this chapter~~] Sections 26B-7-316  
9445 through 26B-7-324 in accordance with existing enforcement laws and regulations.

9446 Section 292. Section **26B-7-323**, which is renumbered from Section 26-23b-110 is  
9447 renumbered and amended to read:

9448 [~~26-23b-110~~]. **26B-7-323. Information sharing with public safety**  
9449 **authorities.**

9450 (1) [~~For purposes of~~] As used in this section, "public safety authority" means a local,  
9451 state, or federal law enforcement authority including the Division of Emergency Management,

9452 emergency medical services personnel, and firefighters.

9453 (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records  
9454 Access and Management Act:

9455 (a) whenever a public safety authority suspects a case of a reportable illness or  
9456 condition under the provisions of [this chapter] Sections 26B-7-316 through 26B-7-324, it shall  
9457 immediately notify the department;

9458 (b) whenever the department learns of a case of a reportable illness or condition under  
9459 this [chapter] part that [it] the department reasonably believes has the potential to be caused by  
9460 one of the factors listed in Subsection [~~26-23b-103~~] 26B-7-316(1), [it] the department shall  
9461 immediately notify the appropriate public safety authority; and

9462 (c) sharing of information reportable under [~~the provisions of this chapter~~] Sections  
9463 26B-7-316 through 26B-7-324 between persons authorized by [this chapter] Sections  
9464 26B-7-316 through 26B-7-324 shall be limited to information necessary for the treatment,  
9465 control, investigation, and prevention of a public health emergency.

9466 [~~(3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28~~  
9467 ~~apply to this chapter.~~]

9468 Section 293. Section **26B-7-324** is enacted to read:

9469 **26B-7-324. Applicability of confidentiality provisions.**

9470 The provisions of Sections 26B-7-217 and 26B-7-218 apply to information collected  
9471 under Sections 26B-7-316 through 26B-7-323 except to the extent that application of a  
9472 provision in Section 26B-7-217 or 26B-7-218 is inconsistent with Sections 26B-7-316 through  
9473 26B-7-323.

9474 Section 294. Section **26B-7-401**, which is renumbered from Section 26-15a-102 is  
9475 renumbered and amended to read:

9476 **Part 4. General Sanitation and Food Safety**

9477 [~~26-15a-102~~]. **26B-7-401. Definitions.**

9478 As used in this part:

- 9479           (1) "Agricultural tourism activity" means the same as that term is defined in Section  
 9480 78B-4-512.
- 9481           (2) "Agritourism" means the same as that term is defined in Section 78B-4-512.
- 9482           (3) "Agritourism food establishment" means a non-commercial kitchen facility where  
 9483 food is handled, stored, or prepared to be offered for sale on a farm in connection with an  
 9484 agricultural tourism activity.
- 9485           (4) "Agritourism food establishment permit" means a permit issued by a local health  
 9486 department to the operator for the purpose of operating an agritourism food establishment.
- 9487           [(1)] (5) "Back country food service establishment" means a federal or state licensed  
 9488 back country guiding or outfitting business that:
- 9489               (a) provides food services; and
- 9490               (b) meets department recognized federal or state food service safety regulations for  
 9491 food handlers.
- 9492           [(2)] (6) "Certified food safety manager" means a manager of a food service  
 9493 establishment who:
- 9494               (a) passes successfully a department-approved examination;
- 9495               (b) successfully completes, every three years, renewal requirements established by  
 9496 department rule consistent with original certification requirements; and
- 9497               (c) submits to the appropriate local health department the documentation required by  
 9498 Section ~~[26-15a-106]~~ 26B-7-412.
- 9499           (7) "Farm" means a working farm, ranch, or other commercial agricultural,  
 9500 aquacultural, horticultural, or forestry operation.
- 9501           (8) "Food" means:
- 9502               (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or  
 9503 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or  
 9504 (b) chewing gum.
- 9505           [(3)] (9) "Food service establishment" means any place or area within a business or

9506 organization where potentially hazardous foods, as defined by the department under Section  
9507 [26B-7-410](#), are prepared and intended for individual portion service and consumption by the  
9508 general public, whether the consumption is on or off the premises, and whether or not a fee is  
9509 charged for the food.

9510 ~~[(4) "Local health department" means a local health department as defined in~~  
9511 ~~Subsection [26A-1-102](#)(5).]~~

9512 ~~[(5) "Potentially hazardous foods" shall be defined by the department by administrative~~  
9513 ~~rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

9514 (10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility  
9515 located in a private home and operated by a resident of the home where ready-to-eat food is  
9516 handled, stored, prepared, or offered for sale.

9517 (b) "Microenterprise home kitchen" does not include:

9518 (i) a catering operation;

9519 (ii) a cottage food operation;

9520 (iii) a food truck;

9521 (iv) an agritourism food establishment;

9522 (v) a bed and breakfast; or

9523 (vi) a residence-based group care facility.

9524 (11) "Microenterprise home kitchen permit" means a permit issued by a local health  
9525 department to the operator for the purpose of operating a microenterprise home kitchen.

9526 (12) "Ready-to-eat" means:

9527 (a) raw animal food that is cooked;

9528 (b) raw fruits and vegetables that are washed;

9529 (c) fruits and vegetables that are cooked for hot holding;

9530 (d) a time or temperature control food that is cooked to the temperature and time

9531 required for the specific food in accordance with rules made by the department in accordance  
9532 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

9533 (e) a bakery item for which further cooking is not required for food safety.

9534 (13) "Time or temperature control food" means food that requires time or temperature  
9535 controls for safety to limit pathogenic microorganism growth or toxin formation.

9536 Section 295. Section **26B-7-402**, which is renumbered from Section 26-15-2 is  
9537 renumbered and amended to read:

9538 **[26-15-2]. 26B-7-402. Minimum rules of sanitation established by department.**

9539 The department shall establish and enforce, or provide for the enforcement of minimum  
9540 rules of sanitation necessary to protect the public health. Such rules shall include, but not be  
9541 limited to, rules necessary for the design, construction, operation, maintenance, or expansion  
9542 of:

9543 (1) restaurants and all places where food or drink is handled, sold or served to the  
9544 public;

9545 (2) public swimming pools;

9546 (3) public baths including saunas, spas, massage parlors, and suntan parlors;

9547 (4) public bathing beaches;

9548 (5) schools which are publicly or privately owned or operated;

9549 (6) recreational resorts, camps, and vehicle parks;

9550 (7) amusement parks and all other centers and places used for public gatherings;

9551 (8) mobile home parks and highway rest stops;

9552 (9) construction or labor camps;

9553 (10) jails, prisons and other places of incarceration or confinement;

9554 (11) hotels and motels;

9555 (12) lodging houses and boarding houses;

9556 (13) service stations;

9557 (14) barbershops and beauty shops, including a facility in which one or more  
9558 individuals are engaged in:

9559 (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and

9560 Associated Professions Licensing Act; or

9561 (b) styling hair in accordance with the exemption from licensure described in Section  
9562 [58-11a-304](#)(13);

9563 (15) physician and dentist offices;

9564 (16) public buildings and grounds;

9565 (17) public conveyances and terminals; and

9566 (18) commercial tanning facilities.

9567 Section 296. Section **26B-7-403**, which is renumbered from Section 26-15-3 is  
9568 renumbered and amended to read:

9569 **[26-15-3]. 26B-7-403. Department to advise regarding the plumbing code.**

9570 (1) The department shall advise the Division of Professional Licensing and the  
9571 Uniform Building Code Commission with respect to the adoption of a state construction code  
9572 under Section [15A-1-204](#), including providing recommendations as to:

9573 (a) a specific edition of a plumbing code issued by a nationally recognized code  
9574 authority; and

9575 (b) any amendments to a nationally recognized code.

9576 (2) The department may enforce the plumbing code adopted under Section [15A-1-204](#).

9577 (3) Section [58-56-9](#) does not apply to health inspectors acting under this section.

9578 Section 297. Section **26B-7-404**, which is renumbered from Section 26-15-4 is  
9579 renumbered and amended to read:

9580 **[26-15-4]. 26B-7-404. Rules for wastewater disposal systems.**

9581 The department shall establish rules necessary to protect the public health for the  
9582 design, and construction, operation and maintenance of individual wastewater disposal  
9583 systems.

9584 Section 298. Section **26B-7-405**, which is renumbered from Section 26-15-7 is  
9585 renumbered and amended to read:

9586 **[26-15-7]. 26B-7-405. Rules for controlling vector-borne diseases and pests.**

9587           (1) As used in this section:

9588           (a) "Pest" means a noxious, destructive, or troublesome organism whether plant or  
9589 animal, when found in and around places of human occupancy, habitation, or use which  
9590 threatens the public health or well-being of the people within the state.

9591           (b) "Vector" means any organism, such as insects or rodents, that transmits a pathogen  
9592 that can affect public health.

9593           (2) The department shall adopt rules to provide for the protection of the public health by  
9594 controlling or preventing the spread of vector-borne diseases and infections and to control or  
9595 reduce pests by the elimination of insanitary conditions which may include but not be limited  
9596 to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

9597           Section 299. Section **26B-7-406**, which is renumbered from Section 26-15-8 is  
9598 renumbered and amended to read:

9599           ~~[26-15-8].~~     **26B-7-406. Periodic evaluation of local health sanitation programs**  
9600 **-- Minimum statewide enforcement standards -- Technical assistance.**

9601           (1) The department shall periodically evaluate the sanitation programs of local health  
9602 departments to determine the levels of sanitation being maintained throughout the state.

9603           (2) (a) The department shall ensure that each local health department's enforcement of  
9604 the minimum rules of sanitation adopted under Section ~~[26-15-2]~~ 26B-7-402 for restaurants  
9605 and other places where food or drink is handled meets or exceeds minimum statewide  
9606 enforcement standards established by the department by administrative rule.

9607           (b) Administrative rules adopted under Subsection (2)(a) shall include at least:

9608           (i) the minimum number of periodic on-site inspections that shall be conducted by each  
9609 local health department;

9610           (ii) criteria for conducting additional inspections; and

9611           (iii) standardized methods to be used by local health departments to assess compliance  
9612 with the minimum rules of sanitation adopted under Section ~~[26-15-2]~~ 26B-7-402.

9613           (c) The department shall help local health departments comply with the minimum

9614 statewide enforcement standards adopted under this Subsection (2) by providing technical  
9615 assistance.

9616 Section 300. Section **26B-7-407**, which is renumbered from Section 26-15-13 is  
9617 renumbered and amended to read:

9618 **[26-15-13]. 26B-7-407. Regulation of tanning facilities.**

9619 (1) For purposes of this section:

9620 (a) "Minor" means ~~[a person under 18 years of age]~~ an individual who is younger than  
9621 18 years old.

9622 (b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a  
9623 health care professional in the treatment of disease.

9624 (c) (i) "Tanning device" means equipment to which a tanning facility provides access  
9625 that emits electromagnetic radiation with wavelengths in the air between 200 and 400  
9626 nanometers used for tanning of the skin, including:

9627 (A) a sunlamp; and

9628 (B) a tanning booth or bed.

9629 (ii) "Tanning device" does not include a phototherapy device.

9630 (d) "Tanning facility" means a commercial location, place, area, structure, or business  
9631 that provides access to a tanning device.

9632 (2) A tanning facility shall:

9633 (a) annually obtain a permit to do business as a tanning facility from the local health  
9634 department with jurisdiction over the location in which the facility is located; and

9635 (b) in accordance with Subsection (3) post a warning sign in a conspicuous location  
9636 that is readily visible to a person about to use a tanning device.

9637 (3) The posted warning and written consent required by Subsections (2) and (5) shall  
9638 be developed by the department through administrative rules and shall include:

9639 (a) that there are health risks associated with the use of a tanning device;

9640 (b) that the facility may not allow a minor to use a tanning device unless the minor:

9641 (i) has a written order from a physician; or  
9642 (ii) at each time of use is accompanied at the tanning facility by a parent or legal  
9643 guardian who provides written consent authorizing the minor to use the tanning device.  
9644 (4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning  
9645 device unless:  
9646 (a) the minor has a written order from a physician as defined in Section 58-67-102, to  
9647 use a tanning device as a medical treatment; or  
9648 (b) (i) the minor's parent or legal guardian appears in person at the tanning facility each  
9649 time that the minor uses a tanning device, except that the minor's parent or legal guardian is not  
9650 required to remain at the facility for the duration of the use; and  
9651 (ii) the minor's parent or legal guardian signs the consent form required in Subsection  
9652 (5).  
9653 (5) The written consent required by Subsection (4) shall be signed and dated each time  
9654 the minor uses a tanning device at the facility, and shall include at least:  
9655 (a) information concerning the health risks associated with the use of a tanning device;  
9656 and  
9657 (b) a statement that:  
9658 (i) the parent or legal guardian of the minor has read and understood the warnings  
9659 given by the tanning facility, and consents to the minor's use of a tanning device; and  
9660 (ii) the parent or legal guardian agrees that the minor will use protective eye wear.  
9661 (6) The department shall adopt administrative rules in accordance with Title 63G,  
9662 Chapter 3, Utah Administrative Rulemaking Act, specifying:  
9663 (a) minimum requirements a tanning facility shall satisfy to obtain a permit under  
9664 Subsection (2);  
9665 (b) the written information concerning health risks a facility should include in the  
9666 posted signs required by Subsection (3) and in the consent form required by Subsection (5);  
9667 (c) procedures a tanning facility shall implement to ensure a minor and the minor's

9668 parent or legal guardian comply with Subsections (4) and (5), including use of a statewide  
9669 uniform form:

9670 (i) for a parent or legal guardian to certify and give consent under Subsection (5); and

9671 (ii) that clearly identifies the department's seal or other means to indicate that the form  
9672 is an official form of the department; and

9673 (d) the size, placement, and content of the sign a tanning facility must post under  
9674 Subsection (2).

9675 (7) (a) A violation of this section:

9676 (i) is an infraction; and

9677 (ii) may result in the revocation of a permit to do business as a tanning facility.

9678 (b) If a person misrepresents to a tanning facility that the person is 18 years ~~[of age]~~ old  
9679 or older, the person is guilty of an infraction.

9680 (8) This section ~~[supercedes]~~ supersedes any ordinance enacted by the governing body  
9681 of a political subdivision that:

9682 (a) imposes restrictions on access to a tanning device by a person younger than ~~[age]~~  
9683 18 years old that is not essentially identical to the provisions of this section; or

9684 (b) that require the posting of warning signs at the tanning facility that are not  
9685 essentially identical to the provisions of this section.

9686 Section 301. Section **26B-7-408**, which is renumbered from Section 26-31-201 is  
9687 renumbered and amended to read:

9688 ~~[26-31-201]~~. **26B-7-408. Procurement and use of a blood product is a**  
9689 **service and not a sale -- Blood donation by a minor.**

9690 (1) As used in this section:

9691 (a) "Blood" means human blood.

9692 (b) "Blood product" includes:

9693 (i) whole blood;

9694 (ii) blood plasma;

- 9695            (iii) a blood derivative;  
9696            (iv) blood platelets; and  
9697            (v) blood clotting agents.

9698            (2) The following are considered to be the rendition of a service by each participant  
9699            and are not considered to be a sale:

9700            [(1)] (a) the procurement, processing, distribution, or use of a blood product for the  
9701            purpose of injecting or transfusing the blood product into the human body; and

9702            [(2)] (b) the process of injecting or transfusing a blood product.

9703            (3) A minor who is at least 16 years old may donate blood to a voluntary,  
9704            noncompensatory blood donation program if a parent or legal guardian of the minor consents to  
9705            the donation.

9706            Section 302. Section **26B-7-409**, which is renumbered from Section 26-51-201 is  
9707            renumbered and amended to read:

9708            **[26-51-201].            26B-7-409. Scientific standards for methamphetamine**  
9709            **decontamination -- Public education concerning methamphetamine contamination.**

9710            (1) The department shall make rules adopting scientifically-based standards for  
9711            methamphetamine decontamination.

9712            (2) A local health department, as defined in Title 26A, Local Health Authorities, shall  
9713            follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6,  
9714            Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

9715            (3) The department shall conduct a public education campaign to inform the public  
9716            about potential health risks of methamphetamine contamination.

9717            Section 303. Section **26B-7-410**, which is renumbered from Section 26-15a-104 is  
9718            renumbered and amended to read:

9719            **[26-15a-104].            26B-7-410. Food service establishment requirements --**  
9720            **Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health**  
9721            **departments.**

(1) Each food service establishment in the state shall be managed by at least one full-time certified food safety manager at each establishment site, who need not be present at the establishment site during all its hours of operation.

(2) Within 60 days of the termination of a certified food safety manager's employment that results in the food service establishment no longer being in compliance with Subsection (1), the food service establishment shall:

(a) employ a new certified food safety manager; or

(b) designate another employee to become the establishment's certified food safety manager who shall commence a department-approved food safety manager training course.

(3) Compliance with the 60-day time period provided in Subsection (2) may be extended by the local health department for reasonable cause, as determined by the department by rule.

(4) (a) The local health department may determine whether a food service establishment is in compliance with this section by visiting the establishment during regular business hours and requesting information and documentation about the employment of a certified food safety manager.

(b) If a violation of this section is identified, the local health department shall propose remedial action to bring the food service establishment into compliance.

(c) (i) A food service establishment receiving notice of a violation and proposed remedial action from a local health department may appeal the notice of violation and proposed remedial action pursuant to procedures established by the local health department, which shall be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(ii) Notwithstanding the provisions of Section 63G-4-402, an appeal of a local health department decision ~~[to a district court]~~ shall be conducted as an original, independent proceeding, and not as a review of the proceedings conducted by the local health department.

(iii) The ~~[district]~~ court shall give no deference to the findings or conclusions of the

9749 local health department.

9750 (5) (a) The department shall establish by rule made in accordance with Title 63G,

9751 Chapter 3, Utah Administrative Rulemaking Act:

9752 (i) a definition of "potentially hazardous foods" for purposes of this section and Section

9753 26B-7-401; and

9754 (ii) any provisions necessary to implement this section.

9755 (b) The local health department with jurisdiction over the geographic area in which a

9756 food service establishment is located shall enforce the provisions of this section.

9757 Section 304. Section **26B-7-411**, which is renumbered from Section 26-15a-105 is

9758 renumbered and amended to read:

9759 ~~[26-15a-105].~~ **26B-7-411. Exemptions to food service establishment**

9760 **requirements.**

9761 (1) The following are not subject to the provisions of Section ~~[26-15a-104]~~ 26B-7-410:

9762 (a) special events sponsored by municipal or nonprofit civic organizations, including

9763 food booths at school sporting events and little league athletic events and church functions;

9764 (b) temporary event food services approved by a local health department;

9765 (c) vendors and other food service establishments that serve only commercially

9766 prepackaged foods and beverages as defined by the department by rule;

9767 (d) private homes not used as a commercial food service establishment;

9768 (e) health care facilities licensed under Chapter ~~[21]~~ 2, Part 2, Health Care Facility

9769 Licensing and Inspection ~~[Act]~~;

9770 (f) bed and breakfast establishments at which the only meal served is a continental

9771 breakfast as defined by the department by rule;

9772 (g) residential child care providers;

9773 (h) child care providers and programs licensed under ~~[Chapter 39, Utah Child Care~~

9774 ~~Licensing Act]~~ Chapter 2, Part 4, Child Care Licensing;

9775 (i) back country food service establishments;

(j) an event that is sponsored by a charitable organization, if, at the event, the organization:

- (i) provides food to a disadvantaged group free of charge; and
- (ii) complies with rules established by the department under Subsection (3); and
- (k) a lowest risk or permitted food establishment category determined by a risk assessment evaluation established by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Nothing in this section may be construed as exempting a food service establishment described in Subsection (1) from any other applicable food safety laws of this state.

(3) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for charitable organizations providing food for free under Subsection (1)(j).

Section 305. Section **26B-7-412**, which is renumbered from Section 26-15a-106 is renumbered and amended to read:

~~[26-15a-106].~~      **26B-7-412. Certified food safety manager.**

(1) Before a person may manage a food service establishment as a certified food safety manager, that person shall submit documentation in the format prescribed by the department to the appropriate local health department indicating a passing score on a department-approved examination.

(2) To continue to manage a food service establishment, a certified food safety manager shall:

- (a) successfully complete, every three years, renewal requirements established by department rule which are consistent with original certification requirements; and
- (b) submit documentation in the format prescribed by the department within 30 days of the completion of renewal requirements to the appropriate local health department.

(3) A local health department may deny, revoke, or suspend the authority of a certified food safety manager to manage a food service establishment or require the completion of

9803 additional food safety training courses for any one of the following reasons:

9804 (a) submitting information required under Subsection (1) or (2) that is false,  
9805 incomplete, or misleading;

9806 (b) repeated violations of department or local health department food safety rules; or

9807 (c) operating a food service establishment in a way that causes or creates a health  
9808 hazard or otherwise threatens the public health, safety, or welfare.

9809 (4) A determination of a local health department made pursuant to Subsection (3) may  
9810 be appealed by a certified food safety manager in the same manner provided for in Subsection  
9811 ~~[26-15a-104]~~ [26B-7-410](#)(4).

9812 (5) No person may use the title "certified food safety manager," or any other similar  
9813 title, unless the person has satisfied the requirements of this ~~[chapter]~~ section.

9814 (6) A local health department:

9815 (a) may not charge a fee to accept or process the documentation described in  
9816 Subsections (1) and (2);

9817 (b) shall accept photocopies or electronic copies of the documentation described in  
9818 Subsections (1) and (2); and

9819 (c) shall allow an individual to submit the documentation described in Subsections (1)  
9820 and (2) by mail, email, or in person.

9821 (7) Certified food safety managers shall:

9822 (a) establish and monitor compliance with practices and procedures in the food service  
9823 establishments where they are employed to maintain compliance with department and local  
9824 health department food safety rules; and

9825 (b) perform such other duties that may be necessary to ensure food safety in the food  
9826 service establishments where they are employed.

9827 (8) (a) The department shall establish by rule made in accordance with Title 63G,  
9828 Chapter 3, Utah Administrative Rulemaking Act:

9829 (i) statewide, uniform standards for certified food safety managers;

9830 (ii) criteria for food safety certification examinations; and

9831 (iii) any provisions necessary to implement this section.

9832 (b) The department shall approve food safety certification examinations in accordance

9833 with this section.

9834 (c) The local health department with jurisdiction over the geographic area in which a

9835 food service establishment is located shall enforce the provisions of this section.

9836 Section 306. Section **26B-7-413**, which is renumbered from Section 26-15-5 is

9837 renumbered and amended to read:

9838 **[~~26-15-5~~]. 26B-7-413. Requirements for food handlers -- Training program**

9839 **and testing requirements for permit -- Rulemaking -- Exceptions.**

9840 (1) As used in this section:

9841 (a) "Approved food handler training program" means a training program described by  
9842 this section and approved by the department.

9843 (b) "Food handler" means a person who works with unpackaged food, food equipment  
9844 or utensils, or food-contact surfaces for a food service establishment.

9845 (c) "Food handler permit" means a permit issued by a local health department to allow  
9846 a person to work as a food handler.

9847 ~~[(d) "Food service establishment" has the same meaning as provided in Section~~

9848 ~~26-15a-102.]~~

9849 ~~[(e)]~~ (d) "Instructor" means an individual who is qualified to instruct an approved food  
9850 handler program on behalf of a provider.

9851 ~~[(f)]~~ (e) "Provider" means a person or entity that provides an approved food handler  
9852 training program.

9853 (2) A person may not work as a food handler for a food service establishment unless  
9854 the person:

9855 (a) successfully completes an approved food handler training program within 14 days  
9856 after the day on which the person begins employment that includes food handler services; and

9857 (b) obtains a food handler permit within 30 days after the day on which the person  
9858 begins employment that includes food handler services.

9859 (3) An approved food handler training program shall include:

9860 (a) at least 75 minutes of training time;

9861 (b) an exam, which requires a passing score of 75% and, except as provided in  
9862 Subsection (11), consists of:

9863 (i) 40 multiple-choice questions developed by the department, in consultation with  
9864 local health departments; and

9865 (ii) four content sections designated by rule of the department with 10 randomly  
9866 selected questions for each content section; and

9867 (c) upon completion, the awarding of a certificate of completion that is valid with any  
9868 local health department in the state for 30 days after the day on which the certificate is issued:

9869 (i) to a student who:

9870 (A) completes the training; and

9871 (B) passes the exam described in this Subsection (3) or an exam approved by the  
9872 department in accordance with Subsection (11); and

9873 (ii) which certificate of completion:

9874 (A) includes student identifying information determined by department rule; and

9875 (B) is delivered by mail or electronic means.

9876 (4) (a) A person may obtain a food handler permit by:

9877 (i) providing a valid certificate of completion of an approved food handler training  
9878 program and an application, approved by the local health department, to a local health  
9879 department; and

9880 (ii) paying a food handler permit fee to the local health department.

9881 (b) (i) A local health department may charge a food handler permit fee that is  
9882 reasonable and that reflects the cost of managing the food safety program.

9883 (ii) The department shall establish by rule the maximum amount a local health

9884 department may charge for the fee described in Subsection (4)(b)(i).

9885 (5) A person working as a food handler for a food service establishment shall obtain a  
9886 food handler permit:

9887 (a) before handling any food;

9888 (b) within 30 days of initial employment with a food service establishment; and

9889 (c) within seven days of the expiration of an existing food handler permit.

9890 (6) (a) A person who holds a valid food handler permit under this section may serve as  
9891 a food handler throughout the state without restriction.

9892 (b) A food handler permit granted after June 30, 2013, is valid for three years from the  
9893 date of issuance.

9894 (7) An individual may not serve as an instructor, unless the provider includes the  
9895 individual on the provider's list of instructors.

9896 (8) The department, in consultation with local health departments, shall:

9897 (a) approve the content of an approved food handler training program required under  
9898 Subsection (3);

9899 (b) approve, as qualified, each provider; and

9900 (c) in accordance with applicable rules made under Subsection (12), provide a means to  
9901 authenticate:

9902 (i) documents used in an approved food handler training program;

9903 (ii) the identity of an approved instructor; and

9904 (iii) an approved provider.

9905 (9) An approved food handler training program shall:

9906 (a) provide basic instruction on the Centers for Disease Control and Prevention's top  
9907 five foodborne illness risk factors, including:

9908 (i) improper hot and cold holding temperatures of potentially hazardous food;

9909 (ii) improper cooking temperatures of food;

9910 (iii) dirty or contaminated utensils and equipment;

9911 (iv) poor employee health and hygiene; and  
9912 (v) food from unsafe sources;  
9913 (b) be offered through:  
9914 (i) a trainer-led class;  
9915 (ii) the Internet; or  
9916 (iii) a combination of a trainer-led class and the Internet;  
9917 (c) maintain a system to verify a certificate of completion of an approved food handler  
9918 training program issued under Subsection (3) to the department, a local health department, and  
9919 a food service establishment; and  
9920 (d) provide to the department unrestricted access to classroom training sessions and  
9921 online course materials at any time for audit purposes.  
9922 (10) (a) A provider that provides an approved food handler training program may  
9923 charge a reasonable fee.  
9924 (b) If a person or an entity is not approved by the department to provide an approved  
9925 food handler training program, the person or entity may not represent, in connection with the  
9926 person's or entity's name or business, including in advertising, that the person or entity is a  
9927 provider of an approved food handler training program or otherwise represent that a program  
9928 offered by the person or entity will qualify an individual to work as a food handler in the state.  
9929 (11) (a) Subject to the approval of the department every three years, a provider may use  
9930 an exam that consists of questions that do not conform with the provisions of Subsection  
9931 (3)(b), if:  
9932 (i) the provider complies with the provisions of this Subsection (11);  
9933 (ii) the provider pays a fee every three years to the department, which fee shall be  
9934 determined by the department and shall reflect the cost of the review of the alternative test  
9935 questions; and  
9936 (iii) an independent instructional design and testing expert provides a written report to  
9937 the department containing a positive recommendation based on the expert's analysis as

9938 described in Subsection 11(b).

9939 (b) (i) A provider may request approval of a different bank of test questions other than  
9940 the questions developed under Subsection (3) by submitting to the department a proposed bank  
9941 of at least 200 test questions organized by learning objective in accordance with Subsection  
9942 (9)(a).

9943 (ii) A provider proposing a different bank of test questions under this Subsection (11)  
9944 shall contract with an independent instructional design and testing expert approved by the  
9945 department at the provider's expense to analyze the provider's bank of test questions to ensure  
9946 the questions:

9947 (A) effectively measure the applicant's knowledge of the required learning objectives;  
9948 and

9949 (B) meet the appropriate testing standards for question structure.

9950 (c) If the department provides written notice to a provider that any test question of the  
9951 provider's approved exam under this Subsection (11) inadequately tests the required learning  
9952 objectives, the provider shall make required changes to the question within 30 days after the  
9953 day on which written notice is received by the provider.

9954 (d) A food handler exam offered by a provider may be:

9955 (i) a written exam;

9956 (ii) an online exam; or

9957 (iii) an oral exam, if circumstances require, including when an applicant's language or  
9958 reading abilities interfere with taking a written or online exam.

9959 (e) A provider shall routinely rotate test questions from the test question bank, change  
9960 the order of test questions in tests, and change the order of multiple-choice answers in test  
9961 questions to discourage cheating.

9962 (12) (a) When exercising rulemaking authority under this section the department shall  
9963 comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9964 (b) The department shall, by rule, establish requirements designed to inhibit fraud for

9965 an approved food handler training program described in this section.

9966 (c) The requirements described in Subsection (12)(b) may include requirements to  
9967 ensure that:

9968 (i) an individual does not attempt to complete the program or exam in another  
9969 individual's place;

9970 (ii) an individual taking the approved food handler training program is focused on  
9971 training material and actively engaged throughout the training period;

9972 (iii) if the individual is unable to participate online because of technical difficulties, an  
9973 approved food handler training program provides technical support, such as requiring a  
9974 telephone number, email, or other method of communication to allow an individual taking the  
9975 online course or test to receive assistance;

9976 (iv) an approved food handler training program provider maintains a system to reduce  
9977 fraud as to who completes an approved food handler training program, such as requiring a  
9978 distinct online certificate with information printed on the certificate that identifies a person  
9979 taking an online course or exam, or requiring measures to inhibit duplication of a certificate of  
9980 completion or of a food handler permit;

9981 (v) the department may audit an approved food handler training program;

9982 (vi) an individual taking an online course or certification exam has the opportunity to  
9983 provide an evaluation of the online course or test;

9984 (vii) an approved food handler training program provider track the Internet protocol  
9985 address or similar electronic location of an individual who takes an online course or  
9986 certification exam;

9987 (viii) an individual who takes an online course or exam uses an electronic signature; or

9988 (ix) if the approved food handler training program provider learns that a certificate of  
9989 completion does not accurately reflect the identity of the individual who took the online course  
9990 or certification exam, an approved food handler training program provider invalidates the  
9991 certificate of completion.

(13) An instructor is not required to satisfy any additional training requirements if the instructor:

(a) is an educator in a public or private school; and

(b) teaches a food program that includes food safety in a public or private school in which the instructor is an educator.

(14) (a) This section does not apply to an individual who handles food:

(i) at an event sponsored by a charitable organization where the organization provides food to a disadvantaged group free of charge; and

(ii) in compliance with rules established by the department under Subsection (2).

(b) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an event sponsored by a charitable organization under Subsection (14)(a).

Section 307. Section **26B-7-414**, which is renumbered from Section 26-15-9 is renumbered and amended to read:

**[26-15-9]. 26B-7-414. Impoundment of adulterated food products authorized.**

The department and local health departments may impound any food products found in places where food or drink is handled, sold, or served to the public that is intended for but found to be adulterated and unfit for human consumption; and, upon five ~~days~~ days' notice and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

Section 308. Section **26B-7-415**, which is renumbered from Section 26-15b-105 is renumbered and amended to read:

**[26-15b-105]. 26B-7-415. Agritourism food establishment permits -- Permit requirements -- Inspections.**

(1) As used in this section, "operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

(2) (a) A farm may not operate an agritourism food establishment unless the farm

10019 obtains a permit from the local health department that has jurisdiction over the area in which  
10020 the farm is located.

10021 (b) In accordance with Section 26A-1-121, and subject to the restrictions of this  
10022 section, a local health department shall make standards and regulations relating to the  
10023 permitting of an agritourism food establishment.

10024 (c) In accordance with Section 26A-1-114, a local health department shall impose a fee  
10025 for an agritourism food establishment permit in an amount that reimburses the local health  
10026 department for the cost of regulating the agritourism food establishment.

10027 (3) (a) A local health department with jurisdiction over an area in which a farm is  
10028 located may grant an agritourism food establishment permit to the farm.

10029 (b) Nothing in this section prevents a local health department from revoking an  
10030 agritourism food establishment permit issued by the local health department if the operation of  
10031 the agritourism food establishment violates the terms of the permit or the requirements of this  
10032 section.

10033 ~~[(+)]~~ (4) A farm may qualify for an agritourism food establishment permit if:

10034 (a) poultry products that are served at the agritourism food establishment are  
10035 slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C.  
10036 Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

10037 (b) meat not described in Subsection ~~[(+)]~~ (4)(a) that is served at the agritourism food  
10038 establishment is slaughtered and processed in compliance with the Federal Meat Inspection  
10039 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

10040 (c) a kitchen facility used to prepare food for the agritourism food establishment meets  
10041 the requirements established by the department;

10042 (d) the farm operates the agritourism food establishment for no more than 14  
10043 consecutive days at a time; and

10044 (e) the farm complies with the requirements of this section.

10045 ~~[(2)]~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah

10046 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance  
10047 requirements for agritourism food establishments.

10048 ~~[(3)]~~ (6) A local health department shall:

10049 (a) ensure compliance with the rules described in Subsection ~~[(2)]~~ (5) when inspecting  
10050 a kitchen facility;

10051 (b) notwithstanding Section [26A-1-113](#), inspect the kitchen facility of a farm that  
10052 requests an agritourism food establishment permit only:

10053 (i) for an initial inspection, no more than one week before the agritourism food  
10054 establishment is scheduled to begin operation;

10055 (ii) for an unscheduled inspection:

10056 (A) of an event scheduled to last no more than three days if the local health department  
10057 conducts the inspection within three days before or after the day on which the agritourism food  
10058 establishment is scheduled to begin operation; or

10059 (B) of an event scheduled to last longer than three days if the local health department  
10060 conducts the inspection within three days before or after the day on which the agritourism food  
10061 establishment is scheduled to begin operation, or conducts the inspection during operating  
10062 hours of the agritourism food establishment; or

10063 (iii) for subsequent inspections if:

10064 (A) the local health department provides the operator with reasonable advanced notice  
10065 about an inspection; or

10066 (B) the local health department has a valid reason to suspect that the agritourism food  
10067 establishment is the source of an adulterated food or of an outbreak of illness caused by a  
10068 contaminated food; and

10069 (c) document the reason for any inspection after the permitting inspection, keep a copy  
10070 of that documentation on file with the agritourism food establishment's permit, and provide a  
10071 copy of that documentation to the operator.

10072 ~~[(4)]~~ (7) An agritourism food establishment shall:

- 10073 (a) take steps to avoid any potential contamination to:
- 10074 (i) food;
- 10075 (ii) equipment;
- 10076 (iii) utensils; or
- 10077 (iv) unwrapped single-service and single-use articles; and
- 10078 (b) prevent an individual from entering the food preparation area while food is being
- 10079 prepared if the individual is known to be suffering from:
- 10080 (i) symptoms associated with acute gastrointestinal illness; or
- 10081 (ii) a communicable disease that is transmissible through food.
- 10082 [~~(5)~~] (8) When making the rules described in Subsection [~~(2)~~] (5), the department may
- 10083 not make rules regarding:
- 10084 (a) hand washing facilities, except to require that a hand washing station supplied with
- 10085 warm water, soap, and disposable hand towels is conveniently located;
- 10086 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
- 10087 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
- 10088 are sanitized between each use;
- 10089 (c) the individuals allowed access to the food preparation areas, food storage, and
- 10090 washing areas, except during food preparation;
- 10091 (d) display guards, covers, or containers for display foods, except to require that any
- 10092 food on display that is not protected from the direct line of a consumer's mouth by an effective
- 10093 means is not served or sold to any subsequent consumer;
- 10094 (e) outdoor display and sale of food, except to require that food is maintained at proper
- 10095 holding temperatures;
- 10096 (f) reuse by an individual of drinking cups and tableware for multiple portions;
- 10097 (g) utensils and equipment, except to require that utensils and equipment used in the
- 10098 home kitchen:
- 10099 (i) retain their characteristic qualities under normal use conditions;

- 10100 (ii) are properly sanitized after use; and
- 10101 (iii) are maintained in a sanitary manner between uses;
- 10102 (h) food contact surfaces, except to require that food contact surfaces are smooth,
- 10103 easily cleanable, in good repair, and properly sanitized between tasks;
- 10104 (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in
- 10105 residential settings, except to require that those surfaces are kept clean from the accumulation
- 10106 of residue and debris;
- 10107 (j) clean-in-place equipment, except to require that the equipment is cleaned and
- 10108 sanitized between uses;
- 10109 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and
- 10110 smoke are able to escape the kitchen;
- 10111 (l) fixed temperature measuring devices or product mimicking sensors for the holding
- 10112 equipment for [~~time/temperature control~~] time or temperature controlled food, except to require
- 10113 non-fixed temperature measuring devices for hot and cold holding of food during storage,
- 10114 serving, and cooling;
- 10115 (m) fixed floor-mounted and table-mounted equipment except to require that
- 10116 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
- 10117 (n) dedicated laundry facilities, except to require that linens used for the agritourism
- 10118 food establishment are stored and laundered separately from household laundry and that soiled
- 10119 laundry is stored to prevent contamination of food and equipment;
- 10120 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with
- 10121 hot water;
- 10122 (p) the number of and path of access to toilet facilities, except to require that toilet
- 10123 facilities are equipped with proper handwashing stations;
- 10124 (q) lighting, except to require that food preparation areas are well lit by natural or
- 10125 artificial light whenever food is being prepared;
- 10126 (r) designated dressing areas and storage facilities, except to require that items not

10127 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that  
10128 dressing takes place outside of the kitchen facility, and that food items are stored in a manner  
10129 that does not allow for contamination;

10130 (s) the presence and handling of animals, except to require that all animals are kept  
10131 outside of food preparation and service areas during food service and food preparation;

10132 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces  
10133 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

10134 (u) kitchen facilities open to living areas, except to require that food is only prepared,  
10135 handled, or stored in kitchen and food storage areas;

10136 (v) submission of plans and specifications before construction or remodel of a kitchen  
10137 facility;

10138 (w) the number and type of [~~time/temperature~~] time or temperature controlled food  
10139 offered for sale;

10140 (x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;

10141 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

10142 (z) food safety certification, except any individual who is involved in the preparation,  
10143 storage, or service of food in the agritourism food establishment shall hold a food handler  
10144 permit as defined in Section [~~26-15-5~~] 26B-7-413.

10145 [~~(6)~~] (9) An operator applying for an agritourism food establishment permit shall  
10146 provide to the local health department:

10147 (a) written consent to enter the premises where food is prepared, cooked, stored, or  
10148 harvested for the agritourism food establishment; and

10149 (b) written standard operating procedures that include:

10150 (i) all food that will be stored, handled, and prepared;

10151 (ii) the proposed procedures and methods of food preparation and handling;

10152 (iii) procedures, methods, and schedules for cleaning utensils and equipment;

10153 (iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining ~~[time/temperature]~~ time or temperature controlled food at the appropriate temperatures for each ~~[time/temperature]~~ time or temperature controlled food.

~~[(7)]~~ (10) In addition to a fee charged under ~~[Section 26-15b-103]~~ Subsection (2), if the local health department is required to inspect the farm as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the farm a fee for that inspection.

~~[(8)]~~ (11) An agritourism food establishment permit:

- (a) is nontransferable;
- (b) is renewable on an annual basis;
- (c) is restricted to the location listed on the permit; and
- (d) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

~~[(9)]~~ (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Section 309. Section **26B-7-416**, which is renumbered from Section 26-15c-105 is renumbered and amended to read:

~~[26-15c-105].~~        **26B-7-416. Microenterprise home kitchen permits -- Fees -- Safety and health inspections -- Permit requirements.**

(1) As used in this section, "operator" means an individual who resides in the private home and who manages or controls the microenterprise home kitchen.

(2) (a) An operator may not operate a microenterprise home kitchen unless the operator obtains a permit from the local health department that has jurisdiction over the area in which the microenterprise home kitchen is located.

(b) In accordance with Section ~~26A-1-121~~, and subject to the restrictions of this section, the department shall make standards and regulations relating to the permitting of a

10181 microenterprise home kitchen.

10182 (c) In accordance with Section 26A-1-114, a local health department shall impose a fee  
10183 for a microenterprise home kitchen permit in an amount that reimburses the local health  
10184 department for the cost of regulating the microenterprise home kitchen.

10185 (3) (a) A local health department with jurisdiction over an area in which a  
10186 microenterprise home kitchen is located may grant a microenterprise home kitchen permit to  
10187 the operator.

10188 (b) Nothing in this section prevents a local health department from revoking a  
10189 microenterprise home kitchen permit issued by the local health department if the operation of  
10190 the microenterprise home kitchen violates the terms of the permit or this section.

10191 ~~[(+)]~~ (4) An operator may qualify for a microenterprise home kitchen permit if:

10192 (a) food that is served at the microenterprise home kitchen is processed in compliance  
10193 with state and federal regulations;

10194 (b) a kitchen facility used to prepare food for the microenterprise home kitchen meets  
10195 the requirements established by the department;

10196 (c) the microenterprise home kitchen operates only during the hours approved in the  
10197 microenterprise home kitchen permit; and

10198 (d) the microenterprise home kitchen complies with the requirements of this section.

10199 ~~[(2)]~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah  
10200 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance  
10201 requirements for microenterprise home kitchens.

10202 ~~[(3)]~~ (6) A local health department shall:

10203 (a) ensure compliance with the rules described in Subsection ~~[(2)]~~ (5) when inspecting  
10204 a microenterprise home kitchen;

10205 (b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that  
10206 requests a microenterprise home kitchen permit only:

10207 (i) for an initial inspection, no more than one week before the microenterprise home

- 10208 kitchen is scheduled to begin operation;
- 10209 (ii) for an unscheduled inspection, if the local health department conducts the
- 10210 inspection:
- 10211 (A) within three days before or after the day on which the microenterprise home
- 10212 kitchen is scheduled to begin operation; or
- 10213 (B) during operating hours of the microenterprise home kitchen; or
- 10214 (iii) for subsequent inspections if:
- 10215 (A) the local health department provides the operator with reasonable advanced notice
- 10216 of the inspection; or
- 10217 (B) the local health department has a valid reason to suspect that the microenterprise
- 10218 home kitchen is the source of an adulterated food or of an outbreak of illness caused by a
- 10219 contaminated food; and
- 10220 (c) document the reason for any inspection after the initial inspection, keep a copy of
- 10221 that documentation on file with the microenterprise home kitchen's permit, and provide a copy
- 10222 of that documentation to the operator.
- 10223 ~~[(4)]~~ (7) A microenterprise home kitchen shall:
- 10224 (a) take steps to avoid any potential contamination to:
- 10225 (i) food;
- 10226 (ii) equipment;
- 10227 (iii) utensils; or
- 10228 (iv) unwrapped single-service and single-use articles;
- 10229 (b) prevent an individual from entering the food preparation area while food is being
- 10230 prepared if the individual is known to be suffering from:
- 10231 (i) symptoms associated with acute gastrointestinal illness; or
- 10232 (ii) a communicable disease that is transmissible through food; and
- 10233 (c) comply with the following requirements:
- 10234 (i) time or temperature control food shall be prepared, cooked, and served on the same

10235 day;

10236 (ii) food that is sold or provided to a customer may not be consumed onsite at the

10237 microenterprise home kitchen operation;

10238 (iii) food that is sold or provided to a customer shall be picked up by the consumer or

10239 delivered within a safe time period based on holding equipment capacity;

10240 (iv) food preparation may not involve processes that require a HACCP plan, or the

10241 production, service, or sale of raw milk or raw milk products;

10242 (v) molluscan shellfish may not be served or sold;

10243 (vi) the operator may only sell or provide food directly to consumers and may not sell

10244 or provide food to any wholesaler or retailer; and

10245 (vii) the operator shall provide the consumer with a notification that, while a permit

10246 has been issued by the local health department, the kitchen may not meet all of the

10247 requirements of a commercial retail food establishment.

10248 ~~[(5)]~~ (8) When making the rules described in Subsection ~~[(2)]~~ (5), the department may

10249 not make rules regarding:

10250 (a) hand washing facilities, except to require that a hand washing station supplied with

10251 warm water, soap, and disposable hand towels is conveniently located in food preparation, food

10252 dispensing, and warewashing areas;

10253 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that

10254 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes

10255 are sanitized between each use;

10256 (c) the individuals allowed access to the food preparation areas, food storage areas, and

10257 washing areas, except during food preparation;

10258 (d) display guards, covers, or containers for display foods, except to require that

10259 ready-to-eat food is protected from contamination during storage, preparation, handling,

10260 transport, and display;

10261 (e) outdoor display and sale of food, except to require that food is maintained at proper

10262 holding temperatures;

10263 (f) utensils and equipment, except to require that utensils and equipment used in the

10264 home kitchen:

10265 (i) retain their characteristic qualities under normal use conditions;

10266 (ii) are properly sanitized after use; and

10267 (iii) are maintained in a sanitary manner between uses;

10268 (g) food contact surfaces, except to require that food contact surfaces are smooth,

10269 easily cleanable, in good repair, and properly sanitized between tasks;

10270 (h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in

10271 residential settings, except to require that those surfaces are kept clean from the accumulation

10272 of residue and debris;

10273 (i) clean-in-place equipment, except to require that the equipment is cleaned and

10274 sanitized between uses;

10275 (j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and

10276 smoke are able to escape the kitchen;

10277 (k) fixed temperature measuring devices or product mimicking sensors for the holding

10278 equipment for time or temperature control food, except to require non-fixed temperature

10279 measuring devices for hot and cold holding of food during storage, serving, and cooling;

10280 (l) fixed floor-mounted and table-mounted equipment, except to require that

10281 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

10282 (m) dedicated laundry facilities, except to require that linens used for the

10283 microenterprise home kitchen are stored and laundered separately from household laundry and

10284 that soiled laundry is stored to prevent contamination of food and equipment;

10285 (n) water, plumbing, drainage, and waste, except to require that:

10286 (i) sinks be supplied with hot and cold potable water from:

10287 (A) an approved public water system as defined in Section [19-4-102](#);

10288 (B) if the local health department with jurisdiction over the microenterprise home

10289 kitchen has regulations regarding the safety of drinking water, a source that meets the local  
10290 health department's regulations regarding the safety of drinking water; or  
10291 (C) a water source that is tested at least once per month for bacteriologic quality, and at  
10292 least once in every three year period for lead and copper; and  
10293 (ii) food preparation and service is discontinued in the event of a disruption of potable  
10294 water service;  
10295 (o) the number of and path of access to toilet facilities, except to require that toilet  
10296 facilities are equipped with proper handwashing stations;  
10297 (p) lighting, except to require that food preparations are well lit by natural or artificial  
10298 light whenever food is being prepared;  
10299 (q) designated dressing areas and storage facilities, except to require that items not  
10300 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that  
10301 dressing takes place outside of the kitchen facility, and that food items are stored in a manner  
10302 that does not allow for contamination;  
10303 (r) the presence and handling of animals, except to require that all animals are kept  
10304 outside of food preparation and service areas;  
10305 (s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces  
10306 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;  
10307 (t) kitchen facilities open to living areas, except to require that food is only prepared,  
10308 handled, or stored in kitchen and food storage areas;  
10309 (u) submission of plans and specifications before construction or remodel of a kitchen  
10310 facility;  
10311 (v) the number and type of time or temperature controlled food offered for sale, except:  
10312 (i) a raw time or temperature controlled food such as raw fish, raw milk, and raw  
10313 shellfish;  
10314 (ii) any food requiring special processes that would necessitate a HACCP plan; and  
10315 (iii) fish from waters of the state;

10316 (w) approved food sources, except to require that:  
10317 (i) food in a hermetically sealed container is obtained from a regulated food processing  
10318 plant;  
10319 (ii) liquid milk and milk products are obtained from sources that comply with Grade A  
10320 standards specified by the Department of Agriculture and Food by rule made in accordance  
10321 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;  
10322 (iii) fish for sale or service are commercially and legally caught;  
10323 (iv) mushrooms picked in the wild are not offered for sale or service; and  
10324 (v) game animals offered for sale or service are raised, slaughtered, and processed  
10325 according to rules governing meat and poultry as specified by the Department of Agriculture  
10326 and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
10327 Rulemaking Act;  
10328 (x) the use of items produced under this ~~[chapter]~~ section; or  
10329 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven.  
10330 ~~[(6)]~~ (9) An operator applying for a microenterprise home kitchen permit shall provide  
10331 to the local health department:  
10332 (a) written consent to enter the premises where food is prepared, cooked, stored, or  
10333 harvested for the microenterprise home kitchen; and  
10334 (b) written standard operating procedures that include:  
10335 (i) all food that will be stored, handled, and prepared;  
10336 (ii) the proposed procedures and methods of food preparation and handling;  
10337 (iii) procedures, methods, and schedules for cleaning utensils and equipment;  
10338 (iv) procedures and methods for the disposal of refuse; and  
10339 (v) a plan for maintaining time or temperature controlled food at the appropriate  
10340 temperatures for each time or temperature controlled food.  
10341 ~~[(7)]~~ (10) In addition to a fee charged under ~~[Section 26-15c-103]~~ Subsection (2), if the  
10342 local health department is required to inspect the microenterprise home kitchen as a source of

an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the microenterprise home kitchen has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the microenterprise home kitchen a fee for that inspection.

~~[(8)]~~ (11) A microenterprise home kitchen permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location and hours listed on the permit;

(d) shall include a statement that reads: "This location is permitted under modified FDA requirements."; and

(e) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

~~[(9)]~~ (12) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Section 310. Section **26B-7-501**, which is renumbered from Section 26-62-102 is renumbered and amended to read:

**Part 5. Regulation of Smoking, Tobacco Products, and Nicotine Products**

~~[26-62-102].~~ **26B-7-501. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Community location" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

~~[(2)]~~ (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(4) "Electronic cigarette substance" means the same as that term is defined in Section

10370 [76-10-101.](#)

10371 ~~[(3)]~~ (5) "Employee" means an employee of a tobacco retailer.

10372 ~~[(4)]~~ (6) "Enforcing agency" means the ~~[state Department of Health]~~ department, or

10373 any local health department enforcing the provisions of this ~~[chapter]~~ part.

10374 ~~[(5)]~~ (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco

10375 specialty business.

10376 ~~[(6)]~~ (8) "Local health department" means the same as that term is defined in Section

10377 [26A-1-102.](#)

10378 (9) "Manufacture" includes:

10379 (a) to cast, construct, or make electronic cigarettes; or

10380 (b) to blend, make, process, or prepare an electronic cigarette substance.

10381 (10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette

10382 substance that is sold in a container that:

10383 (a) is prefilled by the electronic cigarette substance manufacturer; and

10384 (b) the electronic cigarette manufacturer does not intend for a consumer to open.

10385 (11) "Manufacturer sealed electronic cigarette product" means:

10386 (a) an electronic cigarette substance or container that the electronic cigarette

10387 manufacturer does not intend for a consumer to open or refill; or

10388 (b) a prefilled electronic cigarette as that term is defined in Section [76-10-101.](#)

10389 (12) "Nicotine" means the same as that term is defined in Section [76-10-101.](#)

10390 ~~[(7)]~~ (13) "Nicotine product" means the same as that term is defined in Section

10391 [76-10-101.](#)

10392 (14) "Non-tobacco shisha" means any product that:

10393 (a) does not contain tobacco or nicotine; and

10394 (b) is smoked or intended to be smoked in a hookah or water pipe.

10395 ~~[(8)]~~ (15) "Owner" means a person holding a 20% ownership interest in the business

10396 that is required to obtain a permit under this ~~[chapter]~~ part.

10397           ~~[(9)]~~ (16) "Permit" means a tobacco retail permit issued under ~~[this chapter]~~ Section  
10398 26B-7-507.

10399           (17) "Place of public access" means any enclosed indoor place of business, commerce,  
10400 banking, financial service, or other service-related activity, whether publicly or privately owned  
10401 and whether operated for profit or not, to which persons not employed at the place of public  
10402 access have general and regular access or which the public uses, including:

10403           (a) buildings, offices, shops, elevators, or restrooms;

10404           (b) means of transportation or common carrier waiting rooms;

10405           (c) restaurants, cafes, or cafeterias;

10406           (d) taverns as defined in Section 32B-1-102, or cabarets;

10407           (e) shopping malls, retail stores, grocery stores, or arcades;

10408           (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical  
10409 sites, auditoriums, or arenas;

10410           (g) barber shops, hair salons, or laundromats;

10411           (h) sports or fitness facilities;

10412           (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and  
10413 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,  
10414 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any  
10415 of these;

10416           (j) (i) any child care facility or program subject to licensure or certification under this  
10417 title, including those operated in private homes, when any child cared for under that license is  
10418 present; and

10419           (ii) any child care, other than child care as defined in Section 26B-2-401, that is not  
10420 subject to licensure or certification under this title, when any child cared for by the provider,  
10421 other than the child of the provider, is present;

10422           (k) public or private elementary or secondary school buildings and educational  
10423 facilities or the property on which those facilities are located;

10424 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or  
10425 religious organization when used solely by the organization members or the members' guests or  
10426 families;

10427 (m) any facility rented or leased for private functions from which the general public is  
10428 excluded and arrangements for the function are under the control of the function sponsor;

10429 (n) any workplace that is not a place of public access or a publicly owned building or  
10430 office but has one or more employees who are not owner-operators of the business;

10431 (o) any area where the proprietor or manager of the area has posted a conspicuous sign  
10432 stating "no smoking", "thank you for not smoking", or similar statement; and

10433 (p) a holder of a bar establishment license, as defined in Section [32B-1-102](#).

10434 ~~[(10)]~~ (18) (a) "Proof of age" means:

10435 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification  
10436 Card Act;

10437 (ii) a valid identification that:

10438 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,  
10439 Part 8, Identification Card Act;

10440 (B) is issued in accordance with the laws of a state other than Utah in which the  
10441 identification is issued;

10442 (C) includes date of birth; and

10443 (D) has a picture affixed;

10444 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform  
10445 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
10446 is issued;

10447 (iv) a valid United States military identification card that:

10448 (A) includes date of birth; and

10449 (B) has a picture affixed; or

10450 (v) a valid passport.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.

(19) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

~~[(11)]~~ (20) "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(21) "Shisha" means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(22) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.

~~[(12)]~~ (23) "Tax commission license" means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell a cigarette at retail;

- 10478 (b) Section [59-14-301](#) to sell a tobacco product at retail; or  
10479 (c) Section [59-14-803](#) to sell an electronic cigarette product or a nicotine product.

10480 ~~[(13)]~~ (24) "Tobacco product" means:

- 10481 (a) a tobacco product as defined in Section [76-10-101](#); or  
10482 (b) tobacco paraphernalia as defined in Section [76-10-101](#).

10483 ~~[(14)]~~ (25) "Tobacco retailer" means a person that is required to obtain a tax  
10484 commission license.

10485 Section 311. Section **26B-7-502**, which is renumbered from Section 26-15-11 is  
10486 renumbered and amended to read:

10487 ~~[26-15-11].~~ **26B-7-502. Statutes on smoking considered public health laws.**

10488 ~~[Title 26, Chapter 38, Utah Indoor Clean Air Act,]~~ Section [26B-7-503](#) is a public health  
10489 law and shall be enforced by the department and local health departments.

10490 Section 312. Section **26B-7-503**, which is renumbered from Section 26-38-3 is  
10491 renumbered and amended to read:

10492 ~~[26-38-3].~~ **26B-7-503. Utah Indoor Clean Air Act -- Restriction on smoking in**  
10493 **public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local**  
10494 **ordinances.**

10495 (1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), smoking is  
10496 prohibited in all enclosed indoor places of public access and publicly owned buildings and  
10497 offices.

10498 (2) Subsection (1) does not apply to:

10499 (a) areas not commonly open to the public of owner-operated businesses having no  
10500 employees other than the owner-operator;

10501 (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other  
10502 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas  
10503 of these facilities, including dining areas and lobby areas; and

10504 (c) separate enclosed smoking areas:

(i) located in the passenger terminals of an international airport located in the city of the first class;

(ii) vented directly to the outdoors; and

(iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

(3) (a) A person is exempt from the restrictions of Subsection (1) if the person:

(i) is a member of an American Indian tribe whose members are recognized as eligible for the special programs and services provided by the United States to American Indians who are members of those tribes;

(ii) is an American Indian who actively practices an American Indian religion, the origin and interpretation of which is from a traditional American Indian culture;

(iii) is smoking tobacco using the traditional pipe of an American Indian tribal religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of that ceremony; and

(iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine person recognized by the tribe of which the person is a member and the Indian community.

(b) This Subsection (3) takes precedence over Subsection (1).

(c) A religious ceremony using a traditional pipe under this section is subject to any applicable state or local law, except as provided in this section.

(4) (a) An owner or the agent or employee of the owner of a place where smoking is prohibited under Subsection (1) who observes a person smoking in apparent violation of this section shall request the person to stop smoking.

(b) If the person fails to comply, the proprietor or the agent or employee of the proprietor shall ask the person to leave the premises.

(5) (a) A first violation of Subsection (1) is subject to a civil penalty of not more than \$100.

(b) Any second or subsequent violation of Subsection (1) is subject to a civil penalty of

10532 not less than \$100 and not more than \$500.

10533 (6) (a) The department and local health departments shall:

10534 (i) enforce this section and shall coordinate their efforts to promote the most effective  
10535 enforcement of this section; and

10536 (ii) impose the penalties under Subsection (5) in accordance with this Subsection (6).

10537 (b) When enforcing this section, the department and the local health departments shall  
10538 notify persons of alleged violations of this part, conduct hearings, and impose penalties in  
10539 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

10540 (c) The department shall adopt rules necessary and reasonable to implement the  
10541 provisions of this section.

10542 (7) Civil penalties collected under this section by:

10543 (a) a local health department shall be paid to the treasurer of the county in which the  
10544 violation was committed; and

10545 (b) the department shall be deposited into the General Fund.

10546 (8) (a) This section supersedes any ordinance enacted by the governing body of a  
10547 political subdivision that restricts smoking in a place of public access as defined in Section  
10548 26B-7-501 and that is not essentially identical to the provisions of this section.

10549 (b) This Subsection (8) does not supersede an ordinance enacted by the governing body  
10550 of a political subdivision that restricts smoking in outdoor places of public access which are  
10551 owned or operated by:

10552 (i) a political subdivision as defined in Section 17B-1-102;

10553 (ii) a state institution of higher education; or

10554 (iii) a state institution of public education.

10555 Section 313. Section **26B-7-504**, which is renumbered from Section 26-43-102 is  
10556 renumbered and amended to read:

10557 **[26-43-102]. 26B-7-504. Gathering of information related to cigarettes**  
10558 **and tobacco products.**

(1) The department shall obtain annually publicly available information regarding cigarettes and tobacco products from other states and sources concerning:

~~[(1)]~~ (a) the presence of the following substances in detectable levels in a burned state and, if the cigarette or tobacco product is typically burned when consumed, in a burned state:

~~[(a)]~~ (i) ammonia or ammonia compounds;

~~[(b)]~~ (ii) arsenic;

~~[(c)]~~ (iii) cadmium;

~~[(d)]~~ (iv) formaldehyde; and

~~[(e)]~~ (v) lead; and

~~[(2)]~~ (b) a nicotine yield rating for the cigarette or tobacco product for which a rating has been developed.

(2) Information obtained by the department under Subsection (1) is a public record and may be disclosed in accordance with Section 63G-2-201 and disseminated generally by the department.

Section 314. Section **26B-7-505**, which is renumbered from Section 26-57-103 is renumbered and amended to read:

~~[26-57-103].~~            **26B-7-505. Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.**

(1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) On or before January 1, 2021, the department shall, in consultation with a local

health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:

- (a) labeling;
- (b) nicotine content;
- (c) packaging; and
- (d) product quality.

(3) (a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).

(4) (a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.

(5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

(6) Any nicotine product shall contain the statement described in Subsection (7) if the nicotine product:

(a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

(ii) is not otherwise required under federal or state law to contain a nicotine warning;

10613 and

10614 (b) contains nicotine.

10615 (7) A statement shall appear on the exterior packaging of a nicotine product described  
10616 in Subsection (6) as follows:

10617 "This product contains nicotine."

10618 Section 315. Section **26B-7-506**, which is renumbered from Section 26-62-103 is  
10619 renumbered and amended to read:

10620 **[26-62-103]. 26B-7-506. Regulation of tobacco retailers.**

10621 The regulation of a tobacco retailer is an exercise of the police powers of the state, and  
10622 through delegation, to other governmental entities.

10623 Section 316. Section **26B-7-507**, which is renumbered from Section 26-62-201 is  
10624 renumbered and amended to read:

10625 **[26-62-201]. 26B-7-507. Permitting requirement.**

10626 (1) (a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance  
10627 with this [chapter] part by the local health department with jurisdiction over the physical  
10628 location where the tobacco retailer operates.

10629 (b) A tobacco retailer without a valid permit may not:

10630 (i) place a tobacco product, an electronic cigarette product, or a nicotine product in  
10631 public view;

10632 (ii) display any advertisement related to a tobacco product, an electronic cigarette  
10633 product, or a nicotine product that promotes the sale, distribution, or use of those products; or

10634 (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, a  
10635 tobacco product, an electronic cigarette product, or a nicotine product.

10636 (2) A local health department may issue a permit under this [chapter] part for a tobacco  
10637 retailer in the classification of:

10638 (a) a general tobacco retailer; or

10639 (b) a retail tobacco specialty business.

10640 (3) A permit under this ~~[chapter]~~ part is:  
10641 (a) valid only for one physical location, including a vending machine;  
10642 (b) valid only at one fixed business address; and  
10643 (c) if multiple tobacco retailers are at the same address, separately required for each  
10644 tobacco retailer.

10645 Section 317. Section **26B-7-508**, which is renumbered from Section 26-62-202 is  
10646 renumbered and amended to read:

10647 ~~[26-62-202]~~. **26B-7-508. Permit application.**

10648 (1) A local health department shall issue a permit ~~[under this chapter]~~ for a tobacco  
10649 retailer if the local health department determines that the applicant:

10650 (a) accurately provided all information required under Subsection (3) and, if applicable,  
10651 Subsection (4); and

10652 (b) meets all requirements for a permit under this ~~[chapter]~~ part.

10653 (2) An applicant for a permit shall:

10654 (a) submit an application described in Subsection (3) to the local health department  
10655 with jurisdiction over the area where the tobacco retailer is located; and

10656 (b) pay all applicable fees described in Section ~~[26-62-203]~~ 26B-7-509.

10657 (3) The application for a permit shall include:

10658 (a) the name, address, and telephone number of each proprietor;

10659 (b) the name and mailing address of each proprietor authorized to receive  
10660 permit-related communication and notices;

10661 (c) the business name, address, and telephone number of the single, fixed location for  
10662 which a permit is sought;

10663 (d) evidence that the location for which a permit is sought has a valid tax commission  
10664 license;

10665 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco  
10666 retailer has been determined to have violated, or has been a proprietor at a location that has

10667 been determined to have violated:

10668 (i) a provision of this ~~[chapter]~~ part;

10669 ~~[(ii) Chapter 38, Utah Indoor Clean Air Act,]~~

10670 (ii) Section 26B-7-503;

10671 (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical  
10672 Solvents;

10673 (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

10674 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco  
10675 issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

10676 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or  
10677 distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and  
10678 (f) the dates of all violations disclosed under this Subsection (3).

10679 (4) (a) In addition to the information described in Subsection (3), an applicant for a  
10680 retail tobacco specialty business permit shall include evidence showing whether the business is  
10681 located within:

10682 (i) 1,000 feet of a community location;

10683 (ii) 600 feet of another retail tobacco specialty business; or

10684 (iii) 600 feet of property used or zoned for agricultural or residential use.

10685 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in  
10686 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest  
10687 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard  
10688 to intervening structures or zoning districts.

10689 (5) The department or a local health department may not deny a permit to a retail  
10690 tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets  
10691 the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

10692 (6) (a) The department shall establish by rule made in accordance with Title 63G,  
10693 Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments

10694 in accordance with this ~~[chapter]~~ part.

10695 (b) The permit process established by the department under Subsection (6)(a) may not  
10696 require any information in an application that is not required by this section.

10697 Section 318. Section **26B-7-509**, which is renumbered from Section 26-62-203 is  
10698 renumbered and amended to read:

10699 ~~[26-62-203]~~. **26B-7-509. Permit term and fees.**

10700 (1) (a) The term of a permit issued ~~[under this chapter]~~ to a retail tobacco specialty  
10701 business is one year.

10702 (b) The term of a permit issued ~~[under this chapter]~~ to a general tobacco retailer is two  
10703 years.

10704 (2) (a) A local health department may not issue a permit ~~[under this chapter]~~ until the  
10705 applicant has paid a permit fee to the local health department of:

10706 (i) \$30 for a new permit;

10707 (ii) \$20 for a permit renewal; or

10708 (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to  
10709 expire.

10710 (b) A local health department that collects fees under Subsection (2)(a) shall use the  
10711 fees to administer the permit requirements ~~[under this chapter]~~ described in Sections  
10712 26B-7-506 through 26B-7-521.

10713 (c) In addition to the fee described in Subsection (2)(a), a local health department may  
10714 establish and collect a fee to perform a plan review for a retail tobacco specialty business  
10715 permit.

10716 (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before  
10717 the day on which the permit expires.

10718 (4) A tobacco retailer that fails to renew a permit before the permit expires may apply  
10719 to reinstate the permit by submitting to the local health department:

10720 (a) the information required in Subsection ~~[26-62-202]~~ 26B-7-508(3) and, if

10721 applicable, Subsection [~~26-62-202~~] 26B-7-508(4);

10722 (b) the fee for the reinstatement of a permit; and

10723 (c) a signed affidavit affirming that the tobacco retailer has not violated the

10724 prohibitions in Subsection [~~26-62-201~~] 26B-7-507(1)(b) after the permit expired.

10725 Section 319. Section **26B-7-510**, which is renumbered from Section 26-62-204 is

10726 renumbered and amended to read:

10727 ~~[26-62-204].~~ **26B-7-510. Permit nontransferable.**

10728 (1) A permit is nontransferable.

10729 (2) If the information described in Subsection [~~26-62-202~~] 26B-7-508(3) changes, a

10730 tobacco retailer:

10731 (a) may not renew the permit; and

10732 (b) shall apply for a new permit no later than 15 days after the information in

10733 Subsection [~~26-62-202~~] 26B-7-508(3) changes.

10734 Section 320. Section **26B-7-511**, which is renumbered from Section 26-62-205 is

10735 renumbered and amended to read:

10736 ~~[26-62-205].~~ **26B-7-511. Permit requirements for a retail tobacco**

10737 **specialty business.**

10738 (1) A retail tobacco specialty business shall:

10739 (a) electronically verify proof of age for any individual that enters the premises of the

10740 business in accordance with [~~Part 4, Proof of Age Requirements~~] Section 26B-7-521;

10741 (b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from

10742 entering the business if the individual is under 21 years old; and

10743 (c) prominently display at the retail tobacco specialty business a sign on the public

10744 entrance of the business that communicates:

10745 (i) the prohibition on the presence of an individual under 21 years old in a retail

10746 tobacco specialty business in Subsection 76-10-105.1(4); and

10747 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to

10748 an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1,  
10749 and 76-10-114.

10750 (2) A retail tobacco specialty business may not:

10751 (a) employ an individual under 21 years old to sell a tobacco product, an electronic  
10752 cigarette product, or a nicotine product; or

10753 (b) permit an employee under 21 years old to sell a tobacco product, an electronic  
10754 cigarette product, or a nicotine product.

10755 Section 321. Section **26B-7-512**, which is renumbered from Section 26-62-206 is  
10756 renumbered and amended to read:

10757 ~~[26-62-206].~~ **26B-7-512. Requirements for the sale of tobacco product,**  
10758 **electronic cigarette product, or nicotine product.**

10759 (1) A tobacco retailer shall:

10760 (a) provide the customer with an itemized receipt for each sale of a tobacco product, an  
10761 electronic cigarette product, or a nicotine product that separately identifies:

10762 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine  
10763 product;

10764 (ii) the amount charged for each tobacco product, electronic cigarette product, or  
10765 nicotine product; and

10766 (iii) the date and time of the sale; and

10767 (b) maintain an itemized transaction log for each sale of a tobacco product, an  
10768 electronic cigarette product, or a nicotine product that separately identifies:

10769 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine  
10770 product;

10771 (ii) the amount charged for each tobacco product, electronic cigarette product, or  
10772 nicotine product; and

10773 (iii) the date and time of the sale.

10774 (2) The itemized transaction log described in Subsection (1)(b) shall be:

10775 (a) maintained for at least one year after the date of each transaction in the itemized  
10776 transaction log;

10777 (b) made available to an enforcing agency or a peace officer at the request of the  
10778 enforcing agency or the peace officer; and

10779 (c) in addition to any documentation required under Section 59-1-1406 and Subsection  
10780 59-14-805(2).

10781 Section 322. Section **26B-7-513**, which is renumbered from Section 26-62-207 is  
10782 renumbered and amended to read:

10783 ~~[26-62-207]~~. **26B-7-513. Permit requirements for the sale of tobacco**  
10784 **products and electronic cigarette products.**

10785 (1) A tobacco retailer shall:

10786 (a) provide the customer with an itemized receipt for each sale of a tobacco product or  
10787 an electronic cigarette product that separately identifies:

10788 (i) the name of the tobacco product or the electronic cigarette product;  
10789 (ii) the amount charged for each tobacco product or electronic cigarette product; and  
10790 (iii) the time and date of the sale; and

10791 (b) maintain an itemized transaction log for each sale of a tobacco product or an  
10792 electronic cigarette product that separately identifies:

10793 (i) the name of the tobacco product or the electronic cigarette product;  
10794 (ii) the amount charged for each tobacco product or electronic cigarette product; and  
10795 (iii) the date and time of the sale.

10796 (2) The itemized transaction log described in Subsection (1)(b) shall be:

10797 (a) maintained for at least one year after the date of each transaction in the itemized  
10798 transaction log; and

10799 (b) made available to an enforcing agency or a peace officer at the request of the  
10800 enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

10801 Section 323. Section **26B-7-514**, which is renumbered from Section 26-62-301 is

10802 renumbered and amended to read:

10803 ~~[26-62-301].~~ **26B-7-514. Permit violation.**

10804 A person is in violation of the permit issued under this ~~[chapter]~~ part if the person

10805 violates:

10806 (1) a provision of this ~~[chapter]~~ part;

10807 (2) a provision of licensing laws under Section [10-8-41.6](#) or Section [17-50-333](#);

10808 (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic

10809 Chemical Solvents;

10810 (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

10811 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco

10812 issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

10813 (6) any other provision of state law or local ordinance regarding the sale, marketing, or

10814 distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

10815 Section 324. Section **26B-7-515**, which is renumbered from Section 26-62-302 is

10816 renumbered and amended to read:

10817 ~~[26-62-302].~~ **26B-7-515. Enforcement by state and local health**

10818 **departments.**

10819 The department and local health departments shall enforce ~~[this chapter]~~ Sections

10820 [26B-7-506](#) through [26B-7-521](#) under the procedures of Title 63G, Chapter 4, Administrative

10821 Procedures Act, as an informal adjudicative proceeding, including:

10822 (1) notifying a tobacco retailer of alleged violations ~~[of this chapter]~~;

10823 (2) conducting hearings;

10824 (3) determining violations ~~[of this chapter]~~; and

10825 (4) imposing civil administrative penalties.

10826 Section 325. Section **26B-7-516**, which is renumbered from Section 26-62-303 is

10827 renumbered and amended to read:

10828 ~~[26-62-303].~~ **26B-7-516. Inspection of retail tobacco businesses.**

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:

- (1) continues to meet the qualifications for the permit issued under this ~~[chapter]~~ part;
- (2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;
- (3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or
- (5) has violated any other provision of state law or local ordinance.

Section 326. Section **26B-7-517**, which is renumbered from Section 26-62-304 is renumbered and amended to read:

~~[26-62-304].~~            **26B-7-517. Hearing -- Evidence of criminal conviction.**

(1) At a civil hearing conducted under Section ~~[26-62-302]~~ 26B-7-515, evidence of the final criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this ~~[chapter]~~ part for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this ~~[chapter]~~ part.

(2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing agency:

(a) shall assess an additional monetary penalty under this ~~[chapter]~~ part for the same offense for which the conviction was obtained; and

(b) shall revoke or suspend a permit in accordance with Section ~~[26-62-305]~~ 26B-7-518.

Section 327. Section **26B-7-518**, which is renumbered from Section 26-62-305 is

10856 renumbered and amended to read:

10857 ~~[26-62-305].~~ **26B-7-518. Penalties.**

10858 (1) (a) If an enforcing agency determines that a person has violated the terms of a  
10859 permit issued under this ~~[chapter]~~ part, the enforcing agency may impose the penalties  
10860 described in this section.

10861 (b) If multiple violations are found in a single inspection by an enforcing agency or a  
10862 single investigation by a law enforcement agency under Section 77-39-101, the enforcing  
10863 agency shall treat the multiple violations as one single violation under Subsections (2), (3), and  
10864 (4).

10865 (2) Except as provided in Subsections (3) and (4), if a violation is found in an  
10866 investigation by a law enforcement agency under Section 77-39-101 or an inspection by an  
10867 enforcing agency, the enforcing agency shall:

10868 (a) on a first violation at a retail location, impose a penalty of \$1,000;

10869 (b) on a second violation at the same retail location that occurs within one year of a  
10870 previous violation, impose a penalty of \$1,500;

10871 (c) on a third violation at the same retail location that occurs within two years after two  
10872 previous violations, impose:

10873 (i) a suspension of the permit for 30 consecutive business days within 60 days after the  
10874 day on which the third violation occurs; or

10875 (ii) a penalty of \$2,000; and

10876 (d) on a fourth or subsequent violation within two years of three previous violations:

10877 (i) impose a penalty of \$2,000;

10878 (ii) revoke a permit of the retailer; and

10879 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty  
10880 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

10881 (3) If a violation is found in an investigation of a general tobacco retailer by a law  
10882 enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic

10883 cigarette product, or a nicotine product to an individual under 21 years old and the violation is  
10884 committed by the owner of the general tobacco retailer, the enforcing agency shall:

10885 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and  
10886 (b) on the second violation for the same general tobacco retailer within one year of the  
10887 first violation:

10888 (i) impose a fine of \$5,000; and

10889 (ii) revoke the permit for the general tobacco retailer.

10890 (4) If a violation is found in an investigation of a retail tobacco specialty business by a  
10891 law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an  
10892 electronic cigarette product, or a nicotine product to an individual under 21 years old, the  
10893 enforcing agency shall:

10894 (a) on the first violation:

10895 (i) impose a fine of \$5,000; and

10896 (ii) immediately suspend the permit for 30 consecutive days; and

10897 (b) on the second violation at the same retail location within two years of the first  
10898 violation:

10899 (i) impose a fine of \$10,000; and

10900 (ii) revoke the permit for the retail tobacco specialty business.

10901 (5) (a) Except when a transfer described in Subsection (6) occurs, a local health  
10902 department may not issue a permit to:

10903 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)  
10904 or (3); or

10905 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,  
10906 or other holder of significant interest as another tobacco retailer for whom a permit is  
10907 suspended or revoked under Subsection (2), (3), or (4).

10908 (b) A person whose permit:

10909 (i) is suspended under this section may not apply for a new permit for any other

tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked under this section may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.

(6) Violations of this ~~[chapter]~~ part, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 328. Section **26B-7-519**, which is renumbered from Section 26-62-306 is renumbered and amended to read:

~~[26-62-306].~~            **26B-7-519. Recognition of tobacco retailer training program.**

(1) In determining the amount of the monetary penalty to be imposed for a violation of this ~~[chapter]~~ part, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer determines that:

(a) the tobacco retailer has implemented a documented employee training program; and

(b) the employees have completed that training program within 30 days after the day on which each employee commences the duties of selling a tobacco product, an electronic cigarette product, or a nicotine product.

(2) (a) For the first offense at a location, if the hearing officer determines under Subsection (1) that the tobacco retailer has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the penalty if:

(i) the tobacco retailer agrees to initiate a training program for employees at that location; and

(ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).

(b) If the hearing officer determines at a subsequent hearing that the tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the tobacco retailer demonstrates good cause for an extension of time for implementation of the training program.

Section 329. Section **26B-7-520**, which is renumbered from Section 26-62-307 is renumbered and amended to read:

~~[26-62-307].~~            **26B-7-520. Allocation of civil penalties.**

Civil monetary penalties collected under ~~[this chapter]~~ Section 26B-7-518 shall be allocated as follows:

(1) if a local health department conducts an adjudicative proceeding under Section ~~[26-62-302]~~ 26B-7-515, the penalty shall be paid to the treasurer of the county in which the violation was committed, and transferred to the local health department; and

(2) if the department conducts a civil hearing under Section ~~[26-62-302]~~ 26B-7-515, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the department for use in enforcement of this ~~[chapter]~~ part.

Section 330. Section **26B-7-521**, which is renumbered from Section 26-62-401 is renumbered and amended to read:

~~[26-62-401].~~            **26B-7-521. Verification of proof of age.**

(1) As used in this section:

(a) "Employee" means an employee of a retail tobacco specialty business.

(b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.

(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.

- 10964 (3) To comply with Subsection (2), an employee shall:  
10965 (a) request the individual present proof of age; and  
10966 (b) verify the validity of the proof of age electronically in accordance with Subsection  
10967 (4).
- 10968 (4) A retail tobacco specialty business shall use an electronic verification program to  
10969 assist the business in complying with the requirements of this section.
- 10970 (5) (a) A retail tobacco specialty business may not disclose information obtained under  
10971 this section except as provided under this part.
- 10972 (b) Information obtained under this section:  
10973 (i) shall be kept for at least 180 days; and  
10974 (ii) is subject to inspection upon request by a peace officer or the representative of an  
10975 enforcing agency.
- 10976 (6) (a) If an employee does not verify proof of age under this section, the employee  
10977 may not permit an individual to:  
10978 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or  
10979 (ii) purchase a tobacco product or an electronic cigarette product.
- 10980 (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years  
10981 old may be permitted to enter a retail tobacco specialty business if the individual is:  
10982 (i) accompanied by a parent or legal guardian who provides proof of age; or  
10983 (ii) (A) present at the retail tobacco specialty business solely for the purpose of  
10984 providing a commercial service to the retail tobacco specialty business, including making a  
10985 commercial delivery;  
10986 (B) monitored by the proprietor of the retail tobacco specialty business or an employee  
10987 of the retail tobacco specialty business; and  
10988 (C) not permitted to make any purchase or conduct any commercial transaction other  
10989 than the service described in Subsection (6)(b)(ii)(A).
- 10990 (7) To determine whether the individual described in Subsection (2) is 21 years old or

10991 older, the following may request an individual described in Subsection (2) to present proof of  
10992 age:

- 10993 (a) an employee;
- 10994 (b) a peace officer; or
- 10995 (c) a representative of an enforcing agency.

10996 Section 331. **Coordinating S.B. 41 with S.B. 272 -- Substantive and technical**  
10997 **amendments.**

10998 If this S.B. 41 and S.B. 272, Funds Amendments, both pass and become law, it is the  
10999 intent of the Legislature that the Office of Legislative Research and General Counsel prepare  
11000 the Utah Code database for publication on July 1, 2023, by amending Subsection 26B-5-601(8)  
11001 (renumbered from Section 62A-17-102) in this S.B. 41 to read:

11002 "(8) "Psychiatrist" means an individual who:

11003 (a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or  
11004 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

11005 (b) is board eligible for a psychiatry specialization recognized by the American Board  
11006 of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic  
11007 Specialists."

11008 Section 332. **Revisor instructions.**

11009 The Legislature intends that the Office of Legislative Research and General Counsel, in  
11010 preparing the Utah Code database for publication:

11011 (1) not enroll this bill if any of the following bills do not pass:

11012 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,  
11013 and Recovery Services;

11014 (b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and  
11015 Data; or

11016 (c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and  
11017 Repeals; and

11018           (2) in any new language added to the Utah Code by legislation passed during the 2023  
11019   General Session, replace any references to Title 26 or 62A with the renumbered reference as it  
11020   is renumbered in this bill.