

**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

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**LONG TITLE**

**Committee Note:**

The Health and Human Services Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 4 absent

**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 revisor instructions.

**Utah Code Sections Affected:**

AMENDS:



28           **26B-5-101**, as enacted by Laws of Utah 2022, Chapter 255

29           **26B-6-101**, as enacted by Laws of Utah 2022, Chapter 255

30           **26B-7-101**, as enacted by Laws of Utah 2022, Chapter 255

31   ENACTS:

32           **26B-6-501**, Utah Code Annotated 1953

33           **26B-6-601**, Utah Code Annotated 1953

34           **26B-7-324**, Utah Code Annotated 1953

35   RENUMBERS AND AMENDS:

36           **26B-5-102**, (Renumbered from 62A-15-103, as last amended by Laws of Utah 2022,  
37   Chapters 187, 255, and 415)

38           **26B-5-103**, (Renumbered from 62A-15-104, as last amended by Laws of Utah 2022,  
39   Chapter 255)

40           **26B-5-104**, (Renumbered from 62A-15-105, as last amended by Laws of Utah 2009,  
41   Chapter 75)

42           **26B-5-105**, (Renumbered from 62A-15-105.2, as enacted by Laws of Utah 2012,  
43   Chapter 305)

44           **26B-5-106**, (Renumbered from 62A-15-107, as last amended by Laws of Utah 2009,  
45   Chapter 75)

46           **26B-5-107**, (Renumbered from 62A-15-108, as last amended by Laws of Utah 2009,  
47   Chapter 75)

48           **26B-5-108**, (Renumbered from 62A-15-110, as last amended by Laws of Utah 2005,  
49   Chapter 71)

50           **26B-5-109**, (Renumbered from 62A-15-113, as enacted by Laws of Utah 2017, Chapter  
51   315)

52           **26B-5-110**, (Renumbered from 62A-15-103.1, as enacted by Laws of Utah 2019,  
53   Chapter 440)

54           **26B-5-111**, (Renumbered from 62A-15-115, as enacted by Laws of Utah 2018, Chapter  
55   414)

56           **26B-5-112**, (Renumbered from 62A-15-116, as last amended by Laws of Utah 2020,  
57   Chapter 303)

58           **26B-5-113**, (Renumbered from 62A-15-117, as enacted by Laws of Utah 2019, Chapter

59 446)  
60 **26B-5-114**, (Renumbered from 62A-15-118, as enacted by Laws of Utah 2020, Chapter  
61 303)  
62 **26B-5-115**, (Renumbered from 62A-15-119, as renumbered and amended by Laws of  
63 Utah 2020, Chapter 29)  
64 **26B-5-116**, (Renumbered from 62A-15-121, as enacted by Laws of Utah 2021, Chapter  
65 277)  
66 **26B-5-117**, (Renumbered from 62A-15-122, as enacted by Laws of Utah 2021, Chapter  
67 278)  
68 **26B-5-118**, (Renumbered from 62A-15-124, as enacted by Laws of Utah 2022, Chapter  
69 149)  
70 **26B-5-119**, (Renumbered from 62A-15-615, as renumbered and amended by Laws of  
71 Utah 2002, Fifth Special Session, Chapter 8)  
72 **26B-5-201**, (Renumbered from 62A-15-202, as last amended by Laws of Utah 2022,  
73 Chapter 155)  
74 **26B-5-202**, (Renumbered from 62A-15-203, as renumbered and amended by Laws of  
75 Utah 2002, Fifth Special Session, Chapter 8)  
76 **26B-5-203**, (Renumbered from 62A-15-204, as last amended by Laws of Utah 2022,  
77 Chapter 155)  
78 **26B-5-204**, (Renumbered from 62A-15-301, as renumbered and amended by Laws of  
79 Utah 2002, Fifth Special Session, Chapter 8)  
80 **26B-5-205**, (Renumbered from 62A-15-401, as last amended by Laws of Utah 2022,  
81 Chapter 447)  
82 **26B-5-206**, (Renumbered from 62A-15-403, as renumbered and amended by Laws of  
83 Utah 2022, Chapter 211)  
84 **26B-5-207**, (Renumbered from 62A-15-501, as last amended by Laws of Utah 2009,  
85 Chapter 81)  
86 **26B-5-208**, (Renumbered from 62A-15-502, as last amended by Laws of Utah 2005,  
87 Chapter 2)  
88 **26B-5-209**, (Renumbered from 62A-15-503, as last amended by Laws of Utah 2020,  
89 Chapter 230)

90           **26B-5-210**, (Renumbered from 62A-15-504, as renumbered and amended by Laws of  
91 Utah 2002, Fifth Special Session, Chapter 8)  
92           **26B-5-301**, (Renumbered from 62A-15-602, as last amended by Laws of Utah 2022,  
93 Chapters 187 and 374)  
94           **26B-5-302**, (Renumbered from 62A-15-601, as renumbered and amended by Laws of  
95 Utah 2002, Fifth Special Session, Chapter 8)  
96           **26B-5-303**, (Renumbered from 62A-15-603, as last amended by Laws of Utah 2018,  
97 Chapter 322)  
98           **26B-5-304**, (Renumbered from 62A-15-613, as last amended by Laws of Utah 2021,  
99 Chapter 344)  
100          **26B-5-305**, (Renumbered from 62A-15-614, as renumbered and amended by Laws of  
101 Utah 2002, Fifth Special Session, Chapter 8)  
102          **26B-5-306**, (Renumbered from 62A-15-610, as last amended by Laws of Utah 2011,  
103 Chapter 366)  
104          **26B-5-307**, (Renumbered from 62A-15-644, as last amended by Laws of Utah 2011,  
105 Chapter 366)  
106          **26B-5-308**, (Renumbered from 62A-15-639, as renumbered and amended by Laws of  
107 Utah 2002, Fifth Special Session, Chapter 8)  
108          **26B-5-309**, (Renumbered from 62A-15-640, as renumbered and amended by Laws of  
109 Utah 2002, Fifth Special Session, Chapter 8)  
110          **26B-5-310**, (Renumbered from 62A-15-641, as last amended by Laws of Utah 2017,  
111 Chapter 408)  
112          **26B-5-311**, (Renumbered from 62A-15-642, as renumbered and amended by Laws of  
113 Utah 2002, Fifth Special Session, Chapter 8)  
114          **26B-5-312**, (Renumbered from 62A-15-643, as renumbered and amended by Laws of  
115 Utah 2002, Fifth Special Session, Chapter 8)  
116          **26B-5-313**, (Renumbered from 62A-15-1002, as renumbered and amended by Laws of  
117 Utah 2002, Fifth Special Session, Chapter 8)  
118          **26B-5-314**, (Renumbered from 62A-15-1003, as renumbered and amended by Laws of  
119 Utah 2002, Fifth Special Session, Chapter 8)  
120          **26B-5-315**, (Renumbered from 62A-15-1004, as renumbered and amended by Laws of

121 Utah 2002, Fifth Special Session, Chapter 8)  
122       **26B-5-316**, (Renumbered from 62A-15-607, as last amended by Laws of Utah 2008,  
123 Chapter 3)  
124       **26B-5-317**, (Renumbered from 62A-15-617, as renumbered and amended by Laws of  
125 Utah 2002, Fifth Special Session, Chapter 8)  
126       **26B-5-318**, (Renumbered from 62A-15-619, as last amended by Laws of Utah 2011,  
127 Chapter 366)  
128       **26B-5-319**, (Renumbered from 62A-15-604, as last amended by Laws of Utah 2015,  
129 Chapter 121)  
130       **26B-5-320**, (Renumbered from 62A-15-621, as renumbered and amended by Laws of  
131 Utah 2002, Fifth Special Session, Chapter 8)  
132       **26B-5-321**, (Renumbered from 62A-15-622, as renumbered and amended by Laws of  
133 Utah 2002, Fifth Special Session, Chapter 8)  
134       **26B-5-322**, (Renumbered from 62A-15-623, as renumbered and amended by Laws of  
135 Utah 2002, Fifth Special Session, Chapter 8)  
136       **26B-5-323**, (Renumbered from 62A-15-624, as renumbered and amended by Laws of  
137 Utah 2002, Fifth Special Session, Chapter 8)  
138       **26B-5-324**, (Renumbered from 62A-15-608, as last amended by Laws of Utah 2011,  
139 Chapter 366)  
140       **26B-5-325**, (Renumbered from 62A-15-609, as renumbered and amended by Laws of  
141 Utah 2002, Fifth Special Session, Chapter 8)  
142       **26B-5-326**, (Renumbered from 62A-15-611, as last amended by Laws of Utah 2018,  
143 Chapter 330)  
144       **26B-5-327**, (Renumbered from 62A-15-612, as last amended by Laws of Utah 2021,  
145 Chapter 382)  
146       **26B-5-330**, (Renumbered from 62A-15-628, as last amended by Laws of Utah 2018,  
147 Chapter 322)  
148       **26B-5-331**, (Renumbered from 62A-15-629, as last amended by Laws of Utah 2022,  
149 Chapters 341 and 374)  
150       **26B-5-332**, (Renumbered from 62A-15-631, as last amended by Laws of Utah 2022,  
151 Chapter 374)

152           **26B-5-333**, (Renumbered from 62A-15-632, as repealed and reenacted by Laws of Utah  
153 2021, Chapter 122)  
154           **26B-5-334**, (Renumbered from 62A-15-634, as renumbered and amended by Laws of  
155 Utah 2002, Fifth Special Session, Chapter 8)  
156           **26B-5-335**, (Renumbered from 62A-15-635, as last amended by Laws of Utah 2018,  
157 Chapter 322)  
158           **26B-5-336**, (Renumbered from 62A-15-636, as renumbered and amended by Laws of  
159 Utah 2002, Fifth Special Session, Chapter 8)  
160           **26B-5-337**, (Renumbered from 62A-15-637, as last amended by Laws of Utah 2019,  
161 Chapter 419)  
162           **26B-5-338**, (Renumbered from 62A-15-638, as renumbered and amended by Laws of  
163 Utah 2002, Fifth Special Session, Chapter 8)  
164           **26B-5-339**, (Renumbered from 62A-15-618, as last amended by Laws of Utah 2019,  
165 Chapters 256 and 419)  
166           **26B-5-340**, (Renumbered from 62A-15-630, as last amended by Laws of Utah 2008,  
167 Chapter 3)  
168           **26B-5-341**, (Renumbered from 62A-15-626, as last amended by Laws of Utah 2021,  
169 Chapter 262)  
170           **26B-5-342**, (Renumbered from 62A-15-620, as renumbered and amended by Laws of  
171 Utah 2002, Fifth Special Session, Chapter 8)  
172           **26B-5-350**, (Renumbered from 62A-15-630.4, as enacted by Laws of Utah 2019,  
173 Chapter 256)  
174           **26B-5-351**, (Renumbered from 62A-15-630.5, as last amended by Laws of Utah 2021,  
175 Chapter 122)  
176           **26B-5-360**, (Renumbered from 62A-15-625, as last amended by Laws of Utah 2021,  
177 Chapter 260)  
178           **26B-5-361**, (Renumbered from 62A-15-627, as last amended by Laws of Utah 2022,  
179 Chapter 374)  
180           **26B-5-362**, (Renumbered from 62A-15-646, as renumbered and amended by Laws of  
181 Utah 2002, Fifth Special Session, Chapter 8)  
182           **26B-5-363**, (Renumbered from 62A-15-616, as last amended by Laws of Utah 2011,

183 Chapter 366)  
184 **26B-5-364**, (Renumbered from 62A-15-633, as renumbered and amended by Laws of  
185 Utah 2002, Fifth Special Session, Chapter 8)  
186 **26B-5-365**, (Renumbered from 62A-15-801, as renumbered and amended by Laws of  
187 Utah 2002, Fifth Special Session, Chapter 8)  
188 **26B-5-366**, (Renumbered from 62A-15-802, as renumbered and amended by Laws of  
189 Utah 2002, Fifth Special Session, Chapter 8)  
190 **26B-5-367**, (Renumbered from 62A-15-647, as renumbered and amended by Laws of  
191 Utah 2002, Fifth Special Session, Chapter 8)  
192 **26B-5-370**, (Renumbered from 62A-15-901, as renumbered and amended by Laws of  
193 Utah 2002, Fifth Special Session, Chapter 8)  
194 **26B-5-371**, (Renumbered from 62A-15-902, as last amended by Laws of Utah 2011,  
195 Chapter 366)  
196 **26B-5-372**, (Renumbered from 62A-15-605.5, as renumbered and amended by Laws of  
197 Utah 2002, Fifth Special Session, Chapter 8)  
198 **26B-5-380**, (Renumbered from 62A-1-108.5, as last amended by Laws of Utah 2021,  
199 Chapter 262)  
200 **26B-5-401**, (Renumbered from 62A-15-701, as last amended by Laws of Utah 2003,  
201 Chapter 195)  
202 **26B-5-402**, (Renumbered from 62A-15-702, as renumbered and amended by Laws of  
203 Utah 2002, Fifth Special Session, Chapter 8)  
204 **26B-5-403**, (Renumbered from 62A-15-703, as last amended by Laws of Utah 2021,  
205 Chapter 262)  
206 **26B-5-404**, (Renumbered from 62A-15-704, as last amended by Laws of Utah 2008,  
207 Chapter 382)  
208 **26B-5-405**, (Renumbered from 62A-15-705, as last amended by Laws of Utah 2021,  
209 Chapter 261)  
210 **26B-5-406**, (Renumbered from 62A-15-706, as last amended by Laws of Utah 2011,  
211 Chapter 366)  
212 **26B-5-407**, (Renumbered from 62A-15-707, as last amended by Laws of Utah 2008,  
213 Chapter 382)

214           **26B-5-408**, (Renumbered from 62A-15-708, as renumbered and amended by Laws of  
215 Utah 2002, Fifth Special Session, Chapter 8)  
216           **26B-5-409**, (Renumbered from 62A-15-709, as renumbered and amended by Laws of  
217 Utah 2002, Fifth Special Session, Chapter 8)  
218           **26B-5-410**, (Renumbered from 62A-15-710, as renumbered and amended by Laws of  
219 Utah 2002, Fifth Special Session, Chapter 8)  
220           **26B-5-411**, (Renumbered from 62A-15-711, as renumbered and amended by Laws of  
221 Utah 2002, Fifth Special Session, Chapter 8)  
222           **26B-5-412**, (Renumbered from 62A-15-712, as last amended by Laws of Utah 2013,  
223 Chapter 167)  
224           **26B-5-413**, (Renumbered from 62A-15-713, as last amended by Laws of Utah 2005,  
225 Chapter 71)  
226           **26B-5-501**, (Renumbered from 62A-15-1202, as last amended by Laws of Utah 2018,  
227 Chapter 77)  
228           **26B-5-502**, (Renumbered from 62A-15-1201, as enacted by Laws of Utah 2017,  
229 Chapter 408)  
230           **26B-5-503**, (Renumbered from 62A-15-1203, as last amended by Laws of Utah 2018,  
231 Chapter 77)  
232           **26B-5-504**, (Renumbered from 62A-15-1204, as enacted by Laws of Utah 2017,  
233 Chapter 408)  
234           **26B-5-505**, (Renumbered from 62A-15-1205, as last amended by Laws of Utah 2018,  
235 Chapter 77)  
236           **26B-5-506**, (Renumbered from 62A-15-1205.5, as enacted by Laws of Utah 2018,  
237 Chapter 77)  
238           **26B-5-507**, (Renumbered from 62A-15-1206, as enacted by Laws of Utah 2017,  
239 Chapter 408)  
240           **26B-5-508**, (Renumbered from 62A-15-1207, as last amended by Laws of Utah 2018,  
241 Chapter 77)  
242           **26B-5-509**, (Renumbered from 62A-15-1207.5, as enacted by Laws of Utah 2018,  
243 Chapter 77)  
244           **26B-5-510**, (Renumbered from 62A-15-1208, as enacted by Laws of Utah 2017,



245 Chapter 408)  
246 **26B-5-511**, (Renumbered from 62A-15-1209, as enacted by Laws of Utah 2017,  
247 Chapter 408)  
248 **26B-5-601**, (Renumbered from 62A-17-102, as enacted by Laws of Utah 2013, Chapter  
249 24)  
250 **26B-5-602**, (Renumbered from 62A-17-103, as last amended by Laws of Utah 2017,  
251 Chapter 22)  
252 **26B-5-603**, (Renumbered from 62A-17-104, as enacted by Laws of Utah 2013, Chapter  
253 24)  
254 **26B-5-604**, (Renumbered from 62A-17-105, as enacted by Laws of Utah 2013, Chapter  
255 24)  
256 **26B-5-605**, (Renumbered from 62A-17-106, as enacted by Laws of Utah 2013, Chapter  
257 24)  
258 **26B-5-606**, (Renumbered from 62A-15-1802, as enacted by Laws of Utah 2020,  
259 Chapter 304)  
260 **26B-5-607**, (Renumbered from 62A-15-1803, as enacted by Laws of Utah 2020,  
261 Chapter 304)  
262 **26B-5-608**, (Renumbered from 62A-15-1804, as enacted by Laws of Utah 2020,  
263 Chapter 304)  
264 **26B-5-609**, (Renumbered from 62A-15-1402, as enacted by Laws of Utah 2018,  
265 Chapter 84)  
266 **26B-5-610**, (Renumbered from 62A-15-1302, as last amended by Laws of Utah 2020,  
267 Chapter 303)  
268 **26B-5-611**, (Renumbered from 62A-15-1101, as last amended by Laws of Utah 2022,  
269 Chapter 149)  
270 **26B-5-612**, (Renumbered from 26-1-43, as enacted by Laws of Utah 2022, Chapter 253  
271 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 189)  
272 **26B-6-102**, (Renumbered from 62A-3-102, as last amended by Laws of Utah 1990,  
273 Chapter 181)  
274 **26B-6-103**, (Renumbered from 62A-3-103, as last amended by Laws of Utah 1992,  
275 Chapter 104)

276           **26B-6-104**, (Renumbered from 62A-3-104, as last amended by Laws of Utah 2012,  
277 Chapter 347)  
278           **26B-6-105**, (Renumbered from 62A-3-104.1, as last amended by Laws of Utah 2018,  
279 Chapter 256)  
280           **26B-6-106**, (Renumbered from 62A-3-104.2, as last amended by Laws of Utah 1998,  
281 Chapter 254)  
282           **26B-6-107**, (Renumbered from 62A-3-104.3, as last amended by Laws of Utah 2015,  
283 Chapter 255)  
284           **26B-6-108**, (Renumbered from 62A-3-105, as last amended by Laws of Utah 2013,  
285 Chapter 110)  
286           **26B-6-109**, (Renumbered from 62A-3-106, as enacted by Laws of Utah 1988, Chapter  
287 1)  
288           **26B-6-110**, (Renumbered from 62A-3-106.5, as last amended by Laws of Utah 2008,  
289 Chapter 382)  
290           **26B-6-111**, (Renumbered from 62A-3-107, as last amended by Laws of Utah 2010,  
291 Chapter 286)  
292           **26B-6-112**, (Renumbered from 62A-3-107.5, as enacted by Laws of Utah 1996,  
293 Chapter 299)  
294           **26B-6-113**, (Renumbered from 62A-3-108, as last amended by Laws of Utah 1998,  
295 Chapter 254)  
296           **26B-6-114**, (Renumbered from 62A-3-109, as last amended by Laws of Utah 2008,  
297 Chapters 91 and 382)  
298           **26B-6-201**, (Renumbered from 62A-3-301, as last amended by Laws of Utah 2022,  
299 Chapter 430)  
300           **26B-6-202**, (Renumbered from 62A-3-302, as last amended by Laws of Utah 2017,  
301 Chapter 176)  
302           **26B-6-203**, (Renumbered from 62A-3-303, as last amended by Laws of Utah 2017,  
303 Chapter 176)  
304           **26B-6-204**, (Renumbered from 62A-3-304, as last amended by Laws of Utah 2008,  
305 Chapter 91)  
306           **26B-6-205**, (Renumbered from 62A-3-305, as last amended by Laws of Utah 2022,

307 Chapters 274, 335, and 415)  
308 **26B-6-206**, (Renumbered from 62A-3-307, as repealed and reenacted by Laws of Utah  
309 2008, Chapter 91)  
310 **26B-6-207**, (Renumbered from 62A-3-308, as last amended by Laws of Utah 2008,  
311 Chapter 91)  
312 **26B-6-208**, (Renumbered from 62A-3-309, as last amended by Laws of Utah 2013,  
313 Chapter 237)  
314 **26B-6-209**, (Renumbered from 62A-3-311, as last amended by Laws of Utah 2008,  
315 Chapters 91 and 382)  
316 **26B-6-210**, (Renumbered from 62A-3-311.1, as last amended by Laws of Utah 2022,  
317 Chapter 415)  
318 **26B-6-211**, (Renumbered from 62A-3-311.5, as enacted by Laws of Utah 2008,  
319 Chapter 91)  
320 **26B-6-212**, (Renumbered from 62A-3-312, as last amended by Laws of Utah 2022,  
321 Chapter 415)  
322 **26B-6-213**, (Renumbered from 62A-3-314, as last amended by Laws of Utah 2007,  
323 Chapter 176)  
324 **26B-6-214**, (Renumbered from 62A-3-315, as last amended by Laws of Utah 2017,  
325 Chapter 176)  
326 **26B-6-215**, (Renumbered from 62A-3-316, as enacted by Laws of Utah 2002, Chapter  
327 108)  
328 **26B-6-216**, (Renumbered from 62A-3-317, as last amended by Laws of Utah 2017,  
329 Chapter 176)  
330 **26B-6-217**, (Renumbered from 62A-3-320, as last amended by Laws of Utah 2017,  
331 Chapter 176)  
332 **26B-6-218**, (Renumbered from 62A-3-321, as last amended by Laws of Utah 2017,  
333 Chapter 176)  
334 **26B-6-219**, (Renumbered from 62A-3-322, as enacted by Laws of Utah 2018, Third  
335 Special Session, Chapter 1)  
336 **26B-6-301**, (Renumbered from 62A-14-102, as last amended by Laws of Utah 2013,  
337 Chapter 364)

338           **26B-6-302**, (Renumbered from 62A-14-103, as enacted by Laws of Utah 1999, Chapter  
339 69)  
340           **26B-6-303**, (Renumbered from 62A-14-104, as last amended by Laws of Utah 2009,  
341 Chapter 75)  
342           **26B-6-304**, (Renumbered from 62A-14-105, as last amended by Laws of Utah 2022,  
343 Chapter 441)  
344           **26B-6-305**, (Renumbered from 62A-14-107, as enacted by Laws of Utah 1999, Chapter  
345 69)  
346           **26B-6-306**, (Renumbered from 62A-14-108, as last amended by Laws of Utah 2022,  
347 Chapter 255)  
348           **26B-6-307**, (Renumbered from 62A-14-109, as last amended by Laws of Utah 2012,  
349 Chapter 347)  
350           **26B-6-308**, (Renumbered from 62A-14-110, as enacted by Laws of Utah 1999, Chapter  
351 69)  
352           **26B-6-309**, (Renumbered from 62A-14-111, as enacted by Laws of Utah 1999, Chapter  
353 69)  
354           **26B-6-401**, (Renumbered from 62A-5-101, as last amended by Laws of Utah 2020,  
355 Chapter 444)  
356           **26B-6-402**, (Renumbered from 62A-5-102, as last amended by Laws of Utah 2020,  
357 Chapter 444)  
358           **26B-6-403**, (Renumbered from 62A-5-103, as last amended by Laws of Utah 2011,  
359 Chapter 366)  
360           **26B-6-404**, (Renumbered from 62A-5-104, as last amended by Laws of Utah 2012,  
361 Chapter 369)  
362           **26B-6-405**, (Renumbered from 62A-5-105, as last amended by Laws of Utah 2013,  
363 Chapter 167)  
364           **26B-6-406**, (Renumbered from 62A-5-106, as enacted by Laws of Utah 1988, Chapter  
365 1)  
366           **26B-6-407**, (Renumbered from 62A-5-103.1, as last amended by Laws of Utah 2013,  
367 Chapter 125)  
368           **26B-6-408**, (Renumbered from 62A-5-103.2, as last amended by Laws of Utah 2009,

369 Chapter 29)  
370 **26B-6-409**, (Renumbered from 62A-5-103.3, as enacted by Laws of Utah 2011,  
371 Chapter 169)  
372 **26B-6-410**, (Renumbered from 62A-5-103.5, as last amended by Laws of Utah 2017,  
373 Chapter 181)  
374 **26B-6-411**, (Renumbered from 62A-5-109, as last amended by Laws of Utah 2008,  
375 Chapter 3)  
376 **26B-6-412**, (Renumbered from 62A-5-110, as last amended by Laws of Utah 2018,  
377 Chapter 88)  
378 **26B-6-413**, (Renumbered from 62A-5-402, as last amended by Laws of Utah 2005,  
379 Chapter 61)  
380 **26B-6-502**, (Renumbered from 62A-5-201, as last amended by Laws of Utah 2017,  
381 Chapter 211)  
382 **26B-6-503**, (Renumbered from 62A-5-202, as last amended by Laws of Utah 2009,  
383 Chapter 75)  
384 **26B-6-504**, (Renumbered from 62A-5-203, as last amended by Laws of Utah 1991,  
385 Chapter 207)  
386 **26B-6-505**, (Renumbered from 62A-5-205, as last amended by Laws of Utah 1991,  
387 Chapter 207)  
388 **26B-6-506**, (Renumbered from 62A-5-206, as last amended by Laws of Utah 2016,  
389 Chapter 300)  
390 **26B-6-507**, (Renumbered from 62A-5-206.6, as last amended by Laws of Utah 2018,  
391 Chapter 404)  
392 **26B-6-508**, (Renumbered from 62A-5-207, as last amended by Laws of Utah 2011,  
393 Chapter 366)  
394 **26B-6-509**, (Renumbered from 62A-5-208, as last amended by Laws of Utah 1991,  
395 Chapter 207)  
396 **26B-6-510**, (Renumbered from 62A-5-211, as enacted by Laws of Utah 2017, Chapter  
397 211)  
398 **26B-6-602**, (Renumbered from 62A-5-302, as last amended by Laws of Utah 2011,  
399 Chapter 366)

400           **26B-6-603**, (Renumbered from 62A-5-305, as last amended by Laws of Utah 2011,  
401 Chapter 366)  
402           **26B-6-604**, (Renumbered from 62A-5-308, as last amended by Laws of Utah 2021,  
403 Chapter 261)  
404           **26B-6-605**, (Renumbered from 62A-5-309, as last amended by Laws of Utah 2021,  
405 Chapter 261)  
406           **26B-6-606**, (Renumbered from 62A-5-310, as last amended by Laws of Utah 2011,  
407 Chapter 366)  
408           **26B-6-607**, (Renumbered from 62A-5-311, as last amended by Laws of Utah 2011,  
409 Chapter 366)  
410           **26B-6-608**, (Renumbered from 62A-5-312, as last amended by Laws of Utah 2011,  
411 Chapter 366)  
412           **26B-6-609**, (Renumbered from 62A-5-313, as last amended by Laws of Utah 2011,  
413 Chapter 366)  
414           **26B-6-610**, (Renumbered from 62A-5-315, as last amended by Laws of Utah 2004,  
415 Chapter 114)  
416           **26B-6-611**, (Renumbered from 62A-5-316, as last amended by Laws of Utah 2011,  
417 Chapter 366)  
418           **26B-6-612**, (Renumbered from 62A-5-317, as last amended by Laws of Utah 2011,  
419 Chapter 366)  
420           **26B-6-613**, (Renumbered from 62A-5-318, as last amended by Laws of Utah 2011,  
421 Chapter 366)  
422           **26B-6-701**, (Renumbered from 62A-5-501, as enacted by Laws of Utah 2022, Chapter  
423 220)  
424           **26B-6-702**, (Renumbered from 62A-5-502, as enacted by Laws of Utah 2022, Chapter  
425 220)  
426           **26B-6-703**, (Renumbered from 62A-5-503, as enacted by Laws of Utah 2022, Chapter  
427 220)  
428           **26B-6-704**, (Renumbered from 62A-5-504, as enacted by Laws of Utah 2022, Chapter  
429 220)  
430           **26B-6-705**, (Renumbered from 62A-5-505, as enacted by Laws of Utah 2022, Chapter

431 220)  
432 **26B-6-801**, (Renumbered from 62A-5b-102, as last amended by Laws of Utah 2019,  
433 Chapter 190)  
434 **26B-6-802**, (Renumbered from 62A-5b-103, as last amended by Laws of Utah 2019,  
435 Chapter 190)  
436 **26B-6-803**, (Renumbered from 62A-5b-104, as last amended by Laws of Utah 2019,  
437 Chapter 190)  
438 **26B-6-804**, (Renumbered from 62A-5b-105, as last amended by Laws of Utah 2019,  
439 Chapter 190)  
440 **26B-6-805**, (Renumbered from 62A-5b-106, as last amended by Laws of Utah 2019,  
441 Chapter 190)  
442 **26B-6-806**, (Renumbered from 62A-6-102, as enacted by Laws of Utah 1988, Chapter  
443 1)  
444 **26B-6-807**, (Renumbered from 62A-6-103, as enacted by Laws of Utah 1988, Chapter  
445 1)  
446 **26B-6-808**, (Renumbered from 62A-6-104, as enacted by Laws of Utah 1988, Chapter  
447 1)  
448 **26B-6-809**, (Renumbered from 62A-6-105, as enacted by Laws of Utah 1988, Chapter  
449 1)  
450 **26B-6-810**, (Renumbered from 62A-6-106, as enacted by Laws of Utah 1988, Chapter  
451 1)  
452 **26B-6-811**, (Renumbered from 62A-6-107, as enacted by Laws of Utah 1988, Chapter  
453 1)  
454 **26B-6-812**, (Renumbered from 62A-6-108, as enacted by Laws of Utah 1988, Chapter  
455 1)  
456 **26B-6-813**, (Renumbered from 62A-6-109, as enacted by Laws of Utah 1988, Chapter  
457 1)  
458 **26B-6-814**, (Renumbered from 62A-6-110, as enacted by Laws of Utah 1988, Chapter  
459 1)  
460 **26B-6-815**, (Renumbered from 62A-6-111, as enacted by Laws of Utah 1988, Chapter  
461 1)

462           **26B-6-816**, (Renumbered from 62A-6-112, as enacted by Laws of Utah 1988, Chapter  
463 1)  
464           **26B-6-817**, (Renumbered from 62A-6-113, as enacted by Laws of Utah 1988, Chapter  
465 1)  
466           **26B-6-818**, (Renumbered from 62A-6-114, as enacted by Laws of Utah 1988, Chapter  
467 1)  
468           **26B-6-819**, (Renumbered from 62A-6-115, as enacted by Laws of Utah 1988, Chapter  
469 1)  
470           **26B-6-820**, (Renumbered from 62A-6-116, as enacted by Laws of Utah 1988, Chapter  
471 1)  
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)  
677       **26B-7-520**, (Renumbered from 26-62-307, as renumbered and amended by Laws of  
678 Utah 2018, Chapter 231)

679 [26B-7-521](#), (Renumbered from 26-62-401, as last amended by Laws of Utah 2021,  
680 Chapter 348)

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681  
682 *Be it enacted by the Legislature of the state of Utah:*

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

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

685 **Part 1. General Provisions**

686 **26B-5-101. Chapter Definitions.**

687 ~~[Reserved.]~~

688 As used in this chapter:

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

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

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

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

694 (3) "Division" means the Division of Integrated Healthcare created in Section  
695 [26B-1-202](#).

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

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

698 (6) "Mental health crisis" means:

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

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

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

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

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

709 (8) "Mental health crisis services" means an array of services provided to an individual

710 who experiences a mental health crisis, which may include:

711 (a) direct mental health services;

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

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

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

716 (e) referrals to other community resources;

717 (f) local mental health crisis lines; and

718 (g) the statewide mental health crisis line.

719 (9) "Mental health therapist" means the same as that term is defined in Section  
720 [58-60-102](#).

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

724 (11) "Office" means the Office of Substance Use and Mental Health created in Section  
725 [26B-5-102](#).

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

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

739 (c) Public funds received for the provision of services under substance abuse or mental  
740 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

772 supervision of the executive director.

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

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

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

778 (2) The division shall:

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

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

783 (iii) promote or establish programs for the prevention of substance abuse within the  
784 community setting through community-based prevention programs;

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

788 (v) promote integrated programs that address an individual's substance abuse, mental  
789 health, and physical health;

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

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

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

795 (A) emergency department utilization;

796 (B) jail and prison populations;

797 (C) the homeless population; and

798 (D) the child welfare system; and

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

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

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

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

809 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
810 Rulemaking Act, to direct that an individual receiving services through a local mental health  
811 authority or the Utah State Hospital be informed about and, if desired by the individual,  
812 provided assistance in the completion of a declaration for mental health treatment in  
813 accordance with Section ~~[62A-15-1002]~~ 26B-5-313;

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

816 (ii) provide consultation and other assistance to public and private agencies and groups  
817 working on substance abuse and mental health issues;

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

821 (iv) promote or conduct research on substance abuse and mental health issues, and  
822 submit to the governor and the Legislature recommendations for changes in policy and  
823 legislation;

824 (v) receive, distribute, and provide direction over public funds for substance abuse and  
825 mental health services;

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

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

829 (viii) monitor the expenditure of public funds by:

830 (A) local substance abuse authorities;

831 (B) local mental health authorities; and

832 (C) in counties where they exist, a private contract provider that has an annual or  
833 otherwise ongoing contract to provide comprehensive substance abuse or mental health

834 programs or services for the local substance abuse authority or local mental health authority;

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

836 to provide a comprehensive continuum of services that include community-based services for

837 individuals involved in the criminal justice system, in accordance with division policy, contract

838 provisions, and the local plan;

839 (x) contract with private and public entities for special statewide or nonclinical

840 services, or services for individuals involved in the criminal justice system, according to

841 division rules;

842 (xi) review and approve each local substance abuse authority's plan and each local

843 mental health authority's plan in order to ensure:

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

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

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

847 (D) a statewide comprehensive continuum of community-based services designed to

848 reduce criminal risk factors for individuals who are determined to have substance abuse or

849 mental illness conditions or both, and who are involved in the criminal justice system;

850 (E) compliance, where appropriate, with the certification requirements in Subsection

851 (2)(j); and

852 (F) appropriate expenditure of public funds;

853 (xii) review and make recommendations regarding each local substance abuse

854 authority's contract with the local substance abuse authority's provider of substance abuse

855 programs and services and each local mental health authority's contract with the local mental

856 health authority's provider of mental health programs and services to ensure compliance with

857 state and federal law and policy;

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

859 and

860 (xiv) withhold funds from local substance abuse authorities, local mental health

861 authorities, and public and private providers for contract noncompliance, failure to comply

862 with division directives regarding the use of public funds, or for misuse of public funds or

863 money;

864 (d) ensure that the requirements of this part are met and applied uniformly by local

substance abuse authorities and local mental health authorities across the state;

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

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

(i) a review and determination regarding whether:

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

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

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

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

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

(A) a substance use disorder;

(B) a mental health disorder; or

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

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

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

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

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

(D) specify continuing education and other requirements for maintaining or renewing

certification as a peer support specialist; and

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

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

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

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

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

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

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

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

(k) annually, on or before November 30, submit a written report to the Judiciary 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

927 while incarcerated and are convicted of another offense within two years after release from  
928 incarceration;

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

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

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

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

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

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

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

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

948 (p) consult and coordinate with the Division of Child and Family Services to develop  
949 and manage the operation of a program designed to reduce substance abuse during pregnancy  
950 and by parents of a newborn child that includes:

951 (i) providing education and resources to health care providers and individuals in the  
952 state regarding prevention of substance abuse during pregnancy;

953 (ii) providing training to health care providers in the state regarding screening of a  
954 pregnant woman or pregnant minor to identify a substance abuse disorder; and

955 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn  
956 child in need of substance abuse treatment services to a facility that has the capacity to provide  
957 the treatment services.

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

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

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

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

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

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

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

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

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

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;



(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

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

(c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

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

(iii) administering the rebate program; and

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

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

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

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

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

(6) In carrying out the division's duties and responsibilities, the division may not

duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(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

1051 renumbered and amended to read:

1052 ~~[62A-15-104].~~ **26B-5-103. Director -- Qualifications.**

1053 (1) The executive director shall appoint a director within the division to carry out all or  
1054 part of the duties and responsibilities described in this part.

1055 (2) The director appointed under Subsection (1) shall have a bachelor's degree from an  
1056 accredited university or college, be experienced in administration, and be knowledgeable in  
1057 matters concerning substance abuse and mental health.

1058 Section 4. Section **26B-5-104**, which is renumbered from Section 62A-15-105 is  
1059 renumbered and amended to read:

1060 ~~[62A-15-105].~~ **26B-5-104. Authority and responsibilities of division.**

1061 The division shall set policy for its operation and for programs funded with state and  
1062 federal money under Sections [17-43-201](#), [17-43-301](#), [17-43-304](#), and ~~[62A-15-110]~~ [26B-5-108](#).  
1063 The division shall:

1064 (1) in establishing rules, seek input from local substance abuse authorities, local mental  
1065 health authorities, consumers, providers, advocates, division staff, and other interested parties  
1066 as determined by the division;

1067 (2) establish, by rule, minimum standards for local substance abuse authorities and  
1068 local mental health authorities;

1069 (3) establish, by rule, procedures for developing policies that ensure that local  
1070 substance abuse authorities and local mental health authorities are given opportunity to  
1071 comment and provide input on any new policy of the division or proposed changes in existing  
1072 rules of the division;

1073 (4) provide a mechanism for review of its existing policy, and for consideration of  
1074 policy changes that are proposed by local substance abuse authorities or local mental health  
1075 authorities;

1076 (5) develop program policies, standards, rules, and fee schedules for the division; and

1077 (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1078 make rules approving the form and content of substance abuse treatment, educational series,  
1079 screening, and assessment that are described in Section [41-6a-501](#).

1080 Section 5. Section **26B-5-105**, which is renumbered from Section 62A-15-105.2 is  
1081 renumbered and amended to read:

1082           ~~[62A-15-105.2].~~       **26B-5-105.** **Employment first emphasis on the provision of**  
1083 **services.**

1084           (1) As used in this section, "recipient" means an individual who is:

1085           (a) undergoing treatment for a substance abuse problem; or

1086           (b) suffers from a mental illness.

1087           (2) When providing services to a recipient, the division shall, within funds  
1088 appropriated by the Legislature and in accordance with the requirements of federal and state  
1089 law and memorandums of understanding between the division and other state entities that  
1090 provide services to a recipient, give priority to providing services that assist an eligible  
1091 recipient in obtaining and retaining meaningful and gainful employment that enables the  
1092 recipient to earn sufficient income to:

1093           (a) purchase goods and services;

1094           (b) establish self-sufficiency; and

1095           (c) exercise economic control of the recipient's life.

1096           (3) The division shall develop a written plan to implement the policy described in  
1097 Subsection (2) that includes:

1098           (a) assessing the strengths and needs of a recipient;

1099           (b) customizing strength-based approaches to obtaining employment;

1100           (c) expecting, encouraging, providing, and rewarding:

1101           (i) integrated employment in the workplace at competitive wages and benefits; and

1102           (ii) self-employment;

1103           (d) developing partnerships with potential employers;

1104           (e) maximizing appropriate employment training opportunities;

1105           (f) coordinating services with other government agencies and community resources;

1106           (g) to the extent possible, eliminating practices and policies that interfere with the  
1107 policy described in Subsection (2); and

1108           (h) arranging sub-minimum wage work or volunteer work for an eligible recipient  
1109 when employment at market rates cannot be obtained.

1110           (4) The division shall, on an annual basis:

1111           (a) set goals to implement the policy described in Subsection (2) and the plan described  
1112 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 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 abuse 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 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 Other Local Entities Act;

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

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

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

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

(d) each member of the local substance abuse authority and each member of the local

mental health authority shall annually certify that he has received and reviewed the independent audit and has participated in a formal interview with the provider's executive officers;

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

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

(2) Each contract between the division and a local substance abuse authority or a local mental health authority shall authorize the division to withhold funds, otherwise allocated 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

1206 in Sections [17-43-201](#)(5)(b) and [17-43-301](#)(6)(a)(ii);

1207 (ii) establish criteria in accordance with Subsection (1) for the evaluation of an  
1208 application;

1209 (iii) ensure that the committee members' affiliate groups approve of the application  
1210 process and criteria;

1211 (iv) evaluate applications; and

1212 (v) distribute funds to programs implemented by counties, local mental health  
1213 authorities, or local substance abuse authorities.

1214 (2) Demonstration of matching county funds is not a requirement to receive funds, but  
1215 the application review committee may take into consideration the existence of matching funds  
1216 when determining which programs to fund.

1217 Section 10. Section **26B-5-110**, which is renumbered from Section 62A-15-103.1 is  
1218 renumbered and amended to read:

1219 ~~[62A-15-103.1].~~ **26B-5-110. Suicide Prevention Education Program --**

1220 **Definitions -- Grant requirements.**

1221 (1) As used in this section, "bureau" means the Bureau of Criminal Identification  
1222 created in Section [53-10-201](#) within the Department of Public Safety.

1223 (2) There is created a Suicide Prevention Education Program to fund suicide  
1224 prevention education opportunities for federally licensed firearms dealers who operate a retail  
1225 establishment open to the public and the dealers' employees.

1226 (3) The division, in conjunction with the bureau, shall provide a grant to an employer  
1227 described in Subsection (2) in accordance with the criteria provided in Subsection  
1228 ~~[62A-15-1101(7)(b)]~~ [26B-5-611](#)(8)(b).

1229 (4) An employer may apply for a grant of up to \$2,500 under the program.

1230 Section 11. Section **26B-5-111**, which is renumbered from Section 62A-15-115 is  
1231 renumbered and amended to read:

1232 ~~[62A-15-115].~~ **26B-5-111. Mental health crisis response training.**

1233 (1) The division shall award grants to communities to conduct mental health crisis  
1234 response training.

1235 (2) For the application and award of the grants described in Subsection (1), the division  
1236 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) 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) 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**

services -- Report to Legislature.

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

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

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

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

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

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

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

(1) As used in this section:

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

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

(2) (a) (i) Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section [17-50-501](#), to, except as provided in Subsection (2)(a)(ii), develop and implement a behavioral health receiving center.

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

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

- 1299 (3) The purpose of a project is to:
- 1300 (a) increase access to mental health crisis services for individuals in the state who are
- 1301 experiencing a mental health crisis; and
- 1302 (b) reduce the number of individuals in the state who are incarcerated or in a hospital
- 1303 emergency room while experiencing a mental health crisis.
- 1304 (4) An application for a grant under this section shall:
- 1305 (a) identify the population to which the behavioral health receiving center will provide
- 1306 mental health crisis services;
- 1307 (b) identify the type of mental health crisis services the behavioral health receiving
- 1308 center will provide;
- 1309 (c) explain how the population described in Subsection (4)(a) will benefit from the
- 1310 provision of mental health crisis services;
- 1311 (d) provide details regarding:
- 1312 (i) how the proposed project plans to provide mental health crisis services;
- 1313 (ii) how the proposed project will ensure that consideration is given to the capacity of
- 1314 the behavioral health receiving center;
- 1315 (iii) how the proposed project will ensure timely and effective provision of mental
- 1316 health crisis services;
- 1317 (iv) the cost of the proposed project;
- 1318 (v) any existing or planned contracts or partnerships between the applicant and other
- 1319 individuals or entities to develop and implement the proposed project;
- 1320 (vi) any plan to use funding sources in addition to a grant under this section for the
- 1321 proposed project;
- 1322 (vii) the sustainability of the proposed project; and
- 1323 (viii) the methods the proposed project will use to:
- 1324 (A) protect the privacy of each individual who receives mental health crisis services
- 1325 from the behavioral health receiving center;
- 1326 (B) collect nonidentifying data relating to the proposed project; and
- 1327 (C) provide transparency on the costs and operation of the proposed project; and
- 1328 (e) provide other information requested by the division to ensure that the proposed
- 1329 project satisfies the criteria described in Subsection (5).

- 1330 (5) In evaluating an application for the grant, the division shall consider:
- 1331 (a) the extent to which the proposed project will fulfill the purposes described in
- 1332 Subsection (3);
- 1333 (b) the extent to which the population described in Subsection (4)(a) is likely to benefit
- 1334 from the proposed project;
- 1335 (c) the cost of the proposed project;
- 1336 (d) the extent to which any existing or planned contracts or partnerships between the
- 1337 applicant and other individuals or entities to develop and implement the project, or additional
- 1338 funding sources available to the applicant for the proposed project, are likely to benefit the
- 1339 proposed project; and
- 1340 (e) the viability and innovation of the proposed project.
- 1341 (6) Before June 30, 2021, the division shall report to the Health and Human Services
- 1342 Interim Committee regarding:
- 1343 (a) each county awarded a grant under this section; and
- 1344 (b) the details of each project.
- 1345 (7) Before June 30, 2023, the division shall report to the Health and Human Services
- 1346 Interim Committee regarding:
- 1347 (a) data gathered in relation to each project;
- 1348 (b) knowledge gained relating to the provision of mental health crisis services in a
- 1349 behavioral health receiving center;
- 1350 (c) recommendations for the future use of mental health crisis services in behavioral
- 1351 health receiving centers; and
- 1352 (d) obstacles encountered in the provision of mental health crisis services in a
- 1353 behavioral health receiving center.
- 1354 Section 15. Section **26B-5-115**, which is renumbered from Section 62A-15-119 is
- 1355 renumbered and amended to read:
- 1356 ~~[62A-15-119]~~. **26B-5-115. Safety Net Initiative.**
- 1357 (1) As used in this section, "individuals in underserved communities" means
- 1358 individuals living in culturally isolated communities in the state who may lack access to public
- 1359 assistance and other government services.
- 1360 (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 division.

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

(c) The division shall determine which applicants receive the technical assistance before December 31 of each year.

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

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

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

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

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

(e) provide details regarding:

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

1392 (ii) any existing or planned contracts or partnerships between the health care  
1393 organization and other persons that are related to suicide prevention;  
1394 (iii) the methods the health care organization will use to:  
1395 (A) protect the privacy of each individual to whom the health care organization  
1396 provides suicide prevention services; and  
1397 (B) collect non-identifying data; and  
1398 (f) provide other information requested by the division for the division to evaluate the  
1399 application.

1400 (4) In evaluating an application for technical assistance, the division shall consider:  
1401 (a) the extent to which providing technical assistance to the health care organization  
1402 will fulfill the purpose of preventing suicides in the state;  
1403 (b) the extent to which the population described in Subsection (3)(a) is likely to benefit  
1404 from the health care organization receiving the technical assistance;  
1405 (c) the cost of providing the technical assistance to the health care organization; and  
1406 (d) the extent to which any of the following are likely to benefit the health care  
1407 organization's ability to assist in preventing suicides in the state:  
1408 (i) existing or planned contracts or partnerships between the applicant and other  
1409 persons to develop and implement other initiatives; or  
1410 (ii) additional funding sources available to the applicant for suicide prevention  
1411 services.

1412 (5) Before June 30, 2022, and each subsequent June 30, the division shall submit a  
1413 written report to the Health and Human Services Interim Committee regarding each health care  
1414 organization the division provided technical assistance to in the preceding year under this  
1415 section.

1416 (6) Before June 30, 2024, the division shall submit a written report to the Health and  
1417 Human Services Interim Committee regarding:  
1418 (a) data gathered in relation to providing technical assistance to a health care  
1419 organization;  
1420 (b) knowledge gained relating to providing technical assistance;  
1421 (c) recommendations for the future regarding how the state can better prevent suicides;  
1422 and

1423 (d) obstacles encountered when providing technical assistance.

1424 Section 17. Section **26B-5-117**, which is renumbered from Section 62A-15-122 is  
1425 renumbered and amended to read:

1426 ~~[62A-15-122]~~. **26B-5-117. Early childhood mental health support grant**  
1427 **program.**

1428 (1) As used in this section:

1429 (a) "Child care" means the child care services defined in Section **35A-3-102** for a child  
1430 during early childhood.

1431 (b) "Child care provider" means a person who provides child care or mental health  
1432 support or interventions to a child during early childhood.

1433 (c) "Early childhood" means the time during which a child is zero to six years old.

1434 (d) "Project" means a project to provide education and training to child care providers  
1435 regarding evidence-based best practices for delivery of mental health support and interventions  
1436 during early childhood.

1437 (2) On or before July 1, 2021, the division shall issue a request for proposals in  
1438 accordance with this section to award a grant to a public or nonprofit entity to implement a  
1439 project.

1440 (3) The purpose of a project is to facilitate education about early childhood mental  
1441 health support and interventions.

1442 (4) An application for a grant under this section shall provide details regarding:

1443 (a) the education and training regarding early childhood mental health support and  
1444 interventions that the proposed project will provide to child care providers;

1445 (b) how the proposed project plans to provide the education and training to child care  
1446 providers;

1447 (c) the number of child care providers served by the proposed project;

1448 (d) how the proposed project will ensure the education and training is effectively  
1449 provided to child care providers;

1450 (e) the cost of the proposed project; and

1451 (f) the sustainability of the proposed project.

1452 (5) In evaluating a project proposal for a grant under this section, the division shall  
1453 consider:

1454 (a) the extent to which the proposed project will fulfill the purpose described in  
1455 Subsection (3);

1456 (b) the extent to which child care providers that will be served by the proposed project  
1457 are likely to benefit from the proposed project;

1458 (c) the cost of the proposed project; and

1459 (d) the viability of the proposed project.

1460 ~~[(6) Before June 30, 2022, the division shall report to the Health and Human Services~~  
1461 ~~Interim Committee regarding:]~~

1462 ~~[(a) each entity awarded a grant under this section; and]~~

1463 ~~[(b) the details of each project.]~~

1464 ~~[(7)]~~ (6) Before June 30, 2024, the division shall report to the Health and Human  
1465 Services Interim Committee regarding:

1466 (a) any knowledge gained from providing the education and training regarding early  
1467 childhood mental health support to child care providers;

1468 (b) data gathered in relation to each project;

1469 (c) recommendations for the future use of the education and training provided to child  
1470 care providers; and

1471 (d) obstacles encountered in providing the education and training to child care  
1472 providers.

1473 Section 18. Section **26B-5-118**, which is renumbered from Section 62A-15-124 is  
1474 renumbered and amended to read:

1475 ~~[62A-15-124].~~ **26B-5-118. Collaborative care grant program.**

1476 (1) As used in this section:

1477 (a) "Applicant" means a small primary health care practice that applies for a grant  
1478 under this section.

1479 (b) "Care manager" means an individual who plans, directs, and coordinates health care  
1480 services for a patient.

1481 (c) "Collaborative care model" means a formal collaborative arrangement between a  
1482 primary care physician, a mental health professional, and a care manager, to provide integrated  
1483 physical and behavioral health services.

1484 (d) "Mental health professional" means an individual licensed under Title 58, Chapter



1485 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing  
1486 Act, or a psychiatrist.

1487 (e) "Physician" means an individual licensed to practice as a physician or osteopath  
1488 under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah  
1489 Osteopathic Medical Practice Act.

1490 (f) "Primary care physician" means a physician that provides health services related to  
1491 family medicine, internal medicine, pediatrics, obstetrics, gynecology, or geriatrics.

1492 (g) "Program" means a program described in Subsection (2)(a).

1493 (h) "Psychiatrist" means a physician who is board eligible for a psychiatry  
1494 specialization recognized by the American Board of Medical Specialists or the American  
1495 Osteopathic Association's Bureau of Osteopathic Specialists.

1496 (i) "Small primary health care practice" means a medical practice of primary health  
1497 care physicians that:

1498 (i) includes 10 or fewer primary care physicians; or

1499 (ii) is primarily based in a county of the third through sixth class, as classified in  
1500 Section [17-50-501](#).

1501 (2) (a) Before July 1, 2022, the division shall solicit applications from small primary  
1502 health care practices for a grant to support or implement a program to provide integrated  
1503 physical and behavioral health services under a collaborative care model.

1504 (b) A grant under this section may be used to:

1505 (i) hire and train staff to administer a program;

1506 (ii) identify and formalize contractual relationships with mental health professionals  
1507 and case managers to implement a program; or

1508 (iii) purchase or upgrade software and other resources necessary to support or  
1509 implement a program.

1510 (c) The division shall approve at least one but not more than six applications each year.

1511 (d) The division shall determine which applicants receive a grant under this section  
1512 before December 31, 2022.

1513 (3) An application for a grant under this section shall:

1514 (a) identify the population to whom the applicant will provide services under a  
1515 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:

1547 ~~[62A-15-615].~~ **26B-5-119. Forms.**

1548 The division shall furnish the clerks of the ~~[district courts]~~ court with forms, blanks,  
1549 warrants, and certificates, to enable ~~[the district court]~~ judges, with regularity and facility, to  
1550 comply with the provisions of this chapter.

1551 Section 20. Section **26B-5-201**, which is renumbered from Section 62A-15-202 is  
1552 renumbered and amended to read:

1553 **Part 2. Substance Use Disorder Intervention, Prevention, and Education**

1554 ~~[62A-15-202].~~ **26B-5-201. Definitions.**

1555 As used in this part:

1556 (1) "Juvenile substance abuse offender" means any minor who has committed a drug or  
1557 alcohol related offense under the jurisdiction of the juvenile court in accordance with Section  
1558 [78A-6-103](#).

1559 (2) "Local substance abuse authority" means a county legislative body designated to  
1560 provide substance abuse services in accordance with Section [17-43-201](#).

1561 (3) "Minor" means the same as that term is defined in Section [80-1-102](#).

1562 (4) "Teen substance abuse school" means any school established by the local substance  
1563 abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an  
1564 educational, interpersonal, skill-building experience for juvenile substance abuse offenders and  
1565 their parents or legal guardians.

1566 Section 21. Section **26B-5-202**, which is renumbered from Section 62A-15-203 is  
1567 renumbered and amended to read:

1568 ~~[62A-15-203].~~ **26B-5-202. Teen substance abuse schools -- Establishment.**

1569 The division or a local substance abuse authority, in cooperation with the Board of  
1570 Juvenile Court Judges, may establish teen substance abuse schools in the districts of the  
1571 juvenile court.

1572 Section 22. Section **26B-5-203**, which is renumbered from Section 62A-15-204 is  
1573 renumbered and amended to read:

1574 ~~[62A-15-204].~~ **26B-5-203. Court order to attend substance abuse school --**  
1575 **Assessments.**

1576 (1) In addition to any other disposition ordered by the juvenile court under Section  
1577 [80-6-701](#), the court may order:

(a) a minor and the minor's parent or legal guardian to attend a teen substance abuse school; and

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

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

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

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

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

(a) "Approved treatment facility or program" means a public or private secure, inpatient facility or program that is licensed or operated by the department or by the 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 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; 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.

(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;

1640 and  
1641 (B) engaged in the retail sale of an alcoholic product for consumption on the premises  
1642 of the licensee; or  
1643 (ii) a business that is:  
1644 (A) a new or renewing licensee licensed by a city, town, or county; and  
1645 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.  
1646 (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.  
1647 (d) "Seminar provider" means a person other than the division who provides an alcohol  
1648 training and education seminar meeting the requirements of this section.  
1649 (2) (a) This section applies to:  
1650 (i) a retail manager as defined in Section 32B-1-701;  
1651 (ii) retail staff as defined in Section 32B-1-701; and  
1652 (iii) an individual who, as defined by division rule:  
1653 (A) directly supervises the sale of beer to a customer for consumption off the premises  
1654 of an off-premise beer retailer; or  
1655 (B) sells beer to a customer for consumption off the premises of an off-premise beer  
1656 retailer.  
1657 (b) If the individual does not have a valid record that the individual has completed an  
1658 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:  
1659 (i) (A) complete an alcohol training and education seminar within 30 days of the  
1660 following if the individual is described in Subsection (2)(a)(i) or (ii):  
1661 (I) if the individual is an employee, the day the individual begins employment;  
1662 (II) if the individual is an independent contractor, the day the individual is first hired;  
1663 or  
1664 (III) if the individual holds an ownership interest in the licensee, the day that the  
1665 individual first engages in an activity that would result in that individual being required to  
1666 complete an alcohol training and education seminar; or  
1667 (B) complete an alcohol training and education seminar within the time periods  
1668 specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A)  
1669 or (B); and  
1670 (ii) pay a fee:

1671 (A) to the seminar provider; and

1672 (B) that is equal to or greater than the amount established under Subsection (4)(h).

1673 (c) An individual shall have a valid record that the individual completed an alcohol  
1674 training and education seminar within the time period provided in this Subsection (2) to engage  
1675 in an activity described in Subsection (2)(a).

1676 (d) A record that an individual has completed an alcohol training and education  
1677 seminar is valid for:

1678 (i) three years from the day on which the record is issued for an individual described in  
1679 Subsection (2)(a)(i) or (ii); and

1680 (ii) five years from the day on which the record is issued for an individual described in  
1681 Subsection (2)(a)(iii)(A) or (B).

1682 (e) On and after July 1, 2011, to be considered as having completed an alcohol training  
1683 and education seminar, an individual shall:

1684 (i) attend the alcohol training and education seminar and take any test required to  
1685 demonstrate completion of the alcohol training and education seminar in the physical presence  
1686 of an instructor of the seminar provider; or

1687 (ii) complete the alcohol training and education seminar and take any test required to  
1688 demonstrate completion of the alcohol training and education seminar through an online course  
1689 or testing program that meets the requirements described in Subsection (2)(f).

1690 (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah  
1691 Administrative Rulemaking Act, establish one or more requirements for an online course or  
1692 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of  
1693 the online course or testing program. In developing the requirements by rule the division shall  
1694 consider whether to require:

1695 (i) authentication that the an individual accurately identifies the individual as taking the  
1696 online course or test;

1697 (ii) measures to ensure that an individual taking the online course or test is focused on  
1698 training material throughout the entire training period;

1699 (iii) measures to track the actual time an individual taking the online course or test is  
1700 actively engaged online;

1701 (iv) a seminar provider to provide technical support, such as requiring a telephone

number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

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

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

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

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

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

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

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

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

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

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

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section [32B-1-702](#).

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or



1733 (ii) certify one or more seminar providers;  
1734 (b) establish the curriculum for an alcohol training and education seminar that includes  
1735 the following subjects:  
1736 (i) (A) alcohol as a drug; and  
1737 (B) alcohol's effect on the body and behavior;  
1738 (ii) recognizing the problem drinker or signs of intoxication;  
1739 (iii) an overview of state alcohol laws related to responsible beverage sale or service,  
1740 as determined in consultation with the Department of Alcoholic Beverage Services;  
1741 (iv) dealing with the problem customer, including ways to terminate sale or service;  
1742 and  
1743 (v) for those supervising or engaging in the retail sale of an alcoholic product for  
1744 consumption on the premises of a licensee, alternative means of transportation to get the  
1745 customer safely home;  
1746 (c) recertify each seminar provider every three years;  
1747 (d) monitor compliance with the curriculum described in Subsection (4)(b);  
1748 (e) maintain for at least five years a record of every person who has completed an  
1749 alcohol training and education seminar;  
1750 (f) provide the information described in Subsection (4)(e) on request to:  
1751 (i) the Department of Alcoholic Beverage Services;  
1752 (ii) law enforcement; or  
1753 (iii) a person licensed by the state or a local government to sell an alcoholic product;  
1754 (g) provide the Department of Alcoholic Beverage Services on request a list of any  
1755 seminar provider certified by the division; and  
1756 (h) establish a fee amount for each person attending an alcohol training and education  
1757 seminar that is sufficient to offset the division's cost of administering this section.  
1758 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah  
1759 Administrative Rulemaking Act:  
1760 (a) define what constitutes under this section an individual who:  
1761 (i) manages operations at the premises of a licensee engaged in the retail sale of an  
1762 alcoholic product for consumption on the premises of the licensee;  
1763 (ii) supervises the serving of an alcoholic product to a customer for consumption on the

1764 premises of a licensee;

1765 (iii) serves an alcoholic product to a customer for consumption on the premises of a

1766 licensee;

1767 (iv) directly supervises the sale of beer to a customer for consumption off the premises

1768 of an off-premise beer retailer; or

1769 (v) sells beer to a customer for consumption off the premises of an off-premise beer

1770 retailer;

1771 (b) establish criteria for certifying and recertifying a seminar provider; and

1772 (c) establish guidelines for the manner in which an instructor provides an alcohol

1773 education and training seminar.

1774 (6) A seminar provider shall:

1775 (a) obtain recertification by the division every three years;

1776 (b) ensure that an instructor used by the seminar provider:

1777 (i) follows the curriculum established under this section; and

1778 (ii) conducts an alcohol training and education seminar in accordance with the

1779 guidelines established by rule;

1780 (c) ensure that any information provided by the seminar provider or instructor of a

1781 seminar provider is consistent with:

1782 (i) the curriculum established under this section; and

1783 (ii) this section;

1784 (d) provide the division with the names of all persons who complete an alcohol training

1785 and education seminar provided by the seminar provider;

1786 (e) (i) collect a fee for each person attending an alcohol training and education seminar

1787 in accordance with Subsection (2); and

1788 (ii) forward to the division the portion of the fee that is equal to the amount described

1789 in Subsection (4)(h); and

1790 (f) issue a record to an individual that completes an alcohol training and education

1791 seminar provided by the seminar provider.

1792 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,

1793 Administrative Procedures Act, the division finds that a seminar provider violates this section

1794 or that an instructor of the seminar provider violates this section, the division may:

1795 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;  
1796 (ii) revoke the certification of the seminar provider;  
1797 (iii) require the seminar provider to take corrective action regarding an instructor; or  
1798 (iv) prohibit the seminar provider from using an instructor until such time that the  
1799 seminar provider establishes to the satisfaction of the division that the instructor is in  
1800 compliance with Subsection (6)(b).

1801 (b) The division may certify a seminar provider whose certification is revoked:

1802 (i) no sooner than 90 days from the date the certification is revoked; and  
1803 (ii) if the seminar provider establishes to the satisfaction of the division that the  
1804 seminar provider will comply with this section.

1805 Section 25. Section **26B-5-206**, which is renumbered from Section 62A-15-403 is  
1806 renumbered and amended to read:

1807 ~~[62A-15-403].~~ **26B-5-206. Drinking while pregnant prevention media and**  
1808 **education campaign.**

1809 (1) As used in this section:

1810 (a) "Advisory council" means the Utah Substance Use and Mental Health Advisory  
1811 Council created in Section [63M-7-301](#).

1812 (b) "Restricted account" means the Drinking While Pregnant Prevention Media and  
1813 Education Campaign Restricted Account created in Section [32B-2-308](#).

1814 (2) The advisory council shall:

1815 (a) provide ongoing oversight of each media and education campaign funded through  
1816 the restricted account;

1817 (b) create a drinking while pregnant prevention workgroup consistent with guidelines  
1818 the advisory council proposes related to the workgroup's membership and duties;

1819 (c) create guidelines for how money appropriated for a media and education campaign  
1820 can be used;

1821 (d) include in the guidelines created under this Subsection (2) that a media and  
1822 education campaign funded through the restricted account shall be:

1823 (i) carefully researched;

1824 (ii) developed for target groups; and

1825 (iii) appropriate for target groups; and

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

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

(b) Before the division expends money from the restricted account for a media and education campaign, the division shall, in cooperation with the drinking while pregnant prevention workgroup created in accordance with Subsection (2), prepare and submit a plan to 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.

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

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

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

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

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

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

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

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

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

(a) sexual intercourse;

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

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

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

[~~(10)~~] (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]~~ [62A-15-102](#) 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, behavioral, or related functioning; or

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

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

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

(19) "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, or admission to and retention in a facility for a period not to exceed 17 days.

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

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



1981 health authority; or  
1982 (b) undergoing essential treatment and intervention.  
1983 ~~[(17)]~~ (21) "Physician" means an individual who is:  
1984 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or  
1985 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical  
1986 Practice Act.  
1987 ~~[(18)]~~ (22) "Serious bodily injury" means bodily injury that involves a substantial risk  
1988 of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or  
1989 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.  
1990 (23) "State hospital" means the Utah State Hospital established in Section 26B-5-302.  
1991 ~~[(19)]~~ (24) "Substantial danger" means that due to mental illness, an individual is at  
1992 serious risk of:  
1993 (a) suicide;  
1994 (b) serious bodily self-injury;  
1995 (c) serious bodily injury because the individual is incapable of providing the basic  
1996 necessities of life, including food, clothing, or shelter;  
1997 (d) causing or attempting to cause serious bodily injury to another individual;  
1998 (e) engaging in harmful sexual conduct; or  
1999 (f) if not treated, suffering severe and abnormal mental, emotional, or physical distress  
2000 that:  
2001 (i) is associated with significant impairment of judgment, reason, or behavior; and  
2002 (ii) causes a substantial deterioration of the individual's previous ability to function  
2003 independently.  
2004 ~~[(20)]~~ (25) "Treatment" means psychotherapy, medication, including the administration  
2005 of psychotropic medication, or other medical treatments that are generally accepted medical or  
2006 psychosocial interventions for the purpose of restoring the patient to an optimal level of  
2007 functioning in the least restrictive environment.  
2008 Section 31. Section **26B-5-302**, which is renumbered from Section 62A-15-601 is  
2009 renumbered and amended to read:  
2010 ~~[62A-15-601]~~. **26B-5-302. Utah State Hospital.**  
2011 The Utah State Hospital is established and located in Provo, in Utah county. ~~For~~

2012 purposes of this part it is referred to as the "state hospital."]

2013 Section 32. Section **26B-5-303**, which is renumbered from Section 62A-15-603 is  
2014 renumbered and amended to read:

2015 ~~[62A-15-603].~~ **26B-5-303. Administration of state hospital -- Division --**  
2016 **Authority.**

2017 (1) The division shall administer the state hospital as part of the state's comprehensive  
2018 mental health program and, to the fullest extent possible, shall, as the state hospital's  
2019 administrator, coordinate with local mental health authority programs.

2020 (2) The division has the same powers, duties, rights, and responsibilities as, and shall  
2021 perform the same functions that by law are conferred or required to be discharged or performed  
2022 by, the state hospital.

2023 (3) Supervision and administration of security responsibilities for the state hospital is  
2024 vested in the division. The executive director shall designate, as special function officers,  
2025 individuals with peace officer authority to perform special security functions for the state  
2026 hospital.

2027 (4) A director of a mental health facility that houses an involuntary patient or a patient  
2028 committed by judicial order may establish secure areas, as provided in Section [76-8-311.1](#),  
2029 within the mental health facility for the patient.

2030 Section 33. Section **26B-5-304**, which is renumbered from Section 62A-15-613 is  
2031 renumbered and amended to read:

2032 ~~[62A-15-613].~~ **26B-5-304. Appointment of superintendent -- Qualifications**  
2033 **-- Powers and responsibilities.**

2034 (1) The director, with the consent of the executive director, shall appoint a  
2035 superintendent of the state hospital, who shall hold office at the will of the director.

2036 (2) The superintendent shall have a bachelor's degree from an accredited university or  
2037 college, be experienced in administration, and be knowledgeable in matters concerning mental  
2038 health.

2039 (3) The superintendent has general responsibility for the buildings, grounds, and  
2040 property of the state hospital.

2041 (4) The superintendent shall appoint, with the approval of the director, as many  
2042 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 and older who meet the criteria necessary for commitment under this part and who have severe mental disorders for whom no appropriate, less restrictive

2074 treatment alternative is available;

2075 (b) persons under 18 years of age who meet the criteria necessary for commitment  
2076 under [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and~~  
2077 ~~Mental Health~~] Part 4, Commitment of Persons under Age 18, and for whom no less restrictive  
2078 alternative is available;

2079 (c) persons adjudicated and found to be guilty with a mental illness under Title 77,  
2080 Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

2081 (d) persons adjudicated and found to be not guilty by reason of insanity who are under  
2082 a subsequent commitment order because they have a mental illness and are a danger to  
2083 themselves or others, under Section ~~77-16a-302~~;

2084 (e) persons found incompetent to proceed under Section ~~77-15-6~~;

2085 (f) persons who require an examination under Title 77, Utah Code of Criminal  
2086 Procedure; and

2087 (g) persons in the custody of the Department of Corrections, admitted in accordance  
2088 with Section [~~62A-15-605.5~~] 26B-5-372, giving priority to those persons with severe mental  
2089 disorders.

2090 Section 36. Section **26B-5-307**, which is renumbered from Section 62A-15-644 is  
2091 renumbered and amended to read:

2092 ~~[62A-15-644].~~ **26B-5-307. Additional powers of director -- Reports and**  
2093 **records of division.**

2094 (1) In addition to specific authority granted by other provisions of this part, the director  
2095 has authority to prescribe the form of applications, records, reports, and medical certificates  
2096 provided for under this part, and the information required to be contained therein, and to adopt  
2097 rules that are not inconsistent with the provisions of this part that the director finds to be  
2098 reasonably necessary for the proper and efficient commitment of persons with a mental illness.

2099 (2) The division shall require reports relating to the admission, examination, diagnosis,  
2100 release, or discharge of any patient and investigate complaints made by any patient or by any  
2101 person on behalf of a patient.

2102 (3) A local mental health authority shall keep a record of the names and current status  
2103 of all persons involuntarily committed to it under this chapter.

2104 Section 37. Section **26B-5-308**, which is renumbered from Section 62A-15-639 is

2105 renumbered and amended to read:

2106 ~~[62A-15-639].~~ **26B-5-308. Standards for care and treatment.**

2107 Every patient is entitled to humane care and treatment and to medical care and  
2108 treatment in accordance with the prevailing standards accepted in medical practice, psychiatric  
2109 nursing practice, social work practice, and the practice of clinical psychology.

2110 Section 38. Section **26B-5-309**, which is renumbered from Section 62A-15-640 is  
2111 renumbered and amended to read:

2112 ~~[62A-15-640].~~ **26B-5-309. Mechanical restraints and medication -- Clinical**  
2113 **record.**

2114 (1) Mechanical restraints may not be applied to a patient unless it is determined by the  
2115 director or his designee to be required by the needs of the patient. Every use of a mechanical  
2116 restraint and the reasons therefor shall be made a part of the patient's clinical record, under the  
2117 signature of the director or his designee, and shall be reviewed regularly.

2118 (2) In no event shall medication be prescribed for a patient unless it is determined by a  
2119 physician to be required by the patient's medical needs. Every use of a medication and the  
2120 reasons therefor shall be made a part of the patient's clinical record.

2121 Section 39. Section **26B-5-310**, which is renumbered from Section 62A-15-641 is  
2122 renumbered and amended to read:

2123 ~~[62A-15-641].~~ **26B-5-310. Restrictions and limitations -- Civil rights and**  
2124 **privileges.**

2125 (1) Subject to the general rules of the division, and except to the extent that the director  
2126 or his designee determines that it is necessary for the welfare of the patient to impose  
2127 restrictions, every patient is entitled to:

2128 (a) communicate, by sealed mail or otherwise, with persons, including official  
2129 agencies, inside or outside the facility;

2130 (b) receive visitors; and

2131 (c) exercise all civil rights, including the right to dispose of property, execute  
2132 instruments, make purchases, enter contractual relationships, and vote, unless the patient has  
2133 been adjudicated to be incompetent and has not been restored to legal capacity.

2134 (2) When any right of a patient is limited or denied, the nature, extent, and reason for  
2135 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

2167 indirectly identify a patient or former patient or an individual whose commitment has been  
2168 sought under this part, shall be kept confidential and may not be disclosed by any person except  
2169 insofar as:

2170 (a) the individual identified or his legal guardian, if any, or, if a minor, his parent or  
2171 legal guardian shall consent;

2172 (b) disclosure may be necessary to carry out the provisions of:

2173 (i) this part; or

2174 (ii) Section [53-10-208.1](#); or

2175 (c) a court may direct, upon its determination that disclosure is necessary for the  
2176 conduct of proceedings before it, and that failure to make the disclosure would be contrary to  
2177 the public interest.

2178 (2) A person who knowingly or intentionally discloses any information not authorized  
2179 by this section is guilty of a class B misdemeanor.

2180 Section 42. Section **26B-5-313**, which is renumbered from Section 62A-15-1002 is  
2181 renumbered and amended to read:

2182 ~~[62A-15-1002]~~. **26B-5-313. Declaration for mental health treatment.**

2183 (1) An adult who is not incapable may make a declaration of preferences or  
2184 instructions regarding his mental health treatment. The declaration may include, but is not  
2185 limited to, consent to or refusal of specified mental health treatment.

2186 (2) A declaration for mental health treatment shall designate a capable adult to act as  
2187 attorney-in-fact to make decisions about mental health treatment for the declarant. An  
2188 alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original  
2189 designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the  
2190 appointment in writing may make decisions about mental health treatment on behalf of the  
2191 declarant only when the declarant is incapable. The decisions shall be consistent with any  
2192 instructions or desires the declarant has expressed in the declaration.

2193 (3) A declaration is effective only if it is signed by the declarant and two capable adult  
2194 witnesses. The witnesses shall attest that the declarant is known to them, signed the  
2195 declaration in their presence, appears to be of sound mind and is not under duress, fraud, or  
2196 undue influence. Persons specified in Subsection ~~[62A-15-1003]~~ [26B-5-314](#)(6) may not act as  
2197 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 consistently with the instructions and desires of the declarant, as expressed in the declaration. If the declarant's desires are unknown, the attorney-in-fact shall act in what he, in good faith, believes to be the best interest of the declarant.

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

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

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

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



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

**[62A-15-1003].      26B-5-314. Physician and provider responsibilities -- Provision of services contrary to declaration -- Revocation.**

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

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

2291 in the dosages:

2292 \_\_\_\_\_ considered appropriate by my attending physician.

2293 \_\_\_\_\_ approved by \_\_\_\_\_

2294 \_\_\_\_\_ as I hereby direct: \_\_\_\_\_

2295 \_\_\_\_\_ I do not consent to the administration of the following medications:

2296 \_\_\_\_\_

2297 \_\_\_\_\_

2298 \_\_\_\_\_

2299 \_\_\_\_\_

2300 CONVULSIVE TREATMENT

2301 If I become incapable of giving or withholding informed consent for mental health  
2302 treatment, my wishes regarding convulsive treatment are as follows:

2303 \_\_\_\_\_ I consent to the administration of convulsive treatment of the following type:

2304 \_\_\_\_\_, the number of treatments to be:

2305 \_\_\_\_\_ determined by my attending physician.

2306 \_\_\_\_\_ approved by \_\_\_\_\_

2307 \_\_\_\_\_ as follows: \_\_\_\_\_

2308 \_\_\_\_\_ I do not consent to the administration of convulsive treatment.

2309 My reasons for consenting to or refusing convulsive treatment are as follows;

2310 \_\_\_\_\_

2311 \_\_\_\_\_

2312 \_\_\_\_\_

2313 \_

2314 ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY

2315 If I become incapable of giving or withholding informed consent for mental health  
2316 treatment, my wishes regarding admission to and retention in a mental health facility are as  
2317 follows:

2318 \_\_\_\_\_ I consent to being admitted to the following mental health facilities:

2319 \_\_\_\_\_

2320 I may be retained in the facility for a period of time:

2321 \_\_\_\_\_ determined by my attending physician.

2322 \_\_\_\_\_ approved by \_\_\_\_\_

2323 \_\_\_\_\_ no longer than \_\_\_\_\_

2324 This directive cannot, by law, provide consent to retain me in a facility for more than 17 days.

2325 ADDITIONAL REFERENCES OR INSTRUCTIONS

2326 \_\_\_\_\_

2327 \_\_\_\_\_

2328 \_\_\_\_\_

2329 \_\_\_\_\_

2330 ATTORNEY-IN-FACT

2331 I hereby appoint:

2332 NAME \_\_\_\_\_

2333 ADDRESS \_\_\_\_\_

2334 TELEPHONE # \_\_\_\_\_

2335 to act as my attorney-in-fact to make decisions regarding my mental health treatment if I

2336 become incapable of giving or withholding informed consent for that treatment.

2337 If the person named above refuses or is unable to act on my behalf, or if I revoke that

2338 person's authority to act as my attorney-in-fact, I authorize the following person to act as my

2339 alternative attorney-in-fact:

2340 NAME \_\_\_\_\_

2341 ADDRESS \_\_\_\_\_

2342 TELEPHONE # \_\_\_\_\_

2343 My attorney-in-fact is authorized to make decisions which are consistent with the

2344 wishes I have expressed in this declaration. If my wishes are not expressed, my attorney-in-fact

2345 is to act in good faith according to what he or she believes to be in my best interest.

2346 \_\_\_\_\_

2347 (Signature of Declarant/Date)

2348 AFFIRMATION OF WITNESSES

2349 We affirm that the declarant is personally known to us, that the declarant signed or

2350 acknowledged the declarant's signature on this declaration for mental health treatment in our

2351 presence, that the declarant appears to be of sound mind and does not appear to be under

2352 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 of Substance Abuse and Mental Health within the Department of 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)

\_\_\_\_\_

\_\_\_\_\_

(Signature of Alternate Attorney-in-fact/Date)

(Printed name)

#### NOTICE TO PERSON MAKING A

#### DECLARATION FOR MENTAL HEALTH TREATMENT

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

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

2384 admission to a mental health facility;

2385 (2) the instructions that you include in this declaration will be followed only if a court  
2386 or two physicians believe that you are incapable of otherwise making treatment decisions.

2387 Otherwise, you will be considered capable to give or withhold consent for treatment;

2388 (3) you may also appoint a person as your attorney-in-fact to make these treatment  
2389 decisions for you if you become incapable. The person you appoint has a duty to act

2390 consistently with your desires as stated in this document or, if not stated, to make decisions in

2391 accordance with what that person believes, in good faith, to be in your best interest. For the

2392 appointment to be effective, the person you appoint must accept the appointment in writing.

2393 The person also has the right to withdraw from acting as your attorney-in-fact at any time;

2394 (4) this document will continue in effect for a period of three years unless you become  
2395 incapable of participating in mental health treatment decisions. If this occurs, the directive will

2396 continue in effect until you are no longer incapable;

2397 (5) you have the right to revoke this document in whole or in part, or the appointment

2398 of an attorney-in-fact, at any time you have not been determined to be incapable. YOU MAY

2399 NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE

2400 CONSIDERED INCAPABLE BY A COURT OR TWO PHYSICIANS. A revocation is

2401 effective when it is communicated to your attending physician or other provider; and

2402 (6) if there is anything in this document that you do not understand, you should ask an

2403 attorney to explain it to you. This declaration is not valid unless it is signed by two qualified

2404 witnesses who are personally known to you and who are present when you sign or

2405 acknowledge your signature.

2406 Section 45. Section **26B-5-316**, which is renumbered from Section 62A-15-607 is

2407 renumbered and amended to read:

2408 ~~[62A-15-607].~~ **26B-5-316. Responsibility for cost of care.**

2409 (1) The division shall estimate and determine, as nearly as possible, the actual expense

2410 per annum of caring for and maintaining a patient in the state hospital, and that amount or

2411 portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents,

2412 child or children who are of sufficient financial ability to do so, or by the guardian of the

2413 patient who has funds of the patient that may be used for that purpose.

2414 (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

2446 state hospital is authorized to receive contributions and deposit the contributions into an  
2447 interest-bearing restricted special revenue fund. The state treasurer may invest the fund, and all  
2448 interest will remain in the fund.

2449 (c) (i) Single expenditures from the fund in amounts of \$5,000 or less shall be  
2450 approved by the superintendent.

2451 (ii) Single expenditures exceeding \$5,000 must be preapproved by the superintendent  
2452 and the division director.

2453 (iii) Expenditures described in this Subsection (3) shall be used for the benefit of  
2454 patients at the state hospital.

2455 (d) Money and interest in the fund may not be used for items normally paid for by  
2456 operating revenues or for items related to personnel costs without specific legislative  
2457 authorization.

2458 Section 49. Section **26B-5-320**, which is renumbered from Section 62A-15-621 is  
2459 renumbered and amended to read:

2460 ~~[62A-15-621].~~ **26B-5-320. Trespass -- Disturbance -- Penalty.**

2461 Any person who, without permission, enters any of the buildings or enclosures  
2462 appropriated to the use of patients, or makes any attempt to do so, or enters anywhere upon the  
2463 premises belonging to or used by the division, a local mental health authority, or the state  
2464 hospital and commits, or attempts to commit, any trespass or depredation thereon, or any  
2465 person who, either from within or without the enclosures, willfully annoys or disturbs the peace  
2466 or quiet of the premises or of any patient therein, is guilty of a class B misdemeanor.

2467 Section 50. Section **26B-5-321**, which is renumbered from Section 62A-15-622 is  
2468 renumbered and amended to read:

2469 ~~[62A-15-622].~~ **26B-5-321. Abduction of patient -- Penalty.**

2470 Any person who abducts a patient who is in the custody of a local mental health  
2471 authority, or induces any patient to elope or escape from that custody, or attempts to do so, or  
2472 aids or assists therein, is guilty of a class B misdemeanor, in addition to liability for damages,  
2473 or subject to other criminal charges.

2474 Section 51. Section **26B-5-322**, which is renumbered from Section 62A-15-623 is  
2475 renumbered and amended to read:

2476 ~~[62A-15-623].~~ **26B-5-322. Criminal's escape -- Penalty.**



2477 Any person committed to the state hospital under the provisions of Title 77, Chapter 15,  
2478 Inquiry into Sanity of Defendant, or Chapter 16a, Commitment and Treatment of Persons with  
2479 a Mental Illness, who escapes or leaves the state hospital without proper legal authority is  
2480 guilty of a class A misdemeanor.

2481 Section 52. Section **26B-5-323**, which is renumbered from Section 62A-15-624 is  
2482 renumbered and amended to read:

2483 ~~[62A-15-624].~~ **26B-5-323. Violations of this part -- Penalty.**

2484 Any person who willfully and knowingly violates any provision of this part, except  
2485 where another penalty is provided by law, is guilty of a class C misdemeanor.

2486 Section 53. Section **26B-5-324**, which is renumbered from Section 62A-15-608 is  
2487 renumbered and amended to read:

2488 ~~[62A-15-608].~~ **26B-5-324. Local mental health authority -- Supervision and**  
2489 **treatment of persons with a mental illness.**

2490 (1) Each local mental health authority has responsibility for supervision and treatment  
2491 of persons with a mental illness who have been committed to its custody under the provisions  
2492 of this part, whether residing in the state hospital or elsewhere.

2493 (2) The division, in administering and supervising the security responsibilities of the  
2494 state hospital under its authority provided by Section ~~[62A-15-603]~~ 26B-5-303, shall enforce  
2495 Sections ~~[62A-15-620 through 62A-15-624]~~ 26B-5-320 through 26B-5-323 and Section  
2496 26B-5-342 to the extent they pertain to the state hospital.

2497 Section 54. Section **26B-5-325**, which is renumbered from Section 62A-15-609 is  
2498 renumbered and amended to read:

2499 ~~[62A-15-609].~~ **26B-5-325. Responsibility for education of school-aged**  
2500 **children at the hospital -- Responsibility for noninstructional services.**

2501 (1) The State Board of Education is responsible for the education of school-aged  
2502 children committed to the division.

2503 (2) In order to fulfill its responsibility under Subsection (1), the board may contract  
2504 with local school districts or other appropriate agencies to provide educational and related  
2505 administrative services.

2506 (3) Medical, residential, and other noninstructional services at the state hospital are the  
2507 responsibility of the division.

Section 55. Section **26B-5-326**, which is renumbered from Section 62A-15-611 is renumbered and amended to read:

~~[62A-15-611]~~. **26B-5-326. Allocation of state hospital beds -- Formula.**

(1) As used in this section:

(a) "Adult beds" means the total number of patient beds located in the adult general psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent of the state hospital.

(b) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.

(2) (a) The division shall establish by rule a formula to separately allocate to local mental health authorities adult beds for persons who meet the requirements of Subsection ~~[62A-15-610]~~ 26B-5-306(2)(a). Beginning on May 10, 2011, and ending on June 30, 2011, 152 beds shall be allocated to local mental health authorities under this section.

(b) The number of beds shall be reviewed and adjusted as necessary:

(i) on July 1, 2011, to restore the number of beds allocated to 212 beds as funding permits; and

(ii) on July 1, 2011, and every three years after July 1, 2011, according to the state's population.

(c) All population figures utilized shall reflect the most recent available population estimates from the Utah Population Committee.

(3) The formula established under Subsection (2) shall provide for allocation of beds based on:

(a) the percentage of the state's adult population located within a mental health catchment area; and

(b) a differential to compensate for the additional demand for hospital beds in mental health catchment areas that are located in urban areas.

(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 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. 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 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

2570 renumbered and amended to read:

2571 ~~[62A-15-628].~~ **26B-5-330. Involuntary commitment -- Procedures.**

2572 (1) An adult may not be involuntarily committed to the custody of a local mental health  
2573 authority except under the following provisions:

2574 (a) emergency procedures for temporary commitment upon medical or designated  
2575 examiner certification, as provided in Subsection ~~[62A-15-629]~~ 26B-5-331(1)(a);

2576 (b) emergency procedures for temporary commitment without endorsement of medical  
2577 or designated examiner certification, as provided in Subsection ~~[62A-15-629]~~ 26B-5-331(1)(b);  
2578 or

2579 (c) commitment on court order, as provided in Section ~~[62A-15-631]~~ 26B-5-332.

2580 (2) A person under 18 years of age may be committed to the physical custody of a local  
2581 mental health authority only in accordance with the provisions of ~~[Part 7, Commitment of~~  
2582 ~~Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Part 4,  
2583 Commitment of Persons Under Age 18.

2584 Section 58. Section **26B-5-331**, which is renumbered from Section 62A-15-629 is  
2585 renumbered and amended to read:

2586 ~~[62A-15-629].~~ **26B-5-331. Temporary commitment -- Requirements and**  
2587 **procedures -- Rights.**

2588 (1) An adult shall be temporarily, involuntarily committed to a local mental health  
2589 authority upon:

2590 (a) a written application that:

2591 (i) is completed by a responsible individual who has reason to know, stating a belief  
2592 that the adult, due to mental illness, is likely to pose substantial danger to self or others if not  
2593 restrained and stating the personal knowledge of the adult's condition or circumstances that  
2594 lead to the individual's belief; and

2595 (ii) includes a certification by a licensed physician, licensed physician assistant,  
2596 licensed nurse practitioner, or designated examiner stating that the physician, physician  
2597 assistant, nurse practitioner, or designated examiner has examined the adult within a three-day  
2598 period immediately preceding the certification, and that the physician, physician assistant,  
2599 nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult  
2600 poses a substantial danger to self or others; or

2601 (b) a peace officer or a mental health officer:  
2602 (i) observing an adult's conduct that gives the peace officer or mental health officer  
2603 probable cause to believe that:  
2604 (A) the adult has a mental illness; and  
2605 (B) because of the adult's mental illness and conduct, the adult poses a substantial  
2606 danger to self or others; and  
2607 (ii) completing a temporary commitment application that:  
2608 (A) is on a form prescribed by the division;  
2609 (B) states the peace officer's or mental health officer's belief that the adult poses a  
2610 substantial danger to self or others;  
2611 (C) states the specific nature of the danger;  
2612 (D) provides a summary of the observations upon which the statement of danger is  
2613 based; and  
2614 (E) provides a statement of the facts that called the adult to the peace officer's or  
2615 mental health officer's attention.  
2616 (2) If at any time a patient committed under this section no longer meets the  
2617 commitment criteria described in Subsection (1), the local mental health authority or the local  
2618 mental health authority's designee shall document the change and release the patient.  
2619 (3) (a) A patient committed under this section may be held for a maximum of 24 hours  
2620 after commitment, excluding Saturdays, Sundays, and legal holidays, unless:  
2621 (i) as described in Section [~~62A-15-631~~] [26B-5-332](#), an application for involuntary  
2622 commitment is commenced, which may be accompanied by an order of detention described in  
2623 Subsection [~~62A-15-631~~] [26B-5-332](#)(4);  
2624 (ii) the patient makes a voluntary application for admission; or  
2625 (iii) before expiration of the 24 hour period, a licensed physician, licensed physician  
2626 assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies  
2627 in writing that:  
2628 (A) the patient, due to mental illness, poses a substantial danger to self or others;  
2629 (B) additional time is necessary for evaluation and treatment of the patient's mental  
2630 illness; and  
2631 (C) there is no appropriate less-restrictive alternative to commitment to evaluate and

2632 treat the patient's mental illness.

2633 (b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48  
2634 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays,  
2635 Sundays, and legal holidays.

2636 (c) Subsection (3)(a)(iii) applies to an adult patient.

2637 (4) Upon a written application described in Subsection (1)(a) or the observation and  
2638 belief described in Subsection (1)(b)(i), the adult shall be:

2639 (a) taken into a peace officer's protective custody, by reasonable means, if necessary for  
2640 public safety; and

2641 (b) transported for temporary commitment to a facility designated by the local mental  
2642 health authority, by means of:

2643 (i) an ambulance, if the adult meets any of the criteria described in Section [~~26-8a-305~~]  
2644 [26B-4-119](#);

2645 (ii) an ambulance, if a peace officer is not necessary for public safety, and  
2646 transportation arrangements are made by a physician, physician assistant, nurse practitioner,  
2647 designated examiner, or mental health officer;

2648 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the  
2649 location where the adult is present, if the adult is not transported by ambulance;

2650 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law  
2651 enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by  
2652 ambulance; or

2653 (v) nonemergency secured behavioral health transport as that term is defined in Section  
2654 [~~26-8a-102~~] [26B-4-101](#).

2655 (5) Notwithstanding Subsection (4):

2656 (a) an individual shall be transported by ambulance to an appropriate medical facility  
2657 for treatment if the individual requires physical medical attention;

2658 (b) if an officer has probable cause to believe, based on the officer's experience and  
2659 de-escalation training that taking an individual into protective custody or transporting an  
2660 individual for temporary commitment would increase the risk of substantial danger to the  
2661 individual or others, a peace officer may exercise discretion to not take the individual into  
2662 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 patient's choice; and

(ii) see and communicate with an attorney.

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

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

Section 59. Section **26B-5-332**, which is renumbered from Section 62A-15-631 is renumbered and amended to read:

~~[62A-15-631]~~. **26B-5-332. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.**

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

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

(i) name;

(ii) date of birth; and

(iii) social security number;

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

2694 mental illness and should be involuntarily committed; or

2695 (ii) a written statement by the applicant that:

2696 (A) the proposed patient has been requested to, but has refused to, submit to an  
2697 examination of mental condition by a licensed physician or designated examiner;

2698 (B) is sworn to under oath; and

2699 (C) states the facts upon which the application is based; and

2700 (c) a statement whether the proposed patient has previously been under an assisted  
2701 outpatient treatment order, if known by the applicant.

2702 (2) Before issuing a judicial order, the court:

2703 (a) shall require the applicant to consult with the appropriate local mental health  
2704 authority at or before the hearing; and

2705 (b) may direct a mental health professional from the local mental health authority to  
2706 interview the applicant and the proposed patient to determine the existing facts and report the  
2707 existing facts to the court.

2708 (3) The court may issue an order, directed to a mental health officer or peace officer, to  
2709 immediately place a proposed patient in the custody of a local mental health authority or in a  
2710 temporary emergency facility, as described in Section [~~62A-15-634~~] 26B-5-334, to be detained  
2711 for the purpose of examination if:

2712 (a) the court finds from the application, any other statements under oath, or any reports  
2713 from a mental health professional that there is a reasonable basis to believe that the proposed  
2714 patient has a mental illness that poses a danger to self or others and requires involuntary  
2715 commitment pending examination and hearing; or

2716 (b) the proposed patient refuses to submit to an interview with a mental health  
2717 professional as directed by the court or to go to a treatment facility voluntarily.

2718 (4) (a) The court shall provide notice of commencement of proceedings for involuntary  
2719 commitment, setting forth the allegations of the application and any reported facts, together  
2720 with a copy of any official order of detention, to a proposed patient before, or upon, placement  
2721 of the proposed patient in the custody of a local mental health authority or, with respect to any  
2722 proposed patient presently in the custody of a local mental health authority whose status is  
2723 being changed from voluntary to involuntary, upon the filing of an application for that purpose  
2724 with the court.



(b) The place of detention shall maintain a copy of the order of detention.

(5) (a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

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

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Part 4, Commitment of Persons Under Age 18.

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

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

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

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

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

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

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

2756 (10) (a) The designated examiners shall:  
2757 (i) conduct the examinations separately;  
2758 (ii) conduct the examinations at the home of the proposed patient, at a hospital or other  
2759 medical facility, or at any other suitable place, including through telehealth, that is not likely to  
2760 have a harmful effect on the proposed patient's health;  
2761 (iii) inform the proposed patient, if not represented by an attorney:  
2762 (A) that the proposed patient does not have to say anything;  
2763 (B) of the nature and reasons for the examination;  
2764 (C) that the examination was ordered by the court;  
2765 (D) that any information volunteered could form part of the basis for the proposed  
2766 patient's involuntary commitment;  
2767 (E) that findings resulting from the examination will be made available to the court;  
2768 and  
2769 (F) that the designated examiner may, under court order, obtain the proposed patient's  
2770 mental health records; and  
2771 (iv) within 24 hours of examining the proposed patient, report to the court, orally or in  
2772 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as  
2773 described in Section [~~62A-15-625~~] [26B-5-360](#), or has acceptable programs available to the  
2774 proposed patient without court proceedings.  
2775 (b) If a designated examiner reports orally under Subsection (10)(a), the designated  
2776 examiner shall immediately send a written report to the clerk of the court.  
2777 (11) If a designated examiner is unable to complete an examination on the first attempt  
2778 because the proposed patient refuses to submit to the examination, the court shall fix a  
2779 reasonable compensation to be paid to the examiner.  
2780 (12) If the local mental health authority, the local mental health authority's designee, or  
2781 a medical examiner determines before the court hearing that the conditions justifying the  
2782 findings leading to a commitment hearing no longer exist, the local mental health authority, the  
2783 local mental health authority's designee, or the medical examiner shall immediately report the  
2784 determination to the court.  
2785 (13) The court may terminate the proceedings and dismiss the application at any time,  
2786 including before the hearing, if the designated examiners or the local mental health authority or

2787 the local mental health authority's designee informs the court that the proposed patient:

2788 (a) does not meet the criteria in Subsection (16);

2789 (b) has agreed to voluntary commitment, as described in Section [~~62A-15-625~~]

2790 26B-5-350;

2791 (c) has acceptable options for treatment programs that are available without court  
2792 proceedings; or

2793 (d) meets the criteria for assisted outpatient treatment described in Section

2794 [~~62A-15-630.5~~] 26B-5-351.

2795 (14) (a) Before the hearing, the court shall provide the proposed patient an opportunity  
2796 to be represented by counsel, and if neither the proposed patient nor others provide counsel, the  
2797 court shall appoint counsel and allow counsel sufficient time to consult with the proposed  
2798 patient before the hearing.

2799 (b) In the case of an indigent proposed patient, the county in which the proposed  
2800 patient resides or is found shall make payment of reasonable attorney fees for counsel, as  
2801 determined by the court.

2802 (15) (a) (i) The court shall afford the proposed patient, the applicant, and any other  
2803 person to whom notice is required to be given an opportunity to appear at the hearing, to  
2804 testify, and to present and cross-examine witnesses.

2805 (ii) The court may, in the court's discretion, receive the testimony of any other person.

2806 (iii) The court may allow a waiver of the proposed patient's right to appear for good  
2807 cause, which cause shall be set forth in the record, or an informed waiver by the patient, which  
2808 shall be included in the record.

2809 (b) The court is authorized to exclude any person not necessary for the conduct of the  
2810 proceedings and may, upon motion of counsel, require the testimony of each designated  
2811 examiner to be given out of the presence of any other designated examiners.

2812 (c) The court shall conduct the hearing in as informal a manner as may be consistent  
2813 with orderly procedure, and in a physical setting that is not likely to have a harmful effect on  
2814 the mental health of the proposed patient, while preserving the due process rights of the  
2815 proposed patient.

2816 (d) The court shall consider any relevant historical and material information that is  
2817 offered, subject to the rules of evidence, including reliable hearsay under [~~Rule 1-102~~,] Utah

2818 Rules of Evidence, Rule 1102.

2819 (e) (i) A local mental health authority or the local mental health authority's designee or  
2820 the physician in charge of the proposed patient's care shall, at the time of the hearing, provide  
2821 the court with the following information:

2822 (A) the detention order;

2823 (B) admission notes;

2824 (C) the diagnosis;

2825 (D) any doctors' orders;

2826 (E) progress notes;

2827 (F) nursing notes;

2828 (G) medication records pertaining to the current commitment; and

2829 (H) whether the proposed patient has previously been civilly committed or under an  
2830 order for assisted outpatient treatment.

2831 (ii) The information described in Subsection (15)(e)(i) shall also be supplied to the  
2832 proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon  
2833 request.

2834 (16) (a) The court shall order commitment of an adult proposed patient to a local  
2835 mental health authority if, upon completion of the hearing and consideration of the information  
2836 presented, the court finds by clear and convincing evidence that:

2837 (i) the proposed patient has a mental illness;

2838 (ii) because of the proposed patient's mental illness the proposed patient poses a  
2839 substantial danger to self or others;

2840 (iii) the proposed patient lacks the ability to engage in a rational decision-making  
2841 process regarding the acceptance of mental treatment as demonstrated by evidence of inability  
2842 to weigh the possible risks of accepting or rejecting treatment;

2843 (iv) there is no appropriate less-restrictive alternative to a court order of commitment;  
2844 and

2845 (v) the local mental health authority can provide the proposed patient with treatment  
2846 that is adequate and appropriate to the proposed patient's conditions and needs.

2847 (b) (i) If, at the hearing, the court determines that the proposed patient has a mental  
2848 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 patient's treatment period may not exceed six months without a review hearing.

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

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

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

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

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and

2880 immediately report the discharge to the court.

2881           (v) If, after reexamination under Subsection (17)(b)(iii), the local mental health  
2882 authority or the local mental health authority's designee determines that the conditions  
2883 justifying commitment continue to exist, the court shall immediately appoint two designated  
2884 examiners and proceed under Subsections (8) through (14).

2885           (c) (i) The local mental health authority or the local mental health authority's designee  
2886 responsible for the care of a patient under an order of commitment for an indeterminate period  
2887 shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate  
2888 commitment was based.

2889           (ii) If the local mental health authority or the local mental health authority's designee  
2890 determines that the conditions justifying commitment no longer exist, the local mental health  
2891 authority or the local mental health authority's designee shall discharge the patient from the  
2892 local mental health authority's or the local mental health authority designee's custody and  
2893 immediately report the discharge to the court.

2894           (iii) If the local mental health authority or the local mental health authority's designee  
2895 determines that the conditions justifying commitment continue to exist, the local mental health  
2896 authority or the local mental health authority's designee shall send a written report of the  
2897 findings to the court.

2898           (iv) A patient and the patient's counsel of record shall be notified in writing that the  
2899 involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the  
2900 decision to continue, and that the patient has the right to a review hearing by making a request  
2901 to the court.

2902           (v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately  
2903 appoint two designated examiners and proceed under Subsections (8) through (14).

2904           (18) (a) Any patient committed as a result of an original hearing or a patient's legally  
2905 designated representative who is aggrieved by the findings, conclusions, and order of the court  
2906 entered in the original hearing has the right to a new hearing upon a petition filed with the court  
2907 within 30 days after the day on which the court order is entered.

2908           (b) The petition shall allege error or mistake in the findings, in which case the court  
2909 shall appoint three impartial designated examiners previously unrelated to the case to conduct  
2910 an additional examination of the patient.

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

(19) The county in which the proposed patient resides or is found shall pay the costs of 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



2973 renumbered and amended to read:

2974 ~~[62A-15-637]~~. **26B-5-337. Release of patient to receive other treatment --**  
2975 **Placement in more restrictive environment -- Procedures.**

2976 (1) A local mental health authority or a designee of a local mental health authority may  
2977 conditionally release an improved patient to less restrictive treatment when:

2978 (a) the authority specifies the less restrictive treatment; and

2979 (b) the patient agrees in writing to the less restrictive treatment.

2980 (2) (a) Whenever a local mental health authority or a designee of a local mental health  
2981 authority determines that the conditions justifying commitment no longer exist, the local  
2982 mental health authority or the designee shall discharge the patient.

2983 (b) If the discharged patient has been committed through judicial proceedings, the local  
2984 mental health authority or the designee shall prepare a report describing the determination and  
2985 shall send the report to the clerk of the court where the proceedings were held.

2986 (3) (a) A local mental health authority or a designee of a local mental health authority  
2987 is authorized to issue an order for the immediate placement of a current patient into a more  
2988 restrictive environment, if:

2989 (i) the local mental health authority or a designee of a local mental health authority has  
2990 reason to believe that the patient's current environment is aggravating the patient's mental  
2991 illness; or

2992 (ii) the patient has failed to comply with the specified treatment plan to which the  
2993 patient agreed in writing.

2994 (b) An order for a more restrictive environment shall:

2995 (i) state the reasons for the order;

2996 (ii) authorize any peace officer to take the patient into physical custody and transport  
2997 the patient to a facility designated by the local mental health authority;

2998 (iii) inform the patient of the right to a hearing, the right to appointed counsel, and the  
2999 other procedures described in Subsection ~~[62A-15-631]~~ 26B-5-332(14); and

3000 (iv) prior to or upon admission to the more restrictive environment, or upon imposition  
3001 of additional or different requirements as conditions for continued conditional release from  
3002 inpatient care, copies of the order shall be delivered to:

3003 (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

3097 when possible.

3098 (2) A court order for assisted outpatient treatment does not create independent  
3099 authority to forcibly medicate a patient.

3100 Section 71. Section **26B-5-351**, which is renumbered from Section 62A-15-630.5 is  
3101 renumbered and amended to read:

3102 **[62A-15-630.5]. 26B-5-351. Assisted outpatient treatment proceedings.**

3103 (1) A responsible individual who has credible knowledge of an adult's mental illness  
3104 and the condition or circumstances that have led to the adult's need for assisted outpatient  
3105 treatment may file, in the [district] court in the county where the proposed patient resides or is  
3106 found, a written application that includes:

3107 (a) unless the court finds that the information is not reasonably available, the proposed  
3108 patient's:

3109 (i) name;

3110 (ii) date of birth; and

3111 (iii) social security number; and

3112 (b) (i) a certificate of a licensed physician or a designated examiner stating that within  
3113 the seven-day period immediately preceding the certification, the physician or designated  
3114 examiner examined the proposed patient and is of the opinion that the proposed patient has a  
3115 mental illness and should be involuntarily committed; or

3116 (ii) a written statement by the applicant that:

3117 (A) the proposed patient has been requested to, but has refused to, submit to an  
3118 examination of mental condition by a licensed physician or designated examiner;

3119 (B) is sworn to under oath; and

3120 (C) states the facts upon which the application is based.

3121 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may  
3122 require the applicant to consult with the appropriate local mental health authority, and the court  
3123 may direct a mental health professional from that local mental health authority to interview the  
3124 applicant and the proposed patient to determine the existing facts and report them to the court.

3125 (b) The consultation described in Subsection (2)(a):

3126 (i) may take place at or before the hearing; and

3127 (ii) is required if the local mental health authority appears at the hearing.

(3) If the proposed patient refuses to submit to an interview described in Subsection (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient into the custody of a local mental health authority or in a temporary emergency facility, as provided in Section ~~[62A-15-634]~~ [26B-5-334](#), to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for assisted outpatient treatment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall:

(a) be provided by the court to a proposed patient before, or upon, placement into the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority;

(b) be maintained at the proposed patient's place of detention, if any;

(c) be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other person whom the proposed patient or the court shall designate; and

(d) advise that a hearing may be held within the time provided by law.

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

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

(a) who did not sign the assisted outpatient treatment application nor the certification described in Subsection (1);

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

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

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

3159 (8) The designated examiners shall:  
3160 (a) conduct their examinations separately;  
3161 (b) conduct the examinations at the home of the proposed patient, at a hospital or other  
3162 medical facility, or at any other suitable place that is not likely to have a harmful effect on the  
3163 proposed patient's health;  
3164 (c) inform the proposed patient, if not represented by an attorney:  
3165 (i) that the proposed patient does not have to say anything;  
3166 (ii) of the nature and reasons for the examination;  
3167 (iii) that the examination was ordered by the court;  
3168 (iv) that any information volunteered could form part of the basis for the proposed  
3169 patient to be ordered to receive assisted outpatient treatment; and  
3170 (v) that findings resulting from the examination will be made available to the court;  
3171 and  
3172 (d) within 24 hours of examining the proposed patient, report to the court, orally or in  
3173 writing, whether the proposed patient is mentally ill. If the designated examiner reports orally,  
3174 the designated examiner shall immediately send a written report to the clerk of the court.  
3175 (9) If a designated examiner is unable to complete an examination on the first attempt  
3176 because the proposed patient refuses to submit to the examination, the court shall fix a  
3177 reasonable compensation to be paid to the examiner.  
3178 (10) If the local mental health authority, its designee, or a medical examiner determines  
3179 before the court hearing that the conditions justifying the findings leading to an assisted  
3180 outpatient treatment hearing no longer exist, the local mental health authority, its designee, or  
3181 the medical examiner shall immediately report that determination to the court.  
3182 (11) The court may terminate the proceedings and dismiss the application at any time,  
3183 including prior to the hearing, if the designated examiners or the local mental health authority  
3184 or its designee informs the court that the proposed patient does not meet the criteria in  
3185 Subsection (14).  
3186 (12) Before the hearing, an opportunity to be represented by counsel shall be afforded  
3187 to the proposed patient, and if neither the proposed patient nor others provide counsel, the court  
3188 shall appoint counsel and allow counsel sufficient time to consult with the proposed patient  
3189 before the hearing. In the case of an indigent proposed patient, the payment of reasonable

attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(13) (a) All persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other individual. 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 all individuals not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted 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.

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

(e) (i) A local mental health authority or its 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, if any;

(B) admission notes, if any;

(C) the diagnosis, if any;

(D) doctor's orders, if any;

(E) progress notes, if any;

(F) nursing notes, if any; and

(G) medication records, if any.

(ii) The information described in Subsection (13)(e)(i) shall also be provided to the proposed patient's counsel:

(A) at the time of the hearing; and

(B) at any time prior to the hearing, upon request.

(14) The court shall order a proposed patient to assisted outpatient treatment if, upon



completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

- (a) the proposed patient has a mental illness;
- (b) there is no appropriate less-restrictive alternative to a court order for assisted outpatient treatment; and
- (c) (i) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental health treatment, as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or
- (ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse or deterioration that is likely to result in the proposed patient posing a substantial danger to self or others.

(15) The court may order the applicant or a close relative of the patient to be the patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the patient's mental health treatment.

(16) In the absence of the findings described in Subsection (14), the court, after the hearing, shall dismiss the proceedings.

(17) (a) The assisted outpatient treatment order shall designate the period for which the 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 symptoms of a mental illness.

(2) No adult may be committed to a local mental health authority against that adult's will except as provided in this chapter.

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

Section 73. Section **26B-5-361**, which is renumbered from Section 62A-15-627 is renumbered and amended to read:

**[62A-15-627].        26B-5-361. Release of voluntary adult -- Exceptions.**

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

(a) who is voluntarily admitted, as described in Section [\[62A-15-625\]](#) [26B-5-360](#), and who requests release, verbally or in writing; or

(b) whose release is requested in writing by the patient's legal guardian, parent, spouse, or adult next of kin.

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

(i) the request for release is made by an individual other than the patient; or  
(ii) the admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility has cause to believe that release of the patient would be unsafe for the patient or others.

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

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

(3) 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:

3314           ~~[62A-15-633].~~           **26B-5-364.** Persons eligible for care or treatment by federal  
3315 agency -- Continuing jurisdiction of state courts.

3316           (1) If an individual committed pursuant to Section ~~[62A-15-631]~~ 26B-5-332 is eligible  
3317 for care or treatment by any agency of the United States, the court, upon receipt of a certificate  
3318 from a United States agency, showing that facilities are available and that the individual is  
3319 eligible for care or treatment therein, may order the individual to be placed in the custody of  
3320 that agency for care.

3321           (2) When admitted to any facility or institution operated by a United States agency,  
3322 within or without this state, the individual shall be subject to the rules and regulations of that  
3323 agency.

3324           (3) The chief officer of any facility or institution operated by a United States agency  
3325 and in which the individual is hospitalized, shall, with respect to that individual, be vested with  
3326 the same powers as the superintendent or director of a mental health facility, regarding  
3327 detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is  
3328 retained in appropriate courts of this state at any time to inquire into the mental condition of an  
3329 individual so hospitalized, and to determine the necessity for continuance of hospitalization,  
3330 and every order of hospitalization issued pursuant to this section is so conditioned.

3331           Section 77. Section **26B-5-365**, which is renumbered from Section 62A-15-801 is  
3332 renumbered and amended to read:

3333           ~~[62A-15-801].~~           **26B-5-365.** Interstate compact on mental health -- Compact  
3334 provisions.

3335           The Interstate Compact on Mental Health is hereby enacted and entered into with all  
3336 other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

3337                               INTERSTATE COMPACT ON MENTAL HEALTH

3338                               The contracting states solemnly agree that:

3339   Article I

3340           The proper and expeditious treatment of the mentally ill can be facilitated by  
3341 cooperative action, to the benefit of the patients, their families, and society as a whole. Further,  
3342 the party states find that the necessity of and desirability of furnishing that care and treatment  
3343 bears no primary relation to the residence or citizenship of the patient but that the controlling  
3344 factors of community safety and humanitarianism require that facilities and services be made

3345 available for all who are in need of them. Consequently, it is the purpose of this compact and  
3346 of the party states to provide the necessary legal and constitutional basis for commitment or  
3347 other appropriate care and treatment of the mentally ill under a system that recognizes the  
3348 paramount importance of patient welfare and to establish the responsibilities of the party states.

3349 The appropriate authority in this state for making determinations under this compact is  
3350 the director of the division or his designee.

## 3351 Article II

3352 As used in this compact:

3353 (1) "After-care" means care, treatment, and services provided to a patient on  
3354 convalescent status or conditional release.

3355 (2) "Institution" means any hospital, program, or facility maintained by a party state or  
3356 political subdivision for the care and treatment of persons with a mental illness.

3357 (3) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic  
3358 and Statistical Manual of Mental Disorders, that substantially impairs a person's mental,  
3359 emotional, behavioral, or related functioning to such an extent that he requires care and  
3360 treatment for his own welfare, the welfare of others, or the community.

3361 (4) "Patient" means any person subject to or eligible, as determined by the laws of the  
3362 sending state, for institutionalization or other care, treatment, or supervision pursuant to the  
3363 provisions of this compact and constitutional due process requirements.

3364 (5) "Receiving state" means a party state to which a patient is transported pursuant to  
3365 the provisions of the compact or to which it is contemplated that a patient may be sent.

3366 (6) "Sending state" means a party state from which a patient is transported pursuant to  
3367 the provisions of the compact or from which it is contemplated that a patient may be sent.

3368 (7) "State" means any state, territory, or possession of the United States, the District of  
3369 Columbia, and the Commonwealth of Puerto Rico.

## 3370 Article III

3371 (1) Whenever a person physically present in any party state is in need of  
3372 institutionalization because of mental illness, he shall be eligible for care and treatment in an  
3373 institution in that state, regardless of his residence, settlement, or citizenship qualifications.

3374 (2) Notwithstanding the provisions of Subsection (1) of this article, any patient may be  
3375 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 Utah Administrative Rulemaking Act.

(3) The compact administrator shall cooperate with all governmental departments, agencies, and officers in this state and its subdivisions in facilitating the proper administration of the compact and any supplementary agreement or agreements entered into by this state under the compact.

(4) The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of this compact. In the event that supplementary agreements require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, that agreement shall have no force unless approved by the director of the department or agency under whose jurisdiction the institution or facility is operated, or whose department or agency will be charged with the rendering of services.

(5) The compact administrator may make or arrange for any payments necessary to discharge financial obligations imposed upon this state by the compact or by any supplementary agreement entered into under the compact.

#### Article XI

Administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility, or for the maintenance of any institution

on a joint or cooperative basis whenever the states concerned find that those agreements will improve services, facilities, or institutional care and treatment of persons who are mentally ill. A supplementary agreement may not be construed to relieve a party state of any obligation that it otherwise would have under other provisions of this compact.

#### Article XII

This compact has full force and effect in any state when it is enacted into law in that state. Thereafter, that state is a party to the compact with any and all states that have legally joined.

#### 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

3531 renumbered and amended to read:

3532 ~~[62A-15-647].~~ **26B-5-367. Severability.**

3533 If any one or more provision, section, subsection, sentence, clause, phrase, or word of  
3534 this part, or the application thereof to any person or circumstance, is found to be  
3535 unconstitutional the same is hereby declared to be severable and the balance of this part shall  
3536 remain effective notwithstanding that unconstitutionality. The Legislature hereby declares that  
3537 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase,  
3538 or word thereof, irrespective of the fact that any one or more provision, section, subsection,  
3539 sentence, clause, phrase, or word be declared unconstitutional.

3540 Section 80. Section **26B-5-370**, which is renumbered from Section 62A-15-901 is  
3541 renumbered and amended to read:

3542 ~~[62A-15-901].~~ **26B-5-370. Establishment of the Utah Forensic Mental**  
3543 **Health Facility.**

3544 The Utah Forensic Mental Health Facility is hereby established and shall be located on  
3545 state land on the campus of the Utah State Hospital in Provo, Utah County.

3546 Section 81. Section **26B-5-371**, which is renumbered from Section 62A-15-902 is  
3547 renumbered and amended to read:

3548 ~~[62A-15-902].~~ **26B-5-371. Utah Forensic Mental health Facility Design and**  
3549 **operation -- Security.**

3550 (1) The forensic mental health facility is a secure treatment facility.

3551 (2) (a) The forensic mental health facility accommodates the following populations:

3552 (i) prison inmates displaying mental illness~~[, as defined in Section 62A-15-602,]~~

3553 necessitating treatment in a secure mental health facility;

3554 (ii) criminally adjudicated persons found guilty with a mental illness or guilty with a  
3555 mental illness at the time of the offense undergoing evaluation for mental illness under Title  
3556 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

3557 (iii) criminally adjudicated persons undergoing evaluation for competency or found  
3558 guilty with a mental illness or guilty with a mental illness at the time of the offense under Title  
3559 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, who also have  
3560 an intellectual disability;

3561 (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

3593 hospital, the director of the division shall consider:

- 3594 (a) the mental health treatment needs of the inmate;
- 3595 (b) the treatment programs available at the state hospital; and
- 3596 (c) whether the inmate meets the requirements of Subsection [~~62A-15-610~~]

3597 26B-5-306(2).

3598 (2) If the director denies the admission of an inmate as requested by the clinical  
3599 director within the Department of Corrections, the Board of Pardons and Parole shall determine  
3600 whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole  
3601 shall consider:

- 3602 (a) the mental health treatment needs of the inmate;
- 3603 (b) the treatment programs available at the state hospital; and
- 3604 (c) whether the inmate meets the requirements of Subsection [~~62A-15-610~~]

3605 26B-5-306(2).

3606 (3) The state hospital shall receive any person in the custody of the Department of  
3607 Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to  
3608 Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the  
3609 custody of the Department of Corrections, and the state hospital shall act solely as the agent of  
3610 the Department of Corrections.

3611 (4) Inmates transferred to the state hospital pursuant to this section shall be transferred  
3612 back to the Department of Corrections through negotiations between the director and the  
3613 director of the Department of Corrections. If agreement between the director and the director  
3614 of the Department of Corrections cannot be reached, the Board of Pardons and Parole shall  
3615 have final authority in determining whether a person will be transferred back to the Department  
3616 of Corrections. In making that determination, that board shall consider:

- 3617 (a) the mental health treatment needs of the inmate;
- 3618 (b) the treatment programs available at the state hospital;
- 3619 (c) whether the person continues to meet the requirements of Subsection [~~62A-15-610~~]

3620 26B-5-306(2);

3621 (d) the ability of the state hospital to provide adequate treatment to the person, as well  
3622 as safety and security to the public; and

3623 (e) whether, in the opinion of the director, in consultation with the clinical director of

the state hospital, the person's treatment needs have been met.

Section 83. Section **26B-5-380**, which is renumbered from Section 62A-1-108.5 is renumbered and amended to read:

~~[62A-1-108.5].~~      **26B-5-380. Mental illness and intellectual disability examinations -- Responsibilities of the department.**

(1) In accomplishing the department's duties to conduct a competency evaluation under Title 77, Utah Code of Criminal Procedure, and a juvenile competency evaluation under Section **80-6-402**, the department shall proceed as outlined in this section and within appropriations authorized by the Legislature.

(2) When the department is ordered by a court to conduct a competency evaluation, the department shall designate a forensic evaluator, selected under Subsection (4), to evaluate the defendant in the defendant's current custody or status.

(3) When the department is ordered by the juvenile court to conduct a juvenile competency evaluation under Section **80-6-402**, the department shall:

(a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor; and

(b) upon a finding of good cause and order of the court, designate a second examiner to evaluate the minor.

(4) The department shall establish criteria, in consultation with the Commission on 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.

(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



3717 harmful effect on the child.

3718 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of  
3719 the appropriate local mental health authority:

3720 (i) shall receive informal notice of the date and time of the proceeding; and

3721 (ii) may appear and address the petition for commitment.

3722 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the  
3723 testimony of any other person.

3724 (d) The fact finder may allow a child to waive the child's right to be present at the  
3725 commitment proceeding, for good cause shown. If that right is waived, the purpose of the  
3726 waiver shall be made a matter of record at the proceeding.

3727 (e) At the time of the commitment proceeding, the appropriate local mental health  
3728 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the  
3729 commitment proceeding, shall provide the neutral and detached fact finder with the following  
3730 information, as it relates to the period of current admission:

3731 (i) the petition for commitment;

3732 (ii) the admission notes;

3733 (iii) the child's diagnosis;

3734 (iv) physicians' orders;

3735 (v) progress notes;

3736 (vi) nursing notes; and

3737 (vii) medication records.

3738 (f) The information described in Subsection (5)(e) shall also be provided to the child's  
3739 parent or legal guardian upon written request.

3740 (g) (i) The neutral and detached fact finder's decision of commitment shall state the  
3741 duration of the commitment. Any commitment to the physical custody of a local mental health  
3742 authority may not exceed 180 days. Prior to expiration of the commitment, and if further  
3743 commitment is sought, a hearing shall be conducted in the same manner as the initial  
3744 commitment proceeding, in accordance with the requirements of this section.

3745 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for  
3746 commitment is made, the neutral and detached fact finder shall inform the child and the child's  
3747 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 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 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

3779 Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney  
3780 general's office shall handle the appeal, otherwise the appropriate county attorney's office is  
3781 responsible for appeals brought pursuant to this Subsection (10)(a).

3782 (b) Upon receipt of the petition for appeal, the court shall appoint a designated  
3783 examiner previously unrelated to the case, to conduct an examination of the child in accordance  
3784 with the criteria described in Subsection (4), and file a written report with the court. The court  
3785 shall then conduct an appeal hearing to determine whether the findings described in Subsection  
3786 (4) exist by clear and convincing evidence.

3787 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,  
3788 its designee, or the mental health professional who has been in charge of the child's care prior  
3789 to commitment, shall provide the court and the designated examiner for the appeal hearing with  
3790 the following information, as it relates to the period of current admission:

3791 (i) the original petition for commitment;

3792 (ii) admission notes;

3793 (iii) diagnosis;

3794 (iv) physicians' orders;

3795 (v) progress notes;

3796 (vi) nursing notes; and

3797 (vii) medication records.

3798 (d) Both the neutral and detached fact finder and the designated examiner appointed for  
3799 the appeal hearing shall be provided with an opportunity to review the most current  
3800 information described in Subsection (10)(c) prior to the appeal hearing.

3801 (e) The child, the child's parent or legal guardian, the person who submitted the  
3802 original petition for commitment, and a representative of the appropriate local mental health  
3803 authority shall be notified by the court of the date and time of the appeal hearing. Those  
3804 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the  
3805 court shall review the record and findings of the neutral and detached fact finder, the report of  
3806 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,  
3807 allow or require the testimony of the neutral and detached fact finder, the designated examiner,  
3808 the child, the child's parent or legal guardian, the person who brought the initial petition for  
3809 commitment, or any other person whose testimony the court deems relevant. The court may

allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12) (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that 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.

(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 pursuant to the procedures established under this Subsection (3).

(b) In promulgating the rules required by Subsection (3)(a), the division shall consider the advisability of utilizing an administrative law judge, court proceedings, a neutral and detached fact finder, and other methods of providing due process for the purposes of this section. The division shall also establish the criteria and basis for determining when invasive treatment should be administered.

Section 88. Section **26B-5-405**, which is renumbered from Section 62A-15-705 is renumbered and amended to read:

~~[62A-15-705].~~      **26B-5-405. Commitment proceedings in juvenile court --**  
**Criteria -- Custody.**

(1) (a) Subject to Subsection (1)(b), a commitment proceeding for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section ~~[62A-15-631]~~ 26B-15-631.

(b) A commitment proceeding under this section may be commenced only after a commitment proceeding under Section ~~[62A-15-703]~~ 26B-5-403 has concluded without the child being committed.

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

- (a) the child has a mental illness[, as defined in Section ~~62A-15-602~~];
- (b) the child demonstrates a risk of harm to the child or others;
- (c) the child is experiencing significant impairment in the child's ability to perform socially;
- (d) the child will benefit from the proposed care and treatment; and
- (e) there is no appropriate less restrictive alternative.

(3) The juvenile court may not commit a child under Subsection (1) directly to the Utah State Hospital.

(4) The local mental health authority has an affirmative duty to:

- (a) conduct periodic reviews of children committed to the local mental health authority's custody in accordance with this section; and
- (b) release any child who has sufficiently improved so that the local mental health authority, or the local mental authority's designee, determines that commitment is no longer appropriate.

(5) If a child is committed to the custody of a local mental health authority, or the local mental health authority's designee, by the juvenile court, the local mental health authority, or the local mental health authority's designee, shall give the juvenile court written notice of the intention to release the child not fewer than five days before the day on which the child is released.

Section 89. Section **26B-5-406**, which is renumbered from Section 62A-15-706 is renumbered and amended to read:

~~[62A-15-706].~~      **26B-5-406. Parent advocate.**

The division shall establish the position of a parent advocate to assist parents of children with a mental illness who are subject to the procedures required by this part.

Section 90. Section **26B-5-407**, which is renumbered from Section 62A-15-707 is renumbered and amended to read:

~~[62A-15-707].~~      **26B-5-407. Confidentiality of information and records -- Exceptions -- Penalty.**

(1) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, all certificates, applications, records, and reports made for the purpose of this part 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 as follows:

- (a) the individual identified consents after reaching 18 years of age;
- (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**



3965 **privileges.**

3966 (1) Subject to the specific rules of the division, and except to the extent that the local  
3967 mental health authority or its designee, in conjunction with the child's current treating mental  
3968 health professional, determines that it is necessary for the welfare of the person to impose  
3969 restrictions, every child committed to the physical custody of a local mental health authority  
3970 under Section [~~62A-15-703~~] 26B-5-403 is entitled to:

3971 (a) communicate, by sealed mail or otherwise, with persons, including official  
3972 agencies, inside or outside of the facility;

3973 (b) receive visitors; and

3974 (c) exercise his civil rights.

3975 (2) When any right of a child is limited or denied, the nature, extent, and reason for that  
3976 limitation or denial shall be entered in the child's treatment record. Any continuing denial or  
3977 limitation shall be reviewed every 30 days and shall also be entered in that treatment record.  
3978 Notice of that continuing denial in excess of 30 days shall be sent to the division.

3979 (3) Notwithstanding any limitations authorized under this section on the right of  
3980 communication, each child committed to the physical custody of a local mental health authority  
3981 is entitled to communicate by sealed mail with his attorney, the local mental health authority,  
3982 its designee, his current treating mental health professional, and the court, if commitment was  
3983 court ordered. In no case may the child be denied a visit with the legal counsel or clergy of his  
3984 choice.

3985 (4) Each local mental health authority shall provide appropriate and reasonable means  
3986 and arrangements for informing children and their parents or legal guardians of their rights as  
3987 provided in this part, and for assisting them in making and presenting requests for release.

3988 (5) All local mental health facilities shall post a statement, promulgated by the  
3989 division, describing patient's rights under Utah law.

3990 Section 94. Section **26B-5-411**, which is renumbered from Section 62A-15-711 is  
3991 renumbered and amended to read:

3992 ~~[62A-15-711].~~ **26B-5-411. Standards for care and treatment.**

3993 Every child is entitled to humane care and treatment and to medical care and treatment  
3994 in accordance with the prevailing standards accepted in medical practice, psychiatric nursing  
3995 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 -- Provisions.**

When the division contracts with a local mental health authority to provide mental health programs and services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include at least the following provisions:

(1) that an independent auditor shall conduct 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 Other Local Entities Act;

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

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

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

(3) the local mental health authority or its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences;

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

(5) requested information and outcome data will be provided to the division in the manner and within the timelines defined by the division;

(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.**

4058 [As] In addition to the definitions in Section [26B-5-301](#), as used in this part:

4059 (1) "Emergency, life saving treatment" means treatment that is:

4060 (a) provided at a licensed health care facility or licensed human services program;

4061 (b) provided by a licensed health care professional;

4062 (c) necessary to save the life of the patient; and

4063 (d) required due to the patient's:

4064 (i) use of an illegal substance; or

4065 (ii) excessive use or misuse of a prescribed medication.

4066 (2) "Essential treatment examiner" means:

4067 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as

4068 specifically qualified by training or experience in the diagnosis of substance use disorder; or

4069 (b) a licensed mental health professional designated by the division as specially

4070 qualified by training and who has at least five years' continual experience in the treatment of

4071 substance use disorder.

4072 (3) "Relative" means an adult who is a spouse, parent, stepparent, grandparent, child,

4073 or sibling of an individual.

4074 (4) "Serious harm" means the individual, due to substance use disorder, is at serious

4075 risk of:

4076 (a) drug overdose;

4077 (b) suicide;

4078 (c) serious bodily self-injury;

4079 (d) serious bodily injury because the individual is incapable of providing the basic

4080 necessities of life, including food, clothing, or shelter; or

4081 (e) causing or attempting to cause serious bodily injury to another individual.

4082 (5) "Substance use disorder" means the same as that term is defined in the current

4083 edition of the Diagnostic and Statistical Manual of Mental Disorders published by the

4084 American Psychiatric Association.

4085 Section 98. Section **26B-5-502**, which is renumbered from Section 62A-15-1201 is

4086 renumbered and amended to read:

4087 ~~[62A-15-1201]~~. **26B-5-502. Statement of legislative intent.**

4088 To address the serious public health crisis of substance use disorder related deaths and

life-threatening opioid addiction, and to allow and enable caring relatives to seek essential treatment and intervention, as may be necessary, on behalf of a sufferer of a substance use disorder, the Legislature enacts the Essential Treatment and Intervention Act.

Section 99. Section **26B-5-503**, which is renumbered from Section 62A-15-1203 is renumbered and amended to read:

~~[62A-15-1203].~~      **26B-5-503. Petition for essential treatment -- Contents --**  
**Commitment to pay.**

(1) A relative seeking essential treatment and intervention for a sufferer of a substance use disorder may file a petition with the ~~[district]~~ court of the county in which the sufferer of the substance use disorder resides or is found.

(2) The petition 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) if not treated for the substance use disorder presents a serious harm to self or others;

(e) the factual basis for the statement described in Subsection (2)(d); and

(f) at least one specified local substance abuse authority or approved treatment facility or program where the respondent may receive essential treatment.

(3) Any petition filed under this section:

(a) may be accompanied by proof of health insurance to provide for the respondent's essential treatment;

(b) shall be accompanied by a binding commitment to pay, signed by the petitioner or another individual, obligating the petitioner or other individual to pay all treatment costs beyond those covered by the respondent's health insurance policy for court-ordered essential

4120 treatment for the respondent; and

4121 (c) may be accompanied by documentation of emergency, life saving treatment  
4122 provided to the respondent.

4123 (4) Nothing in this section alters the contractual relationship between a health insurer  
4124 and an insured individual.

4125 Section 100. Section **26B-5-504**, which is renumbered from Section 62A-15-1204 is  
4126 renumbered and amended to read:

4127 ~~[62A-15-1204].~~ **26B-5-504. Criteria for essential treatment and intervention.**

4128 A [district] court shall order an individual to undergo essential treatment for a substance  
4129 use disorder when the [district] court determines by clear and convincing evidence that the  
4130 individual:

- 4131 (1) suffers from a substance use disorder;
- 4132 (2) can reasonably benefit from the essential treatment;
- 4133 (3) is unlikely to substantially benefit from a less-restrictive alternative treatment; and
- 4134 (4) presents a serious harm to self or others.

4135 Section 101. Section **26B-5-505**, which is renumbered from Section 62A-15-1205 is  
4136 renumbered and amended to read:

4137 ~~[62A-15-1205].~~ **26B-5-505. Proceeding for essential treatment -- Duties of**  
4138 **court -- Disposition.**

4139 (1) A [district] court shall review the assertions contained in the verified petition  
4140 described in Section ~~[62A-15-1203]~~ 26B-5-503.

4141 (2) If the court determines that the assertions, if true, are sufficient to order the  
4142 respondent to undergo essential treatment, the court shall:

- 4143 (a) set an expedited date for a time-sensitive hearing to determine whether the court  
4144 should order the respondent to undergo essential treatment for a substance use disorder;
- 4145 (b) provide notice of:
  - 4146 (i) the contents of the petition, including all assertions made;
  - 4147 (ii) a copy of any order for detention or examination;
  - 4148 (iii) the date of the hearing;
  - 4149 (iv) the purpose of the hearing;
  - 4150 (v) the right of the respondent to be represented by legal counsel; and

4151 (vi) the right of the respondent to request a preliminary hearing before submitting to an  
4152 order for examination;

4153 (c) provide notice to:

4154 (i) the respondent;

4155 (ii) the respondent's guardian, if any; and

4156 (iii) the petitioner; and

4157 (d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be  
4158 examined before the hearing date:

4159 (i) by two essential treatment examiners; or

4160 (ii) by one essential treatment examiner, if documentation before the court  
4161 demonstrates that the respondent received emergency, life saving treatment:

4162 (A) within 30 days before the day on which the petition for essential treatment and  
4163 intervention was filed; or

4164 (B) during the pendency of the petition for essential treatment and intervention.

4165 (3) An essential treatment examiner shall examine the respondent to determine:

4166 (a) whether the respondent meets each of the criteria described in Section  
4167 ~~[62A-15-1204]~~ [26B-5-504](#);

4168 (b) the severity of the respondent's substance use disorder, if any;

4169 (c) what forms of treatment would substantially benefit the respondent, if the examiner  
4170 determines that the respondent has a substance use disorder; and

4171 (d) the appropriate duration for essential treatment, if essential treatment is  
4172 recommended.

4173 (4) An essential treatment examiner shall certify the examiner's findings to the court  
4174 within 24 hours after completion of the examination.

4175 (5) The court may, based upon the findings of an essential treatment examiner,  
4176 terminate the proceedings and dismiss the petition.

4177 (6) The parties may, at any time, make a binding stipulation to an essential treatment  
4178 plan and submit that plan to the court for court order.

4179 (7) At the hearing, the petitioner and the respondent may testify and may  
4180 cross-examine witnesses.

4181 (8) If, upon completion of the hearing, the court finds that the criteria in Section

4182 [~~62A-15-1204~~] 26B-5-504 are met, the court shall order essential treatment for an initial period  
4183 that:

4184 (a) does not exceed 360 days, subject to periodic review as provided in Section  
4185 [~~62A-15-1206~~] 26B-5-507; and

4186 (b) (i) is recommended by an essential treatment examiner; or  
4187 (ii) is otherwise agreed to at the hearing.

4188 (9) The court shall designate the facility for the essential treatment, as:

4189 (a) described in the petition;

4190 (b) recommended by an essential treatment examiner; or

4191 (c) agreed to at the hearing.

4192 (10) The court shall issue an order that includes the court's findings and the reasons for  
4193 the court's determination.

4194 (11) The court may order the petitioner to be the respondent's personal representative,  
4195 as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

4196 Section 102. Section **26B-5-506**, which is renumbered from Section 62A-15-1205.5 is  
4197 renumbered and amended to read:

4198 [~~62A-15-1205.5~~]. **26B-5-506. Failure to comply with court order.**

4199 (1) The provisions of this section apply after a respondent has been afforded full due  
4200 process rights, as provided in this Essential Treatment and Intervention Act, including notice,  
4201 an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that  
4202 the evidence meets the clear and convincing standard, as described in Section [~~62A-15-1204~~]  
4203 26B-5-504, for a court to order essential treatment and intervention.

4204 (2) When a respondent fails to comply with a court order issued under Subsection  
4205 [~~62A-15-1205~~] 26B-5-505(2)(d) or (10), the court may:

4206 (a) find the respondent in contempt under Subsection 78B-6-301(5); and

4207 (b) issue a warrant of commitment under Section 78B-6-312.

4208 (3) When a peace officer executes a warrant issued under this section, the officer shall  
4209 take the respondent into protective custody and transport the respondent to the location  
4210 specified by the court.

4211 (4) Notwithstanding Subsection (3), if a peace officer determines through the peace  
4212 officer's experience and training that taking the respondent into protective custody or



transporting the respondent would increase the risk of substantial danger to the respondent or others, a peace officer may exercise discretion to not take the respondent into custody or transport the respondent, as permitted by policies and procedures established by the peace officer's law enforcement agency and any applicable federal or state statute, or case law.

Section 103. Section **26B-5-507**, which is renumbered from Section 62A-15-1206 is renumbered and amended to read:

**~~[62A-15-1206].~~      26B-5-507. Periodic review -- Discharge.**

A local substance abuse authority or an approved treatment facility or program that provides essential treatment shall:

(1) at least every 90 days after the day on which a patient is admitted, unless a court orders otherwise, examine or cause to be examined a patient who has been ordered to receive essential treatment;

(2) notify the patient and the patient's personal representative or guardian, if any, of the substance and results of the examination;

(3) discharge an essential treatment patient if the examination determines that the conditions justifying essential treatment and intervention no longer exist; and

(4) after discharging an essential treatment patient, send a report describing the reasons for discharge to the clerk of the court where the proceeding for essential treatment was held and to the patient's personal representative or guardian, if any.

Section 104. Section **26B-5-508**, which is renumbered from Section 62A-15-1207 is renumbered and amended to read:

**~~[62A-15-1207].~~      26B-5-508. Seventy-two-hour emergency treatment pending a final court order.**

(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:

4275 (i) is suffering from a substance use disorder; and  
4276 (ii) has received, within the last 72 hours, emergency, life saving treatment;  
4277 (e) the factual basis for the statement described in Subsection (2)(d); and  
4278 (f) the name of any other individual, if any, who may be designated as the respondent's  
4279 personal representative.

4280 (3) A court shall grant a petition for designation as a personal representative, ex parte,  
4281 if it appears from the petition for designation as a court-designated personal representative that:

4282 (a) the respondent is suffering from a substance use disorder;  
4283 (b) the respondent received emergency, life saving treatment within 10 days before the  
4284 day on which the petition for designation as a personal representative is filed;  
4285 (c) the petitioner is a relative of the respondent; and  
4286 (d) no other individual is otherwise designated as the respondent's personal  
4287 representative.

4288 (4) When a court grants, ex parte, a petition for designation as a personal  
4289 representative, the court:

4290 (a) shall provide notice to the respondent;  
4291 (b) shall order the petitioner to be the respondent's personal representative for 10 days  
4292 after the day on which the court designates the petitioner as the respondent's personal  
4293 representative; and

4294 (c) may extend the duration of the order:

4295 (i) for good cause shown, after the respondent has been notified and given a proper and  
4296 sufficient opportunity to respond; or  
4297 (ii) if the respondent consents to an extension.

4298 Section 106. Section **26B-5-510**, which is renumbered from Section 62A-15-1208 is  
4299 renumbered and amended to read:

4300 ~~[62A-15-1208].~~ **26B-5-510. Confidentiality.**

4301 (1) The purpose of ~~[Part 12, Essential Treatment and Intervention Act,]~~ this part is to  
4302 provide a process for essential treatment and intervention to save lives, preserve families, and  
4303 reduce substance use disorder, including opioid addiction.

4304 (2) An essential treatment petition and any other document filed in connection with the  
4305 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) "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.

(5) (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.

(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](#).

~~[(9)]~~ (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.

4368 (3) The department shall approve a 211 service provider after considering the  
4369 following:

4370 (a) the ability of the proposed 211 service provider to meet the national 211 standards  
4371 recommended by the Alliance of Information and Referral Systems;

4372 (b) the financial stability of the proposed 211 service provider;

4373 (c) the community support for the proposed 211 service provider;

4374 (d) the relationship between the proposed 211 service provider and other information  
4375 and referral services; and

4376 (e) other criteria as the department considers appropriate.

4377 (4) The department shall coordinate with the approved 211 service provider and other  
4378 state and local agencies to ensure the joint development and maintenance of a statewide  
4379 information database for use by the approved 211 service provider.

4380 Section 110. Section **26B-5-603**, which is renumbered from Section 62A-17-104 is  
4381 renumbered and amended to read:

4382 **~~[62A-17-104].~~ 26B-5-603. Utah 211 created -- Responsibilities.**

4383 (1) The designated 211 service provider described in Section [~~62A-17-102~~] 26B-5-601  
4384 shall be known as Utah 211.

4385 (2) Utah 211 shall, as appropriations allow:

4386 (a) by 2014:

4387 (i) provide the services described in this Subsection (2) 24 hours a day, seven days a  
4388 week;

4389 (ii) abide by the key standards for 211 programs, as specified in the Standards for  
4390 Professional Information and Referral Requirements for Alliance of Information Systems  
4391 Accreditation and Operating 211 systems; and

4392 (iii) be a point of entry for disaster-related information and referral;

4393 (b) track types of calls received and referrals made;

4394 (c) develop, coordinate, and implement a statewide information and referral system  
4395 that integrates existing community-based structures with state and local agencies;

4396 (d) provide information relating to:

4397 (i) health and human services; and

4398 (ii) volunteer opportunities;

4399 (e) create an online, searchable database to provide information to the public about the  
4400 health and human services provided by public or private entities throughout the state, and  
4401 ensure that:

4402 (i) the material on the searchable database is indexed:

4403 (A) geographically to inform an individual about the health and human services  
4404 provided in the area where the individual lives; and

4405 (B) by type of service provided; and

4406 (ii) the searchable database contains links to the Internet sites of any local provider of  
4407 health and human services, if possible, and include:

4408 (A) the name, address, and phone number of organizations providing health and human  
4409 services in a county; and

4410 (B) a description of the type of services provided;

4411 (f) be responsible, in collaboration with state agencies, for raising community  
4412 awareness about available health and human services; and

4413 (g) host meetings on a quarterly basis until calendar year 2014, and on a biannual basis  
4414 beginning in 2014, to seek input and guidance from state agencies, local governments,  
4415 community-based organizations, not-for-profit organizations, and faith-based organizations.

4416 Section 111. Section **26B-5-604**, which is renumbered from Section 62A-17-105 is  
4417 renumbered and amended to read:

4418 ~~[62A-17-105].~~ **26B-5-604. Other state agencies and local governments.**

4419 (1) A state agency or local government institution that provides health and human  
4420 services, or a public or private entity receiving state-appropriated funds to provide health and  
4421 human services, shall provide Utah 211 with information, in a form determined by Utah 211,  
4422 about the services the agency or entity provides for inclusion in the statewide information and  
4423 referral system.

4424 (2) A state agency or local government institution that provides health and human  
4425 services may not establish a new public telephone line or hotline, other than an emergency first  
4426 responder hotline, to provide information or referrals unless the agency or institution first:

4427 (a) consults with Utah 211 about using the existing 211 to provide access to the  
4428 information or referrals; and

4429 (b) assesses whether a new line or the existing 211 program would be more cost

4430 effective.

4431 (3) Nothing in this section prohibits a state agency or local government institution from  
4432 starting a public telephone line or hotline in an emergency situation.

4433 (4) State agencies, local governments, community-based organizations, not-for-profit  
4434 organizations, faith-based organizations, and businesses that engage in providing human  
4435 services may contract with Utah 211 to provide specialized projects, including:

4436 (a) public health campaigns;

4437 (b) seasonal community services; and

4438 (c) expanded point of entry services.

4439 Section 112. Section **26B-5-605**, which is renumbered from Section 62A-17-106 is  
4440 renumbered and amended to read:

4441 ~~[62A-17-106].~~ **26B-5-605. Immunity from liability.**

4442 (1) Except as provided in Subsection (2), Utah 211, its employees, directors, officers,  
4443 and information specialists are not liable to any person in a civil action for injury or loss as a  
4444 result of an act or omission of Utah 211, its employees, directors, officers, or information  
4445 specialists, in connection with:

4446 (a) developing, adopting, implementing, maintaining, or operating the Utah 211  
4447 system;

4448 (b) making Utah 211 available for use by the public; or

4449 (c) providing 211 services.

4450 (2) Utah 211, its employees, directors, officers, and information specialists shall be  
4451 liable to any person in a civil action for an injury or loss resulting from willful or wanton  
4452 misconduct.

4453 Section 113. Section **26B-5-606**, which is renumbered from Section 62A-15-1802 is  
4454 renumbered and amended to read:

4455 ~~[62A-15-1802].~~ **26B-5-606. Division duties -- ACT team license creation.**

4456 (1) To promote the availability of assertive community treatment, the division shall  
4457 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4458 that create a certificate for ACT team personnel and ACT teams, that includes:

4459 (a) the standards the division establishes under Subsection (2); and

4460 (b) guidelines for:



- 4461 (i) required training and experience of ACT team personnel; and  
4462 (ii) the coordination of assertive community treatment and other community resources.

4463 (2) (a) The division shall:

4464 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4465 make rules that establish standards that an applicant is required to meet to qualify for the  
4466 certifications described in Subsection (1); and

4467 (ii) create a statewide ACT team plan that:

4468 (A) identifies statewide assertive community treatment needs, objectives, and  
4469 priorities; and

4470 (B) identifies the equipment, facilities, personnel training, and other resources  
4471 necessary to provide assertive community treatment.

4472 (b) The division may delegate the ACT team plan requirement described in Subsection  
4473 (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community  
4474 outreach treatment.

4475 Section 114. Section **26B-5-607**, which is renumbered from Section 62A-15-1803 is  
4476 renumbered and amended to read:

4477 ~~[62A-15-1803]~~. **26B-5-607. Grants for development of an ACT team.**

4478 (1) The division shall award grants for the development of one ACT team to provide  
4479 assertive community treatment to individuals in the state.

4480 (2) The division shall prioritize the award of a grant described in Subsection (1) to  
4481 entities, based on:

4482 (a) the number of individuals the proposed ACT team will serve; and

4483 (b) the percentage of matching funds the entity will provide to develop the proposed  
4484 ACT team.

4485 (3) An entity does not need to have resources already in place to be awarded a grant  
4486 described in Subsection (1).

4487 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
4488 Administrative Rulemaking Act, for the application and award of the grants described in  
4489 Subsection (1).

4490 Section 115. Section **26B-5-608**, which is renumbered from Section 62A-15-1804 is  
4491 renumbered and amended to read:

4492 ~~[62A-15-1804]~~. **26B-5-608.** Housing assistance program for individuals  
4493 discharged from the Utah State Hospital and receiving assertive community treatment.

4494 (1) (a) The division shall, within funds appropriated by the Legislature for this purpose,  
4495 implement and manage the operation of a housing assistance program in consultation with the  
4496 Utah State Hospital, established in Section ~~[62A-15-601]~~ 26B-5-302, and one or more housing  
4497 authorities, associations of governments, or nonprofit entities.

4498 (b) The housing assistance program shall provide the housing assistance described in  
4499 Subsection (1)(c) to individuals:

4500 (i) who are discharged from the Utah State Hospital; and

4501 (ii) who the division determines would benefit from assertive community treatment.

4502 (c) The housing assistance provided under the housing assistance program may  
4503 include:

4504 (i) subsidizing rent payments for housing;

4505 (ii) subsidizing the provision of temporary or transitional housing; or

4506 (iii) providing money for one-time housing barrier assistance, including rental housing  
4507 application fees, utility hookup fees, or rental housing security deposits.

4508 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
4509 Administrative Rulemaking Act, to establish procedures for the operation of the housing  
4510 assistance program described in Subsection (1).

4511 (3) The division shall report to the Health and Human Services Interim Committee  
4512 each year before November 30 regarding:

4513 (a) the entities the division consulted with under Subsection (1)(a);

4514 (b) the number of individuals who are benefitting from the housing assistance program  
4515 described in Subsection (1);

4516 (c) the type of housing assistance provided under the housing assistance program  
4517 described in Subsection (1);

4518 (d) the average monthly dollar amount provided to individuals under the housing  
4519 assistance program described in Subsection (1); and

4520 (e) recommendations regarding improvements or changes to the housing assistance  
4521 program described in Subsection (1).

4522 Section 116. Section **26B-5-609**, which is renumbered from Section 62A-15-1402 is

4523 renumbered and amended to read:

4524 ~~[62A-15-1402]~~. **26B-5-609.** Department and division duties -- MCOT license  
4525 creation.

4526 (1) As used in this section:

4527 (a) "Commission" means the Behavioral Health Crisis Response Commission created  
4528 in Section [63C-18-202](#).

4529 (b) "Emergency medical service personnel" means the same as that term is defined in  
4530 Section [26B-4-101](#).

4531 (c) "Emergency medical services" means the same as that term is defined in Section  
4532 [26B-4-101](#).

4533 (d) "MCOT certification" means the certification created in this part for MCOT  
4534 personnel and mental health crisis outreach services.

4535 (e) "MCOT personnel" means a licensed mental health therapist or other mental health  
4536 professional, as determined by the division, who is a part of a mobile crisis outreach team.

4537 (f) "Mental health crisis" means a mental health condition that manifests itself by  
4538 symptoms of sufficient severity that a prudent layperson who possesses an average knowledge  
4539 of mental health issues could reasonably expect the absence of immediate attention or  
4540 intervention to result in:

4541 (i) serious jeopardy to the individual's health or well-being; or

4542 (ii) a danger to others.

4543 (g) (i) "Mental health crisis services" means mental health services and on-site  
4544 intervention that a person renders to an individual suffering from a mental health crisis.

4545 (ii) "Mental health crisis services" includes the provision of safety and care plans,  
4546 stabilization services offered for a minimum of 60 days, and referrals to other community  
4547 resources.

4548 (h) "Mental health therapist" means the same as that term is defined in Section  
4549 [58-60-102](#).

4550 (i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and  
4551 mental health professionals that provides mental health crisis services and, based on the  
4552 individual circumstances of each case, coordinates with local law enforcement, emergency  
4553 medical service personnel, and other appropriate state or local resources.

4554           [(1)] (2) To promote the availability of comprehensive mental health crisis services  
4555 throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3,  
4556 Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and  
4557 MCOTs, including:

- 4558           (a) the standards the division establishes under Subsection [(2)] (3); and
- 4559           (b) guidelines for:
  - 4560           (i) credit for training and experience; and
  - 4561           (ii) the coordination of:
    - 4562           (A) emergency medical services and mental health crisis services;
    - 4563           (B) law enforcement, emergency medical service personnel, and mobile crisis outreach
    - 4564           teams; and
    - 4565           (C) temporary commitment in accordance with Section [~~62A-15-629~~] 26B-5-331.

- 4566           [(2)] (3) (a) With recommendations from the commission, the division shall:
  - 4567           (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
  - 4568           make rules that establish standards that an applicant is required to meet to qualify for the
  - 4569           MCOT certification described in Subsection (1); and
  - 4570           (ii) create a statewide MCOT plan that:
    - 4571           (A) identifies statewide mental health crisis services needs, objectives, and priorities;
    - 4572           and
    - 4573           (B) identifies the equipment, facilities, personnel training, and other resources
    - 4574           necessary to provide mental health crisis services.

- 4575           (b) The division may delegate the MCOT plan requirement described in Subsection
- 4576           (2)(a)(ii) to a contractor with which the division contracts to provide mental health crisis
- 4577           services.

4578           Section 117. Section **26B-5-610**, which is renumbered from Section 62A-15-1302 is  
4579 renumbered and amended to read:

4580           ~~[62A-15-1302]~~.       **26B-5-610. Contracts for statewide mental health crisis line**  
4581 **and statewide warm line -- Crisis worker and certified peer support specialist**  
4582 **qualification or certification -- Operational standards.**

4583           (1) As used in this section:

- 4584           (a) "Certified peer support specialist" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide warm line under the supervision of at least one mental health therapist.

(b) "Commission" means the Behavioral Health Crisis Response Commission created in Section [63C-18-202](#).

(c) "Crisis worker" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide mental health crisis line, the statewide warm line, or a local mental health crisis line under the supervision of at least one mental health therapist.

(d) "Local mental health crisis line" means a phone number or other response system that is:

(i) accessible within a particular geographic area of the state; and

(ii) intended to allow an individual to contact and interact with a qualified mental or behavioral health professional.

(e) "Mental health crisis" means the same as that term is defined in Section [62A-15-1401](#).

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

(g) "Statewide mental health crisis line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional 24 hours per day, 365 days per year.

(h) "Statewide warm line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional or a certified peer support specialist.

[~~(1)~~] (2) (a) The division shall enter into a new contract or modify an existing contract to manage and operate, in accordance with this part, the statewide mental health crisis line and the statewide warm line.

(b) Through the contracts described in Subsection [~~(1)~~](a) (2)(a) and in consultation 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).

(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 warm line during the hours and days of operation set by the division under Subsection (5):

(i) mental health therapists;

(ii) crisis workers; or

(iii) certified peer support specialists;

4647 (e) when an individual calls the statewide mental health crisis line, the individual's call  
4648 may be transferred to the statewide warm line if the individual is not experiencing a mental  
4649 health crisis; and

4650 (f) when an individual calls the statewide warm line, the individual's call may be  
4651 transferred to the statewide mental health crisis line if the individual is experiencing a mental  
4652 health crisis.

4653 (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
4654 Administrative Rulemaking Act, to establish the hours and days of operation for the statewide  
4655 warm line.

4656 Section 118. Section **26B-5-611**, which is renumbered from Section 62A-15-1101 is  
4657 renumbered and amended to read:

4658 **[62A-15-1101]. 26B-5-611. Suicide prevention -- Reporting requirements.**

4659 (1) As used in this section:

4660 (a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory  
4661 Council created in Section [63M-7-301](#).

4662 (b) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)  
4663 within the Department of Public Safety.

4664 (c) "Coalition" means the Statewide Suicide Prevention Coalition created under  
4665 Subsection (3).

4666 (d) "Coordinator" means the state suicide prevention coordinator appointed under  
4667 Subsection (2).

4668 (e) "Fund" means the Governor's Suicide Prevention Fund created in Section  
4669 [26B-1-325](#).

4670 (f) "Intervention" means an effort to prevent a person from attempting suicide.

4671 (g) "Legal intervention" means an incident in which an individual is shot by another  
4672 individual who has legal authority to use deadly force.

4673 (h) "Postvention" means intervention after a suicide attempt or a suicide death to  
4674 reduce risk and promote healing.

4675 (i) "Shooter" means an individual who uses a gun in an act that results in the death of  
4676 the actor or another individual, whether the act was a suicide, homicide, legal intervention, act  
4677 of self-defense, or accident.

4678           ~~[(1)]~~ (2) The division shall appoint a state suicide prevention coordinator to administer  
4679 a state suicide prevention program composed of suicide prevention, intervention, and  
4680 postvention programs, services, and efforts.

4681           ~~[(2)]~~ (3) The coordinator shall:

4682           (a) establish a Statewide Suicide Prevention Coalition with membership from public  
4683 and private organizations and Utah citizens; and

4684           (b) appoint a chair and co-chair from among the membership of the coalition to lead  
4685 the coalition.

4686           ~~[(3)]~~ (4) The state suicide prevention program may include the following components:

4687           (a) delivery of resources, tools, and training to community-based coalitions;

4688           (b) evidence-based suicide risk assessment tools and training;

4689           (c) town hall meetings for building community-based suicide prevention strategies;

4690           (d) suicide prevention gatekeeper training;

4691           (e) training to identify warning signs and to manage an at-risk individual's crisis;

4692           (f) evidence-based intervention training;

4693           (g) intervention skills training;

4694           (h) postvention training; or

4695           (i) a public education campaign to improve public awareness about warning signs of  
4696 suicide and suicide prevention resources.

4697           ~~[(4)]~~ (5) The coordinator shall coordinate with the following to gather statistics, among  
4698 other duties:

4699           (a) local mental health and substance abuse authorities;

4700           (b) the State Board of Education, including the public education suicide prevention  
4701 coordinator described in Section [53G-9-702](#);

4702           ~~[(c) the Department of Health;]~~

4703           (c) applicable divisions and offices within the department;

4704           (d) health care providers, including emergency rooms;

4705           (e) federal agencies, including the Federal Bureau of Investigation;

4706           (f) other unbiased sources; and

4707           (g) other public health suicide prevention efforts.

4708           ~~[(5)]~~ (6) The coordinator shall provide a written report to the Health and Human



4709 Services Interim Committee, at or before the October meeting every year, on:

4710 (a) implementation of the state suicide prevention program, as described in Subsections  
4711 ~~[(1) and (3)]~~ (2) and (4);

4712 (b) data measuring the effectiveness of each component of the state suicide prevention  
4713 program;

4714 (c) funds appropriated for each component of the state suicide prevention program; and

4715 (d) five-year trends of suicides in Utah, including subgroups of youths and adults and  
4716 other subgroups identified by the state suicide prevention coordinator.

4717 ~~[(6)]~~ (7) The coordinator shall, in consultation with the bureau, implement and manage  
4718 the operation of the firearm safety program described in Subsection ~~[62A-15-103]~~  
4719 26B-5-102(3).

4720 ~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
4721 Act, the division shall make rules:

4722 (a) governing the implementation of the state suicide prevention program, consistent  
4723 with this section; and

4724 (b) in conjunction with the bureau, defining the criteria for employers to apply for  
4725 grants under the Suicide Prevention Education Program described in Section ~~[62A-15-103.1]~~  
4726 26B-5-110, which shall include:

4727 (i) attendance at the suicide prevention education course described in Subsection  
4728 ~~[62A-15-103]~~ 26B-5-102(3); and

4729 (ii) distribution of the firearm safety brochures or packets created in Subsection  
4730 ~~[62A-15-103]~~ 26B-5-102(3), but does not require the distribution of a cable-style gun lock with  
4731 a firearm if the firearm already has a trigger lock or comparable safety mechanism.

4732 ~~[(8)]~~ (9) As funding by the Legislature allows, the coordinator shall award grants, not  
4733 to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the  
4734 needs of children who have been served by the Division of Juvenile Justice Services.

4735 ~~[(9)]~~ (10) The coordinator and the coalition shall submit to the advisory council, no  
4736 later than October 1 each year, a written report detailing the previous fiscal year's activities to  
4737 fund, implement, and evaluate suicide prevention activities described in this section.

4738 Section 119. Section **26B-5-612**, which is renumbered from Section 26-1-43 is  
4739 renumbered and amended to read:

4740 **[~~26-1-43~~]. 26B-5-612. Integrated behavioral health care grant program.**

4741 (1) As used in this section:

4742 (a) "Integrated behavioral health care services" means coordinated physical and  
4743 behavioral health care services for one patient.

4744 (b) "Local mental health authority" means a local mental health authority described in  
4745 Section **17-43-301**.

4746 (c) "Project" means a project described in Subsection (2).

4747 (2) Before July 1 of each year, the department shall issue a request for proposals in  
4748 accordance with this section to award a grant to a local mental health authority for development  
4749 or expansion of a project to provide effective delivery of integrated behavioral health care  
4750 services.

4751 (3) To be considered for a grant award under Subsection (2), a local mental health  
4752 authority shall submit an application to the department that:

4753 (a) explains the benefits of integrated behavioral health care services to a patient who is  
4754 receiving mental health or substance use disorder treatment;

4755 (b) describes the local mental health authority's operational plan for delivery of  
4756 integrated behavioral health care services under the proposed project and any data or  
4757 evidence-based practices supporting the likely success of the operational plan;

4758 (c) includes:

4759 (i) the number of patients to be served by the local mental health authority's proposed  
4760 project; and

4761 (ii) the cost of the local mental health authority's proposed project; and

4762 (d) provides details regarding:

4763 (i) any plan to use funding sources in addition to the grant award under this section for  
4764 the local mental health authority's proposed project;

4765 (ii) any existing or planned contracts or partnerships between the local mental health  
4766 authority and other individuals or entities to develop or implement the local mental health  
4767 authority's proposed project; and

4768 (iii) the sustainability and reliability of the local mental health authority's proposed  
4769 project.

4770 (4) In evaluating a local mental health authority's application under Subsection (3) to

determine the grant award under Subsection (2), the department shall consider:

(a) how the local mental health authority's proposed project will ensure effective provision of integrated behavioral health care services;

(b) the cost of the local mental health authority's proposed project;

(c) the extent to which any existing or planned contracts or partnerships or additional 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.**

As used in this chapter:

(1) "Adult" or "high risk adult" means a person 18 years of age or older who experiences a condition:

(a) that places the person at a high risk of being unable to care for himself:

(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 of age or older.

(3) "Area agency" means an area agency that provides services to the aged, high risk

4802 adults, or both within a planning and service area.

4803 (4) "Area agency on aging" means a public or private nonprofit agency or office  
4804 designated by the division to:

4805 (a) operate within a planning and service area of the state; and

4806 (b) develop and implement a broad range of services for the aged in the area described  
4807 in Subsection (4)(a).

4808 (5) "Area agency on high risk adults" means a public or private nonprofit agency or  
4809 office designated by the division to:

4810 (a) operate within a planning and service area of the state; and

4811 (b) develop and implement services for high risk adults in the area described in  
4812 Subsection (5)(a).

4813 (6) "Board" means the Board of Aging and Adult Services created in [26B-1-426](#).

4814 (7) "Director" means the director of the division.

4815 (8) "Division" means the Division of Aging and Adult Services within the department.

4816 (9) "Personal care attendant" means a person who:

4817 (a) is selected by:

4818 (i) an aged person;

4819 (ii) an agent of an aged person;

4820 (iii) a high risk adult; or

4821 (iv) an agent of a high risk adult; and

4822 (b) provides personal services to the:

4823 (i) aged person described in Subsection (9)(a)(i); or

4824 (ii) high risk adult described in Subsection (9)(a)(iii).

4825 (10) "Personal services" means nonmedical care and support, including assisting a  
4826 person with:

4827 (a) meal preparation;

4828 (b) eating;

4829 (c) bathing;

4830 (d) dressing;

4831 (e) personal hygiene; or

4832 (f) daily living activities.

(11) "Planning and service area" means a geographical area of the state designated by the division for purposes of planning, development, delivery, and overall administration of services for the aged or high risk adults.

(12) (a) "Public funds" means state or federal funds that are disbursed by:

(i) the department;

(ii) the division;

(iii) an area agency; or

(iv) an area agency on aging.

(b) "Public funds" includes:

(i) Medicaid funds; and

(ii) Medicaid waiver funds.

Section 121. Section **26B-6-102**, which is renumbered from Section 62A-3-102 is renumbered and amended to read:

**[62A-3-102]. 26B-6-102. Division created.**

There is created a Division of Aging and Adult Services within the department, under the administration and general supervision of the executive director.

Section 122. Section **26B-6-103**, which is renumbered from Section 62A-3-103 is renumbered and amended to read:

**[62A-3-103]. 26B-6-103. Director of division -- Appointment -- Qualifications.**

(1) The director of the division shall be appointed by the executive director with the concurrence of the board.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning the aging and adult populations.

(3) The director is the administrative head of the division.

Section 123. Section **26B-6-104**, which is renumbered from Section 62A-3-104 is renumbered and amended to read:

**[62A-3-104]. 26B-6-104. Authority of division.**

(1) The division is the sole state agency, as defined by the Older Americans Act of 1965, 42 U.S.C. 3001 et seq., to:

4864 (a) serve as an effective and visible advocate for the aging and adult population of this  
4865 state;

4866 (b) develop and administer a state plan under the policy direction of the board; and

4867 (c) take primary responsibility for state activities relating to provisions of the Older  
4868 Americans Act of 1965, as amended.

4869 (2) (a) The division has authority to designate:

4870 (i) planning and service areas for the state; and

4871 (ii) an area agency on aging within each planning and service area to design and  
4872 implement a comprehensive and coordinated system of services and programs for the aged  
4873 within appropriations from the Legislature.

4874 (b) Designation as an area agency on aging may be withdrawn:

4875 (i) upon request of the area agency on aging; or

4876 (ii) upon noncompliance with the provisions of the:

4877 (A) Older Americans Act of 1965, 42 U.S.C. 3001 et seq.;

4878 (B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C.  
4879 3001 et seq.;

4880 (C) provisions of this chapter; or

4881 (D) rules, policies, or procedures established by the division.

4882 (3) (a) The division has the authority to designate:

4883 (i) planning and service areas for the state; and

4884 (ii) subject to Subsection (3)(b), an area agency on high risk adults within each  
4885 planning and service area to design and implement a comprehensive and coordinated system of  
4886 case management and programs for high risk adults within appropriations from the Legislature.

4887 (b) For purposes of Subsection (3)(a)(ii), before October 1, 1998, the division shall  
4888 designate as the area agency on high risk adults in a planning and service area:

4889 (i) the area agency on aging that operates within the same geographic area if that  
4890 agency requests, before July 1, 1998, to expand that agency's current contract with the division  
4891 to include the responsibility of:

4892 (A) being the area agency on high risk adults; or

4893 (B) operating the area agency on high risk adults:

4894 (I) through joint cooperation with one or more existing area agencies on aging; and

4895 (II) without reducing geographical coverage in any service area; or  
4896 (ii) a public or private nonprofit agency or office if the area agency on aging that  
4897 operates within the same geographic area has not made a request in accordance with Subsection  
4898 (3)(b)(i).

4899 (c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.  
4900 (ii) The division's efforts to establish area agencies on high risk adults shall start with  
4901 counties with a population of more than 150,000 people.

4902 (d) Designation as an area agency on high risk adults may be withdrawn:  
4903 (i) upon request by the area agency; or  
4904 (ii) upon noncompliance with:  
4905 (A) state law;  
4906 (B) federal law; or  
4907 (C) rules, policies, or procedures established by the division.

4908 (4) (a) The division may, by following the procedures and requirements of Title 63J,  
4909 Chapter 5, Federal Funds Procedures Act:  
4910 (i) seek federal grants, loans, or participation in federal programs; and  
4911 (ii) receive and distribute state and federal funds for the division's programs and  
4912 services to the aging and adult populations of the state.

4913 (b) The division may not disburse public funds to a personal care attendant as payment  
4914 for personal services rendered to an aged person or high risk adult, except as provided in  
4915 Section [~~62A-3-104.3~~] [26B-6-107](#).

4916 (5) The division has authority to establish, either directly or by contract, programs of  
4917 advocacy, monitoring, evaluation, technical assistance, and public education to enhance the  
4918 quality of life for aging and adult citizens of the state.

4919 (6) In accordance with the rules of the division and Title 63G, Chapter 6a, Utah  
4920 Procurement Code, the division may contract with:  
4921 (a) the governing body of an area agency to provide a comprehensive program of  
4922 services; or  
4923 (b) public and private entities for special services.

4924 (7) The division has authority to provide for collection, compilation, and dissemination  
4925 of information, statistics, and reports relating to issues facing aging and adult citizens.

4926 (8) The division has authority to prepare and submit reports regarding the operation  
4927 and administration of the division to the department, the Legislature, and the governor, as  
4928 requested.

4929 (9) The division shall:

4930 (a) implement and enforce policies established by the board governing all aspects of  
4931 the division's programs for aging and adult persons in the state;

4932 (b) in order to ensure compliance with all applicable state and federal statutes, policies,  
4933 and procedures, monitor and evaluate programs provided by or under contract with:

4934 (i) the division;

4935 (ii) area agencies; and

4936 (iii) an entity that receives funds from an area agency;

4937 (c) examine expenditures of public funds;

4938 (d) withhold funds from programs based on contract noncompliance;

4939 (e) review and approve plans of area agencies in order to ensure:

4940 (i) compliance with division policies; and

4941 (ii) a statewide comprehensive program;

4942 (f) in order to further programs for aging and adult persons and prevent duplication of  
4943 services, promote and establish cooperative relationships with:

4944 (i) state and federal agencies;

4945 (ii) social and health agencies;

4946 (iii) education and research organizations; and

4947 (iv) other related groups;

4948 (g) advocate for the aging and adult populations;

4949 (h) promote and conduct research on the problems and needs of aging and adult  
4950 persons;

4951 (i) submit recommendations for changes in policies, programs, and funding to the:

4952 (i) governor; and

4953 (ii) Legislature; and

4954 (j) (i) accept contributions to and administer the funds contained in the "Out and  
4955 About" Homebound Transportation Assistance Fund created in Section [62A-3-110](#); and

4956 (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative



4957 Rulemaking Act, to facilitate the administration of the "Out and About" Homebound  
4958 Transportation Assistance Fund in accordance with Section [~~62A-3-110~~] 26B-1-323.

4959 Section 124. Section **26B-6-105**, which is renumbered from Section 62A-3-104.1 is  
4960 renumbered and amended to read:

4961 **[~~62A-3-104.1~~]. 26B-6-105. Powers and duties of area agencies --**  
4962 **Registration as a limited purpose entity.**

4963 (1) An area agency that provides services to an aged person, or a high risk adult shall  
4964 within the area agency's respective jurisdiction:

4965 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,  
4966 hearings, and levies that affect a person described in this Subsection (1);

4967 (b) design and implement a comprehensive and coordinated system of services within a  
4968 designated planning and service area;

4969 (c) conduct periodic reviews and evaluations of needs and services;

4970 (d) prepare and submit to the division plans for funding and service delivery for  
4971 services within the designated planning and service area;

4972 (e) establish, either directly or by contract, programs licensed under Chapter 2,  
4973 [~~Licensure of~~] Part 1, Human Services Programs and Facilities;

4974 (f) (i) appoint an area director;

4975 (ii) prescribe the area director's duties; and

4976 (iii) provide adequate and qualified staff to carry out the area plan described in  
4977 Subsection (1)(d);

4978 (g) establish rules not contrary to policies of the board and rules of the division,  
4979 regulating local services and facilities;

4980 (h) operate other services and programs funded by sources other than those  
4981 administered by the division;

4982 (i) establish mechanisms to provide direct citizen input, including an area agency  
4983 advisory council with a majority of members who are eligible for services from the area  
4984 agency;

4985 (j) establish fee schedules; and

4986 (k) comply with the requirements and procedures of:

4987 (i) Title 11, Chapter 13, Interlocal Cooperation Act; and

4988 (ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
4989 Organizations, and Other Local Entities Act.

4990 (2) Before disbursing any public funds, an area agency shall require that all entities  
4991 receiving any public funds agree in writing that:

4992 (a) the division may examine the entity's program and financial records; and

4993 (b) the auditor of the local area agency may examine and audit the entity's program and  
4994 financial records, if requested by the local area agency.

4995 (3) An area agency on aging may not disburse public funds to a personal care attendant  
4996 as payment for personal services rendered to an aged person or high risk adult, except as  
4997 provided in Section [~~62A-3-104.3~~] [26B-6-107](#).

4998 (4) (a) For the purpose of providing services pursuant to this part, a local area agency  
4999 may receive:

5000 (i) property;

5001 (ii) grants;

5002 (iii) gifts;

5003 (iv) supplies;

5004 (v) materials;

5005 (vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);

5006 and

5007 (vii) contributions.

5008 (b) If a gift is conditioned upon the gift's use for a specified service or program, the gift  
5009 shall be used for the specific service or program.

5010 (5) (a) Area agencies shall award all public funds in compliance with:

5011 (i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

5012 (ii) a county procurement ordinance that requires procurement procedures similar to  
5013 those described in Subsection (5)(a)(i).

5014 (b) (i) If all initial bids on a project are rejected, the area agency shall publish a new  
5015 invitation to bid.

5016 (ii) If no satisfactory bid is received by the area agency described in Subsection  
5017 (5)(b)(i), when the bids received from the second invitation are opened the area agency may  
5018 execute a contract without requiring competitive bidding.

5019 (c) (i) An area agency need not comply with the procurement provisions of this section  
 5020 when it disburses public funds to another governmental entity.

5021 (ii) For purposes of this Subsection (5)(c), "governmental entity" means any political  
 5022 subdivision or institution of higher education of the state.

5023 (d) (i) Contracts awarded by an area agency shall be for a:

5024 (A) fixed amount; and

5025 (B) limited period.

5026 (ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in  
 5027 available funding for the same contract purpose without competition.

5028 (6) Local area agencies shall comply with:

5029 (a) applicable state and federal:

5030 (i) statutes;

5031 (ii) policies; and

5032 (iii) audit requirements; and

5033 (b) directives resulting from an audit described in Subsection (6)(a)(iii).

5034 (7) (a) Each area agency shall register and maintain the area agency's registration as a  
 5035 limited purpose entity, in accordance with Section [67-1a-15](#).

5036 (b) An area agency that fails to comply with Subsection (7)(a) or Section [67-1a-15](#) is  
 5037 subject to enforcement by the state auditor, in accordance with Section [67-3-1](#).

5038 Section 125. Section **26B-6-106**, which is renumbered from Section 62A-3-104.2 is  
 5039 renumbered and amended to read:

5040 **[62A-3-104.2]. 26B-6-106. Contracts for services.**

5041 When an area agency has established a plan to provide services authorized by this  
 5042 chapter, and those services meet standards fixed by rules of the board, the area agency may  
 5043 enter into a contract with the division for services to be furnished by that area agency for an  
 5044 agreed compensation to be paid by the division.

5045 Section 126. Section **26B-6-107**, which is renumbered from Section 62A-3-104.3 is  
 5046 renumbered and amended to read:

5047 **[62A-3-104.3]. 26B-6-107. Disbursal of public funds -- Background check of**  
 5048 **a personal care attendant.**

5049 (1) ~~[For purposes of]~~ As used in this section, "office" means ~~[the same as that term is~~

5050 defined in Section ~~62A-2-101~~] Office of Licensing and Background Checks within the  
5051 department.

5052 (2) Public funds may not be disbursed to a personal care attendant as payment for  
5053 personal services rendered to an aged person or high risk adult unless the office approves the  
5054 personal care attendant to have direct access and provide services to children or vulnerable  
5055 adults pursuant to Section [~~62A-2-120~~] 26B-2-120.

5056 (3) For purposes of Subsection (2), the office shall conduct a background check of a  
5057 personal care attendant:

5058 (a) who desires to receive public funds as payment for the personal services described  
5059 in Subsection (2); and

5060 (b) using the same procedures established for a background check of an applicant for a  
5061 license under Section [~~62A-2-120~~] 26B-2-120.

5062 Section 127. Section **26B-6-108**, which is renumbered from Section 62A-3-105 is  
5063 renumbered and amended to read:

5064 [~~62A-3-105~~]. **26B-6-108. Matching requirements for state and federal**  
5065 **Older American funds.**

5066 (1) Except as provided in Subsection (2), a local area agency on aging that receives  
5067 state or federal Older Americans Act Supportive Services, Older Americans Act Congregate  
5068 Meals, or Older Americans Act Home Delivered Meals related funds from the division to  
5069 provide programs and services under this chapter shall match those funds in an amount at least  
5070 equal to:

5071 (a) 15% of service dollars; and

5072 (b) 25% of administrative dollars.

5073 (2) A local area agency on aging is not required to match cash-in-lieu funds related to  
5074 the Home Delivered Meals program or congregate meals.

5075 (3) A local area agency on aging may include services, property, or other in-kind  
5076 contributions to meet the administrative dollars match but may only use cash to meet the  
5077 service dollars match.

5078 Section 128. Section **26B-6-109**, which is renumbered from Section 62A-3-106 is  
5079 renumbered and amended to read:

5080 [~~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.

(3) Notwithstanding Subsection (2), or the rules made pursuant to Subsection (2), Adult Protective Services shall be the agency within the division that is responsible for receiving all reports of alleged abuse, neglect, or exploitation of a vulnerable adult as provided in Section [62A-3-305](#).

Section 130. Section **26B-6-111**, which is renumbered from Section 62A-3-107 is renumbered and amended to read:

~~[62A-3-107].~~      **26B-6-111. Requirements for establishing division policy.**

(1) The board is the program policymaking body for the division and for programs funded with state and federal money under Sections [[62A-3-104.1](#) and [62A-3-104.2](#)] [26B-6-105](#) and [26B-6-106](#). In establishing policy and reviewing existing policy, the board shall seek input from local area agencies, consumers, providers, advocates, division staff, and other interested parties as determined by the board.

(2) The board shall establish, by rule, procedures for developing its policies which ensure that local area agencies are given opportunity to comment and provide input on any new policy of the board and on any proposed changes in the board's existing policy. The board shall also provide a mechanism for review of its existing policy and for consideration of policy changes that are proposed by those local area agencies.

(3) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 131. Section 26B-6-112, which is renumbered from Section 62A-3-107.5 is renumbered and amended to read:

~~[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:

**[62A-3-109].            26B-6-114. Adjudicative proceedings.**

Adjudicative proceedings held by, or relating to, the division or the board shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Section 134. Section **26B-6-201**, which is renumbered from Section 62A-3-301 is renumbered and amended to read:

**Part 2. Abuse, Neglect, or Exploitation of a Vulnerable Adult**

**[62A-3-301].            26B-6-201. Definitions.**

As used in this part:

(1) "Abandonment" means any knowing or intentional action or failure to act, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(2) "Abuse" means:

(a) knowingly or intentionally:

(i) attempting to cause harm;

(ii) causing harm; or

(iii) placing another in fear of harm;

(b) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;

(c) emotional or psychological abuse;

(d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the Individual; or

(e) deprivation of life sustaining treatment, or medical or mental health treatment, except:



- 5205 (i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or  
5206 (ii) when informed consent, as defined in Section [76-5-111](#), has been obtained.
- 5207 (3) "Adult" means an individual who is 18 years old or older.
- 5208 (4) "Adult protection case file" means a record, stored in any format, contained in a  
5209 case file maintained by Adult Protective Services.
- 5210 (5) "Adult Protective Services" means the unit within the division responsible to  
5211 investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate  
5212 protective services.
- 5213 (6) "Capacity to consent" means the ability of an individual to understand and  
5214 communicate regarding the nature and consequences of decisions relating to the individual, and  
5215 relating to the individual's property and lifestyle, including a decision to accept or refuse  
5216 services.
- 5217 (7) "Caretaker" means a person or public institution that is entrusted with or assumes  
5218 the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision,  
5219 medical or other health care, resource management, or other necessities for pecuniary gain, by  
5220 contract, or as a result of friendship, or who is otherwise in a position of trust and confidence  
5221 with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a  
5222 neighbor, a person who is employed or who provides volunteer work, a court-appointed or  
5223 voluntary guardian, or a person who contracts or is under court order to provide care.
- 5224 (8) "Counsel" means an attorney licensed to practice law in this state.
- 5225 (9) "Database" means the statewide database maintained by the division under Section  
5226 [~~62A-3-311.1~~] [26B-6-210](#).
- 5227 (10) (a) "Dependent adult" means an individual 18 years old or older, who has a  
5228 physical or mental impairment that restricts the individual's ability to carry out normal  
5229 activities or to protect the individual's rights.
- 5230 (b) "Dependent adult" includes an individual who has physical or developmental  
5231 disabilities or whose physical or mental capacity has substantially diminished because of age.
- 5232 (11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.
- 5233 (12) "Elder adult" means an individual 65 years old or older.
- 5234 (13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate  
5235 risk of death, serious physical injury, or serious physical, emotional, or financial harm.

(14) "Emergency protective services" means measures taken by Adult Protective Services under time-limited, court-ordered authority for the purpose of remediating an emergency.

(15) (a) "Emotional or psychological abuse" means knowing or intentional verbal or nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(b) "Emotional or psychological abuse" includes intimidating, threatening, isolating, coercing, or harassing.

(c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly:

(i) engage in the conduct; or

(ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(16) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical injury, suffering, or distress inflicted knowingly or intentionally.

(18) "Inconclusive" means a finding by the division that there is not a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(19) "Intimidation" means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.

(20) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized 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;

5267 (ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult  
5268 from meeting with a visitor; or

5269 (iii) making false or misleading statements to the vulnerable adult in order to induce  
5270 the vulnerable adult to refuse to receive communication from visitors or other family members.

5271 (b) "Isolation" does not include an act:

5272 (i) intended in good faith to protect the physical or mental welfare of the vulnerable  
5273 adult; or

5274 (ii) performed pursuant to the treatment plan or instructions of a physician or other  
5275 professional advisor of the vulnerable adult.

5276 (21) "Lacks capacity to consent" is as defined in Section 76-5-111.4.

5277 (22) (a) "Neglect" means:

5278 (i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing,  
5279 shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable  
5280 adult, unless the vulnerable adult is able to provide or obtain the necessary care without  
5281 assistance; or

5282 (B) failure of a caretaker to provide protection from health and safety hazards or  
5283 maltreatment;

5284 (ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and  
5285 with the degree of care that a reasonable person in a like position would exercise;

5286 (iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed  
5287 consent, resulting in deprivation of food, water, medication, health care, shelter, cooling,  
5288 heating, or other services necessary to maintain the vulnerable adult's well being;

5289 (iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment  
5290 plan that causes or is likely to cause harm to the vulnerable adult;

5291 (v) self-neglect by the vulnerable adult; or

5292 (vi) abandonment by a caretaker.

5293 (b) "Neglect" does not include conduct, or failure to take action, that is permitted or  
5294 excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

5295 (23) "Physical injury" includes the damage and conditions described in Section  
5296 76-5-111.

5297 (24) "Protected person" means a vulnerable adult for whom the court has ordered

5298 protective services.

5299 (25) "Protective services" means services to protect a vulnerable adult from abuse,  
5300 neglect, or exploitation.

5301 (26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food,  
5302 water, medication, health care, shelter, cooling, heating, safety, or other services necessary to  
5303 maintain the vulnerable adult's well being when that failure is the result of the adult's mental or  
5304 physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be  
5305 evidence of self-neglect.

5306 (27) "Serious physical injury" is as defined in Section 76-5-111.

5307 (28) "Supported" means a finding by the division that there is a reasonable basis to  
5308 conclude that abuse, neglect, or exploitation occurred.

5309 (29) "Undue influence" occurs when a person:

5310 (a) uses influence to take advantage of a vulnerable adult's mental or physical  
5311 impairment; or

5312 (b) uses the person's role, relationship, or power:

5313 (i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or  
5314 fear of a vulnerable adult; or

5315 (ii) to gain control deceptively over the decision making of the vulnerable adult.

5316 (30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or  
5317 physical impairment which substantially affects that person's ability to:

5318 (a) provide personal protection;

5319 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

5320 (c) obtain services necessary for health, safety, or welfare;

5321 (d) carry out the activities of daily living;

5322 (e) manage the adult's own financial resources; or

5323 (f) comprehend the nature and consequences of remaining in a situation of abuse,  
5324 neglect, or exploitation.

5325 (31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

5326 Section 135. Section **26B-6-202**, which is renumbered from Section 62A-3-302 is  
5327 renumbered and amended to read:

5328 ~~[62A-3-302]~~. **26B-6-202. Purpose of Adult Protective Services Program.**

5329 Subject to the rules made by the division under Section [~~62A-3-106.5~~] 26B-6-110,

5330 Adult Protective Services:

5331 (1) shall investigate or cause to be investigated reports of alleged abuse, neglect, or  
5332 exploitation of vulnerable adults;

5333 (2) shall, where appropriate, provide short-term, limited protective services with the  
5334 permission of the affected vulnerable adult or the guardian or conservator of the vulnerable  
5335 adult;

5336 (3) shall, subject to Section [~~62A-3-320~~] 26B-6-217, provide emergency protective  
5337 services; and

5338 (4) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
5339 Rulemaking Act, and develop procedures and policies relating to:

5340 (a) reporting and investigating incidents of abuse, neglect, or exploitation; and

5341 (b) providing protective services to the extent that funds are appropriated by the  
5342 Legislature for this purpose.

5343 Section 136. Section **26B-6-203**, which is renumbered from Section 62A-3-303 is  
5344 renumbered and amended to read:

5345 [~~62A-3-303~~]. **26B-6-203. Powers and duties of Adult Protective Services.**

5346 In addition to all other powers and duties that Adult Protective Services is given under  
5347 this part, Adult Protective Services:

5348 (1) shall maintain an intake system for receiving and screening reports;

5349 (2) shall investigate referrals that meet the intake criteria;

5350 (3) shall conduct assessments of vulnerability and functional capacity as it relates to an  
5351 allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;

5352 (4) shall perform assessments based on protective needs and risks for a vulnerable  
5353 adult who is the subject of a report;

5354 (5) may address any protective needs by making recommendations to and coordinating  
5355 with the vulnerable adult or by making referrals to community resources;

5356 (6) may provide short-term, limited services to a vulnerable adult when family or  
5357 community resources are not available to provide for the protective needs of the vulnerable  
5358 adult;

5359 (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;

(10) shall, subject to Section ~~[62A-3-320]~~ 26B-6-217, provide emergency protective services;

(11) may require all persons, including family members of a vulnerable adult and any caretaker, to cooperate with Adult Protective Services in carrying out its duties under this chapter, including the provision of statements, documents, exhibits, and other items that assist Adult Protective Services in conducting investigations and providing protective services;

(12) may require all officials, agencies, departments, and political subdivisions of the state to assist and cooperate within their jurisdictional power with the court, the division, and Adult Protective Services in furthering the purposes of this chapter;

(13) may conduct studies and compile data regarding abuse, neglect, and exploitation; and

(14) may issue reports and recommendations.

Section 137. Section **26B-6-204**, which is renumbered from Section 62A-3-304 is renumbered and amended to read:

~~[62A-3-304].~~            **26B-6-204. Cooperation by caretaker.**

A caretaker, facility, or other institution shall, regardless of the confidentiality standards of the caretaker, facility, or institution:

(1) report abuse, neglect, or exploitation of a vulnerable adult in accordance with this chapter;

(2) cooperate with any Adult Protective Services investigation;

(3) provide Adult Protective Services with access to records or documents relating to

the vulnerable adult who is the subject of an investigation; or

(4) provide evidence in any judicial or administrative proceeding relating to a vulnerable adult who is the subject of an investigation.

Section 138. Section **26B-6-205**, which is renumbered from Section 62A-3-305 is renumbered and amended to read:

**~~[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 enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported



5453 to Adult Protective Services or to the nearest peace officer or law enforcement agency.

5454 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of  
5455 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity  
5456 Act of Utah.

5457 (8) If Adult Protective Services has substantial grounds to believe that an individual  
5458 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in  
5459 accordance with this section, Adult Protective Services shall file a complaint with:

5460 (a) the Division of Professional Licensing if the individual is a health care provider, as  
5461 defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

5462 (b) the appropriate law enforcement agency if the individual is a law enforcement  
5463 officer, as defined in Section 53-13-103; and

5464 (c) the State Board of Education if the individual is an educator, as defined in Section  
5465 53E-6-102.

5466 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails  
5467 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective  
5468 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

5469 (b) If an individual is convicted under Subsection (9)(a), the court may order the  
5470 individual, in addition to any other sentence the court imposes, to:

5471 (i) complete community service hours; or

5472 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable  
5473 adults.

5474 (c) In determining whether it would be appropriate to charge an individual with a  
5475 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a  
5476 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a  
5477 vulnerable adult because reporting would have placed the individual in immediate danger of  
5478 death or serious bodily injury.

5479 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use  
5480 an individual's violation of Subsection (9)(a) as the basis for charging the individual with  
5481 another offense.

5482 (e) A prosecution for failure to report under Subsection (9)(a) shall be commenced  
5483 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 renumbered and amended to read:

**~~[62A-3-308].~~            26B-6-207. Peace officer's authority to transport --  
Notification.**

(1) A peace officer may remove and transport, or cause to have transported, a vulnerable adult to an appropriate medical or shelter facility, if:

(a) the officer has probable cause to believe that:

(i) by reason of abuse, neglect, or exploitation there exist exigent circumstances; and

(ii) the vulnerable adult will suffer serious physical injury or death if not immediately placed in a safe environment;

(b) the vulnerable adult refuses to consent or lacks capacity to consent; and

(c) there is not time to notify interested parties or to apply for a warrant or other court

5515 order.

5516 (2) A peace officer described in Subsection (1) shall, within four hours after a  
5517 vulnerable adult is transported to an appropriate medical or shelter facility:

5518 (a) notify Adult Protective Services intake; and

5519 (b) request that Adult Protective Services or the division file a petition with the court  
5520 for an emergency protective order.

5521 Section 141. Section **26B-6-208**, which is renumbered from Section 62A-3-309 is  
5522 renumbered and amended to read:

5523 ~~[62A-3-309].~~ **26B-6-208. Enforcement by division -- Duty of county or**  
5524 **district attorney.**

5525 (1) It is the duty of the county or district attorney, as appropriate under Sections  
5526 **17-18a-202** and **17-18a-203**, to:

5527 (a) assist and represent the division;

5528 (b) initiate legal proceedings to protect vulnerable adults; and

5529 (c) take appropriate action to prosecute the alleged offenders.

5530 (2) If the county or district attorney fails to act upon the request of the division to  
5531 provide legal assistance within five business days after the day on which the request is made:

5532 (a) the division may request the attorney general to act; and

5533 (b) the attorney general may, in the attorney general's discretion, assume the  
5534 responsibilities and carry the action forward in place of the county or district attorney.

5535 Section 142. Section **26B-6-209**, which is renumbered from Section 62A-3-311 is  
5536 renumbered and amended to read:

5537 ~~[62A-3-311].~~ **26B-6-209. Requests for records.**

5538 (1) Requests for records maintained by Adult Protective Services shall be made in  
5539 writing to Adult Protective Services.

5540 (2) Classification and disclosure of records shall be made in accordance with Title  
5541 63G, Chapter 2, Government Records Access and Management Act.

5542 Section 143. Section **26B-6-210**, which is renumbered from Section 62A-3-311.1 is  
5543 renumbered and amended to read:

5544 ~~[62A-3-311.1].~~ **26B-6-210. Statewide database -- Restricted use and access.**

5545 (1) The division shall maintain a database for reports of vulnerable adult abuse,

5546 neglect, or exploitation made pursuant to this part.

5547 (2) The database shall include:

5548 (a) the names and identifying data of the alleged abused, neglected, or exploited  
5549 vulnerable adult and the alleged perpetrator;

5550 (b) information regarding whether or not the allegation of abuse, neglect, or  
5551 exploitation was found to be:

5552 (i) supported;

5553 (ii) inconclusive;

5554 (iii) without merit; or

5555 (iv) for reports for which the finding is made before May 5, 2008:

5556 (A) substantiated; or

5557 (B) unsubstantiated; and

5558 (c) any other information that may be helpful in furthering the purposes of this part, as  
5559 determined by the division.

5560 (3) Information obtained from the database may be used only:

5561 (a) for statistical summaries compiled by the department that do not include names or  
5562 other identifying data;

5563 (b) where identification of an individual as a perpetrator may be relevant in a  
5564 determination regarding whether to grant or deny a license, privilege, or approval made by:

5565 (i) the department;

5566 (ii) the Division of Professional Licensing;

5567 ~~[(iii) the Bureau of Licensing, within the Department of Health;]~~

5568 [(iii) the Division of Licensing and Background Checks within the department;

5569 (iv) the Bureau of Emergency Medical Services and Preparedness, within the  
5570 ~~[Department of Health]~~ department, or a designee of the Bureau of Emergency Medical  
5571 Services and Preparedness;

5572 (v) any government agency specifically authorized by statute to access or use the  
5573 information in the database; or

5574 (vi) an agency of another state that performs a similar function to an agency described  
5575 in Subsections (3)(b)(i) through (iv); or

5576 (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).

(b) The division may serve the notice described in Subsection (1)(a) within a reasonable time after the 15 day period described in Subsection (1)(a) if:

(i) the delay is necessary in order to:

(A) avoid impeding an ongoing criminal investigation or proceeding; or

(B) protect the safety of a person; and

(ii) the notice is provided before the supported finding is used as a basis to deny the person a license or otherwise adversely impact the person.

(2) The division shall cause the notice described in Subsection (1)(a) to be served by personal service or certified mail.

(3) The notice described in Subsection (1)(a) shall:

(a) indicate that the division has conducted an investigation regarding alleged abuse, neglect, or exploitation of a vulnerable adult by the alleged perpetrator;

(b) indicate that, as a result of the investigation described in Subsection (3)(a), the division made a supported finding that the alleged perpetrator committed abuse, neglect, or exploitation of a vulnerable adult;

(c) include a summary of the facts that are the basis for the supported finding;

(d) indicate that the supported finding may result in disqualifying the person from:

(i) being licensed, certified, approved, or employed by a government agency;

(ii) being employed by a service provider, person, or other entity that contracts with, or is licensed by, a government agency; or

(iii) qualifying as a volunteer for an entity described in Subsection (3)(d)(i) or (ii);

(e) indicate that, as a result of the supported finding, the alleged perpetrator's identifying information is listed in the database;

(f) indicate that the alleged perpetrator may request a copy of the report of the alleged abuse, neglect, or exploitation; and

(g) inform the alleged perpetrator of:

(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:

**~~[62A-3-314]~~. 26B-6-213. Private right of action -- Estate asset -- Attorney fees.**

(1) A vulnerable adult who suffers harm or financial loss as a result of exploitation has a private right of action against the perpetrator.

(2) Upon the death of a vulnerable adult, any cause of action under this section shall constitute an asset of the estate of the vulnerable adult.

(3) If the plaintiff prevails in an action brought under this section, the court may order that the defendant pay the costs and reasonable attorney fees of the plaintiff.

(4) If the defendant prevails in an action brought under this section, the court may order that the plaintiff pay the costs and reasonable attorney fees of the defendant, if the court finds that the action was frivolous, unreasonable, or taken in bad faith.

Section 147. Section **26B-6-214**, which is renumbered from Section 62A-3-315 is renumbered and amended to read:

**~~[62A-3-315].~~        26B-6-214. Protective services voluntary unless court ordered.**

(1) Vulnerable adults who receive protective services under this part shall do so knowingly or voluntarily or upon district court order.

(2) Protective services may be provided without a court order for a vulnerable adult who has the capacity to consent and who requests or knowingly or voluntarily consents to those services. Protective services may also be provided for a vulnerable adult whose guardian or conservator with authority to consent does consent to those services. When short-term, limited protective services are provided, the division and the recipient, or the recipient's guardian or conservator, shall execute a written agreement setting forth the purposes and limitations of the services to be provided. If consent is subsequently withdrawn by the recipient, the recipient's guardian or conservator, or the court, services, including any investigation, shall cease.

(3) A court may order emergency protective services to be provided to a vulnerable adult who does not consent or who lacks capacity to consent to protective services in accordance with Section ~~[62A-3-320]~~ [26B-6-217](#).

Section 148. Section **26B-6-215**, which is renumbered from Section 62A-3-316 is renumbered and amended to read:

**~~[62A-3-316].~~        26B-6-215. Costs incurred in providing of protective services.**

Costs incurred in providing protective services are the responsibility of the vulnerable adult when:

(1) the vulnerable adult is financially able to pay for those services, according to rates



5701 established by the division, and that payment is provided for as part of the written agreement  
5702 for services described in Section [~~62A-3-315~~] 26B-6-214;

5703 (2) the vulnerable adult to be protected is eligible for those services from another  
5704 governmental agency; or

5705 (3) the court appoints a guardian or conservator and orders that the costs be paid from  
5706 the vulnerable adult's estate.

5707 Section 149. Section **26B-6-216**, which is renumbered from Section 62A-3-317 is  
5708 renumbered and amended to read:

5709 ~~[62A-3-317]~~. **26B-6-216. Venue for protective services proceedings.**

5710 Venue for all proceedings related to protective services and emergency protective  
5711 services under this [~~chapter~~] part is in the county where the vulnerable adult resides or is  
5712 present.

5713 Section 150. Section **26B-6-217**, which is renumbered from Section 62A-3-320 is  
5714 renumbered and amended to read:

5715 ~~[62A-3-320]~~. **26B-6-217. Emergency protective services -- Forcible entry.**

5716 (1) Adult Protective Services shall, immediately upon court order, provide emergency  
5717 protective services to a court-designated vulnerable adult.

5718 (2) A court may, without notice, order emergency protective services immediately upon  
5719 receipt of a petition for emergency protective services when a court finds that:

5720 (a) the subject of the petition is a vulnerable adult;

5721 (b) (i) the vulnerable adult does not have a court-appointed guardian or conservator; or

5722 (ii) the guardian or conservator is not effectively performing the guardian's or  
5723 conservator's duties;

5724 (c) an emergency exists; and

5725 (d) the welfare, safety, or best interests of the vulnerable adult requires emergency  
5726 protective services.

5727 (3) An emergency protective services order shall specifically designate the services that  
5728 are approved and the facts that support the provision of those services.

5729 (4) Services authorized in an emergency protective services order may include  
5730 hospitalization, nursing, custodial care, or a change in residence.

5731 (5) An emergency protective services order expires five business days after the day on

which the court issues the order unless an appropriate party petitions for temporary guardianship pursuant to Section [75-5-310](#) or the division files a new petition for an emergency services order.

(6) If a petition for guardianship or an additional emergency protective services petition is filed within five business days after the day on which the court issues the original emergency protective services order, a court may extend the duration of the original order an additional 15 business days after the day on which the subsequent petition is filed to allow for a court hearing on the petition.

(7) To implement an emergency protective services order, a court may authorize forcible entry by a peace officer into the premises where the vulnerable adult may be found.

Section 151. Section **26B-6-218**, which is renumbered from Section 62A-3-321 is renumbered and amended to read:

**~~[62A-3-321].~~ 26B-6-218. Petition for injunctive relief when caretaker refuses to allow protective services.**

(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:

## CHAPTER CHAPTER 20. UTAH INNOVATION LAB ACT

### Part 3. Office of Public Guardian

~~[62A-14-102].~~ **26B-6-301. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Conservator" is as defined in Section 75-1-201.

(2) "Court" is as defined in Section 75-1-201.

(3) "Estate" is as defined in Section 75-1-201.

(4) "Guardian" is as defined in Section 75-1-201.

(5) "Incapacitated" means a person who has been determined by a court, pursuant to Section 75-5-303, to be incapacitated, as defined in Section 75-1-201, after the office has determined that the person is 18 years of age or older and suffers from a mental or physical impairment as part of the prepetition assessment in Section ~~[62A-14-107]~~ 26B-6-305.

(6) "Office" means the Office of Public Guardian.

(7) "Property" is as defined in Section 75-1-201.

(8) "Ward" means an incapacitated person for whom the office has been appointed as guardian or conservator.

Section 154. Section **26B-6-302**, which is renumbered from Section 62A-14-103 is renumbered and amended to read:

~~[62A-14-103].~~ **26B-6-302. Office of Public Guardian -- Creation.**

(1) There is created within the department the Office of Public Guardian which has the powers and duties provided in this ~~[chapter]~~ part.

(2) The office is under the administrative and general supervision of the executive

5794 director.

5795 Section 155. Section **26B-6-303**, which is renumbered from Section 62A-14-104 is  
5796 renumbered and amended to read:

5797 ~~[62A-14-104].~~ **26B-6-303. Director of the office -- Appointment --**  
5798 **Qualifications.**

5799 (1) The director of the office shall be appointed by the executive director.

5800 (2) The director shall have a bachelor's degree from an accredited university or college,  
5801 be experienced in administration, and be knowledgeable in matters concerning guardianship  
5802 and conservatorship.

5803 (3) The director is the administrative head of the office.

5804 Section 156. Section **26B-6-304**, which is renumbered from Section 62A-14-105 is  
5805 renumbered and amended to read:

5806 ~~[62A-14-105].~~ **26B-6-304. Powers and duties of the office.**

5807 (1) The office shall:

5808 (a) develop and operate a statewide program to:

5809 (i) educate the public about the role and function of guardians and conservators;

5810 (ii) educate guardians and conservators on:

5811 (A) the duties of a guardian and a conservator; and

5812 (B) standards set by the National Guardianship Association for guardians and  
5813 conservators; and

5814 (iii) serve as a guardian, conservator, or both for a ward upon appointment by a court  
5815 when no other person is able and willing to do so and the office petitioned for or agreed in  
5816 advance to the appointment;

5817 (b) possess and exercise all the powers and duties specifically given to the office by  
5818 virtue of being appointed as guardian or conservator of a ward, including the power to access a  
5819 ward's records;

5820 (c) review and monitor the personal and, if appropriate, financial status of each ward  
5821 for whom the office has been appointed to serve as guardian or conservator;

5822 (d) train and monitor each employee and volunteer, and monitor each contract provider  
5823 to whom the office has delegated a responsibility for a ward;

5824 (e) retain all court-delegated powers and duties for a ward;

5825 (f) report on the personal and financial status of a ward as required by a court in  
5826 accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their  
5827 Property;

5828 (g) handle a ward's funds in accordance with the department's trust account system;

5829 (h) request that the department's audit plan, established pursuant to Section [63I-5-401](#),  
5830 include the requirement of an annual audit of all funds and property held by the office on behalf  
5831 of wards;

5832 (i) maintain accurate records concerning each ward, the ward's property, and office  
5833 services provided to the ward;

5834 (j) make reasonable and continuous efforts to find a family member, friend, or other  
5835 person to serve as a ward's guardian or conservator;

5836 (k) after termination as guardian or conservator, distribute a ward's property in  
5837 accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their  
5838 Property; and

5839 (l) submit recommendations for changes in state law and funding to the governor and  
5840 the Legislature and report to the governor and Legislature, upon request.

5841 (2) The office may:

5842 (a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under  
5843 Disability and Their Property, to be appointed an incapacitated person's guardian, conservator,  
5844 or both after conducting a prepetition assessment under Section [[62A-14-107](#)] [26B-6-305](#);

5845 (b) develop and operate a statewide program to recruit, train, supervise, and monitor  
5846 volunteers to assist the office in providing guardian and conservator services;

5847 (c) delegate one or more responsibilities for a ward to an employee, volunteer, or  
5848 contract provider, except as provided in Subsection [[62A-14-107](#)] [26B-6-305](#)(1);

5849 (d) solicit and receive private donations to provide guardian and conservator services  
5850 under this ~~[chapter]~~ part; and

5851 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
5852 Rulemaking Act, to:

5853 (i) effectuate policy; and

5854 (ii) carry out the office's role as guardian and conservator of wards as provided in this  
5855 chapter.

5856 Section 157. Section **26B-6-305**, which is renumbered from Section 62A-14-107 is  
5857 renumbered and amended to read:

5858 ~~[62A-14-107]~~. **26B-6-305. Prepetition assessment and plan.**

5859 (1) Before the office may file a petition in court to be appointed guardian or  
5860 conservator of a person, the office shall:

5861 (a) conduct a face-to-face needs assessment, by someone other than a volunteer, to  
5862 determine whether the person suffers from a mental or physical impairment that renders the  
5863 person substantially incapable of:

5864 (i) caring for his personal safety;

5865 (ii) managing his financial affairs; or

5866 (iii) attending to and providing for such necessities as food, shelter, clothing, and  
5867 medical care, to the extent that physical injury or illness may result;

5868 (b) assess the financial resources of the person based on information supplied to the  
5869 office at the time of assessment;

5870 (c) inquire and, if appropriate, search to determine whether any other person may be  
5871 willing and able to serve as the person's guardian or conservator; and

5872 (d) determine the form of guardianship or conservatorship to request of a court, if any,  
5873 giving preference to the least intensive form of guardianship or conservatorship, consistent  
5874 with the best interests of the person.

5875 (2) The office shall prepare an individualized guardianship or conservator plan for each  
5876 ward within 60 days of appointment.

5877 Section 158. Section **26B-6-306**, which is renumbered from Section 62A-14-108 is  
5878 renumbered and amended to read:

5879 ~~[62A-14-108]~~. **26B-6-306. Office volunteers.**

5880 (1) A person who desires to be an office volunteer shall:

5881 (a) possess demonstrated personal characteristics of honesty, integrity, compassion,  
5882 and concern for incapacitated persons; and

5883 (b) upon request, submit information for a background check pursuant to Section  
5884 **26B-1-211**.

5885 (2) An office volunteer may not receive compensation or benefits, but may be  
5886 reimbursed by the office for expenses actually and reasonably incurred, consistent with Title

5887 67, Chapter 20, Volunteer Government Workers Act.

5888 (3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8,  
5889 Immunity for Persons Performing Voluntary Services Act.

5890 Section 159. Section **26B-6-307**, which is renumbered from Section 62A-14-109 is  
5891 renumbered and amended to read:

5892 ~~[62A-14-109].~~ **26B-6-307. Contract for services.**

5893 (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the office may  
5894 contract with one or more providers to perform guardian and conservator duties.

5895 (2) The office shall review and monitor the services provided by a contract provider to  
5896 a ward for whom the office has been appointed guardian or conservator.

5897 Section 160. Section **26B-6-308**, which is renumbered from Section 62A-14-110 is  
5898 renumbered and amended to read:

5899 ~~[62A-14-110].~~ **26B-6-308. Court, legal, and other costs.**

5900 (1) The office may not be appointed as the guardian or conservator of a person unless  
5901 the office petitioned for or agreed in advance to the appointment.

5902 (2) Except as provided in Subsection (4), the court shall order the ward or the ward's  
5903 estate to pay for the cost of services rendered under this chapter, including court costs and  
5904 reasonable attorneys' fees.

5905 (3) If the office recovers attorneys' fees under Subsection (2), the office shall transmit  
5906 those fees to the attorneys who represented the ward or the office in connection with the ward's  
5907 case.

5908 (4) If a ward is indigent, the office shall provide guardian and conservator services free  
5909 of charge and shall make reasonable efforts to secure pro bono legal services for the ward.

5910 (5) Under no circumstances may court costs or attorneys' fees be assessed to the office.

5911 Section 161. Section **26B-6-309**, which is renumbered from Section 62A-14-111 is  
5912 renumbered and amended to read:

5913 ~~[62A-14-111].~~ **26B-6-309. Duty of the county attorney or district attorney.**

5914 (1) The attorney general shall advise the office on legal matters and represent the office  
5915 in legal proceedings.

5916 (2) Upon the request of the attorney general, a county attorney may represent the office  
5917 in connection with the filing of a petition for appointment as guardian or conservator of an

5918 incapacitated person and with routine, subsequent appearances.

5919       Section 162. Section **26B-6-401**, which is renumbered from Section 62A-5-101 is  
5920 renumbered and amended to read:

5921                               **Part 4. Division of Services for People with Disabilities**

5922               ~~[62A-5-101].~~       **26B-6-401. Definitions.**

5923               As used in this ~~[chapter]~~ part:

5924               (1) "Approved provider" means a person approved by the division to provide  
5925 home-based services.

5926               (2) "Board" means the Utah State Developmental Center Board created under Section  
5927 ~~[62A-5-202.5]~~ 26B-1-429.

5928               (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in  
5929 nature, including a cerebral vascular accident.

5930               (b) "Brain injury" does not include a deteriorating disease.

5931               (4) "Designated intellectual disability professional" means:

5932               (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,  
5933 who:

5934               (i) (A) has at least one year of specialized training in working with persons with an  
5935 intellectual disability; or

5936               (B) has at least one year of clinical experience with persons with an intellectual  
5937 disability; and

5938               (ii) is designated by the division as specially qualified, by training and experience, in  
5939 the treatment of an intellectual disability; or

5940               (b) a clinical social worker, certified social worker, marriage and family therapist, or  
5941 professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional  
5942 Practice Act, who:

5943               (i) has at least two years of clinical experience with persons with an intellectual  
5944 disability; and

5945               (ii) is designated by the division as specially qualified, by training and experience, in  
5946 the treatment of an intellectual disability.

5947               (5) "Deteriorating disease" includes:

5948               (a) multiple sclerosis;



- 5949 (b) muscular dystrophy;  
5950 (c) Huntington's chorea;  
5951 (d) Alzheimer's disease;  
5952 (e) ataxia; or  
5953 (f) cancer.
- 5954 (6) "Developmental center" means the Utah State Developmental Center, established in  
5955 accordance with Part [2] 5, Utah State Developmental Center.
- 5956 (7) "Director" means the director of the Division of Services for People with  
5957 Disabilities.
- 5958 (8) "Direct service worker" means a person who provides services to a person with a  
5959 disability:
- 5960 (a) when the services are rendered in:  
5961 (i) the physical presence of the person with a disability; or  
5962 (ii) a location where the person rendering the services has access to the physical  
5963 presence of the person with a disability; and
- 5964 (b) (i) under a contract with the division;  
5965 (ii) under a grant agreement with the division; or  
5966 (iii) as an employee of the division.
- 5967 (9) (a) "Disability" means a severe, chronic disability that:  
5968 (i) is attributable to:  
5969 (A) an intellectual disability;  
5970 (B) a condition that qualifies a person as a person with a related condition, as defined  
5971 in 42 C.F.R. Sec. 435.1010;  
5972 (C) a physical disability; or  
5973 (D) a brain injury;  
5974 (ii) is likely to continue indefinitely;  
5975 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a  
5976 substantial functional limitation in three or more of the following areas of major life activity:  
5977 (I) self-care;  
5978 (II) receptive and expressive language;  
5979 (III) learning;

5980 (IV) mobility;  
5981 (V) self-direction;  
5982 (VI) capacity for independent living; or  
5983 (VII) economic self-sufficiency; or  
5984 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial  
5985 limitation in three or more of the following areas:  
5986 (I) memory or cognition;  
5987 (II) activities of daily life;  
5988 (III) judgment and self-protection;  
5989 (IV) control of emotions;  
5990 (V) communication;  
5991 (VI) physical health; or  
5992 (VII) employment; and  
5993 (iv) requires a combination or sequence of special interdisciplinary or generic care,  
5994 treatment, or other services that:  
5995 (A) may continue throughout life; and  
5996 (B) must be individually planned and coordinated.  
5997 (b) "Disability" does not include a condition due solely to:  
5998 (i) mental illness;  
5999 (ii) personality disorder;  
6000 (iii) deafness or being hard of hearing;  
6001 (iv) visual impairment;  
6002 (v) learning disability;  
6003 (vi) behavior disorder;  
6004 (vii) substance abuse; or  
6005 (viii) the aging process.  
6006 (10) "Division" means the Division of Services for People with Disabilities.  
6007 (11) "Eligible to receive division services" or "eligibility" means qualification, based  
6008 on criteria established by the division, to receive services that are administered by the division.  
6009 (12) "Endorsed program" means a facility or program that:  
6010 (a) is operated:

6011 (i) by the division; or  
6012 (ii) under contract with the division; or  
6013 (b) provides services to a person committed to the division under Part [3] 6, Admission  
6014 to an Intermediate Care Facility for People with an Intellectual Disability.  
6015 (13) "Licensed physician" means:  
6016 (a) an individual licensed to practice medicine under:  
6017 (i) Title 58, Chapter 67, Utah Medical Practice Act; or  
6018 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or  
6019 (b) a medical officer of the United States Government while in this state in the  
6020 performance of official duties.  
6021 (14) "Limited support services" means services that are administered by the division to  
6022 individuals with a disability:  
6023 (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for  
6024 Medicare and Medicaid Services that permits the division to limit services to an individual who  
6025 is eligible to receive division services; and  
6026 (b) through a program that:  
6027 (i) was not operated by the division on or before January 1, 2020; and  
6028 (ii) (A) limits the kinds of services that an individual may receive; or  
6029 (B) sets a maximum total dollar amount for program services provided to each  
6030 individual.  
6031 (15) "Physical disability" means a medically determinable physical impairment that has  
6032 resulted in the functional loss of two or more of a person's limbs.  
6033 (16) "Public funds" means state or federal funds that are disbursed by the division.  
6034 (17) "Resident" means an individual under observation, care, or treatment in an  
6035 intermediate care facility for people with an intellectual disability.  
6036 (18) "Sustainability fund" means the Utah State Developmental Center Long-Term  
6037 Sustainability Fund created in Section [~~62A-5-206.7~~] 26B-1-331.  
6038 Section 163. Section **26B-6-402**, which is renumbered from Section 62A-5-102 is  
6039 renumbered and amended to read:  
6040 **[~~62A-5-102~~]. 26B-6-402. Division of Services for People with Disabilities --**  
6041 **Creation -- Authority -- Direction -- Provision of services.**

(1) There is created within the department the Division of Services for People with 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;
- (b) ensure opportunities to access employment; and
- (c) enable reasonable personal choice in selecting services and support that:

6073 (i) best meet individual needs; and

6074 (ii) promote:

6075 (A) independence;

6076 (B) productivity; and

6077 (C) integration in community life.

6078 (7) (a) Appropriations to the division are nonlapsing.

6079 (b) After an individual stops receiving services under this section, the division shall use

6080 the funds that paid for the individual's services to provide services under this section to another

6081 eligible individual in an intermediate care facility transitioning to division services, if the funds

6082 were allocated under a program established under Section ~~[26-18-3]~~ [26B-3-108](#) to transition

6083 individuals with intellectual disabilities from an intermediate care facility.

6084 (c) Except as provided in Subsection (7)(b), if an individual receiving services under

6085 Subsection (4)(a) ceases to receive those services, the division shall use the funds that were

6086 allocated to that individual to provide services to another eligible individual waiting for

6087 services as described in Subsection (4)(a).

6088 (d) Funds unexpended by the division at the end of the fiscal year may be used only for

6089 one-time expenditures unless otherwise authorized by the Legislature.

6090 (e) A one-time expenditure under this section:

6091 (i) is not an entitlement;

6092 (ii) may be withdrawn at any time; and

6093 (iii) may provide short-term, limited services, including:

6094 (A) respite care;

6095 (B) service brokering;

6096 (C) family skill building and preservation classes;

6097 (D) after school group services; and

6098 (E) other professional services.

6099 Section 164. Section **26B-6-403**, which is renumbered from Section 62A-5-103 is

6100 renumbered and amended to read:

6101 ~~[62A-5-103]~~. **26B-6-403. Responsibility and authority of division.**

6102 (1) For purposes of this section "administer" means to:

6103 (a) plan;

- 6104 (b) develop;  
6105 (c) manage;  
6106 (d) monitor; and  
6107 (e) conduct certification reviews.
- 6108 (2) The division has the authority and responsibility to:
- 6109 (a) administer an array of services and supports for persons with disabilities and their  
6110 families throughout the state;
- 6111 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
6112 Rulemaking Act, that establish eligibility criteria for the services and supports described in  
6113 Subsection (2)(a);
- 6114 (c) consistent with Section [~~62A-5-206~~] 26B-6-508, supervise the programs and  
6115 facilities of the Developmental Center;
- 6116 (d) in order to enhance the quality of life for a person with a disability, establish either  
6117 directly, or by contract with private, nonprofit organizations, programs of:
- 6118 (i) outreach;  
6119 (ii) information and referral;  
6120 (iii) prevention;  
6121 (iv) technical assistance; and  
6122 (v) public awareness;
- 6123 (e) supervise the programs and facilities operated by, or under contract with, the  
6124 division;
- 6125 (f) cooperate with other state, governmental, and private agencies that provide services  
6126 to a person with a disability;
- 6127 (g) subject to Subsection (3), ensure that a person with a disability is not deprived of  
6128 that person's constitutionally protected rights without due process procedures designed to  
6129 minimize the risk of error when a person with a disability is admitted to an intermediate care  
6130 facility for people with an intellectual disability, including:
- 6131 (i) the developmental center; and  
6132 (ii) facilities within the community;
- 6133 (h) determine whether to approve providers;  
6134 (i) monitor and sanction approved providers, as specified in the providers' contract;

- 6135 (j) subject to Section [~~62A-5-103.5~~] [26B-6-410](#), receive and disburse public funds;
- 6136 (k) review financial actions of a provider who is a representative payee appointed by
- 6137 the Social Security Administration;
- 6138 (l) establish standards and rules for the administration and operation of programs
- 6139 conducted by, or under contract with, the division;
- 6140 (m) approve and monitor division programs to insure compliance with the board's rules
- 6141 and standards;
- 6142 (n) establish standards and rules necessary to fulfill the division's responsibilities under
- 6143 Part [2] 5, Utah State Developmental Center, and Part [3] 6, Admission to an Intermediate Care
- 6144 Facility for People with an Intellectual Disability, with regard to an intermediate care facility
- 6145 for people with an intellectual disability;
- 6146 (o) assess and collect equitable fees for a person who receives services provided under
- 6147 this chapter;
- 6148 (p) maintain records of, and account for, the funds described in Subsection (2)(o);
- 6149 (q) establish and apply rules to determine whether to approve, deny, or defer the
- 6150 division's services to a person who is:
- 6151 (i) applying to receive the services; or
- 6152 (ii) currently receiving the services;
- 6153 (r) in accordance with state law, establish rules:
- 6154 (i) relating to an intermediate care facility for people with an intellectual disability that
- 6155 is an endorsed program; and
- 6156 (ii) governing the admission, transfer, and discharge of a person with a disability;
- 6157 (s) manage funds for a person residing in a facility operated by the division:
- 6158 (i) upon request of a parent or guardian of the person; or
- 6159 (ii) under administrative or court order; and
- 6160 (t) fulfill the responsibilities described in [~~Chapter 5a, Coordinating Council for~~
- 6161 ~~Persons with Disabilities~~] [Section 26B-1-430](#).
- 6162 (3) The due process procedures described in Subsection (2)(g):
- 6163 (a) shall include initial and periodic reviews to determine the constitutional
- 6164 appropriateness of the placement; and
- 6165 (b) with regard to facilities in the community, do not require commitment to the

6166 division.

6167 Section 165. Section **26B-6-404**, which is renumbered from Section 62A-5-104 is  
6168 renumbered and amended to read:

6169 ~~[62A-5-104].~~ **26B-6-404. Director -- Qualifications -- Responsibilities.**

6170 (1) The director of the division shall be appointed by the executive director.

6171 (2) The director shall have a bachelor's degree from an accredited university or college,  
6172 be experienced in administration, and be knowledgeable in developmental disabilities,  
6173 intellectual disabilities, and other disabilities.

6174 (3) The director is the administrative head of the division.

6175 (4) The director shall appoint the superintendent of the developmental center and the  
6176 necessary and appropriate administrators for other facilities operated by the division with the  
6177 concurrence of the executive director.

6178 Section 166. Section **26B-6-405**, which is renumbered from Section 62A-5-105 is  
6179 renumbered and amended to read:

6180 ~~[62A-5-105].~~ **26B-6-405. Division responsibilities -- Policy mediation.**

6181 (1) The division shall establish its rules in accordance with:

6182 (a) the policy of the Legislature as set forth by this ~~[chapter]~~ part; and

6183 (b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

6184 (2) The division shall:

6185 (a) establish program policy for the division, the developmental center, and programs  
6186 and facilities operated by or under contract with the division;

6187 (b) establish rules for the assessment and collection of fees for programs within the  
6188 division;

6189 (c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay  
6190 and implement the schedule with respect to service recipients and their families where not  
6191 otherwise prohibited by federal law or regulation or not otherwise provided for in Section  
6192 ~~[62A-5-109]~~ 26B-6-411;

6193 (d) establish procedures to ensure that private citizens, consumers, private contract  
6194 providers, allied state and local agencies, and others are provided with an opportunity to  
6195 comment and provide input regarding any new policy or proposed revision to an existing  
6196 policy;



(e) provide a mechanism for systematic and regular review of existing policy and for consideration of policy changes proposed by the persons and agencies described under Subsection (2)(d);

(f) establish and periodically review the criteria used to determine who may receive services from the division and how the delivery of those services is prioritized within available funding;

(g) review implementation and compliance by the division with policies established by the board to ensure that the policies established by the Legislature in this chapter are carried 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.

~~[(6) The division shall report to the Health and Human Services Interim Committee in even calendar years regarding the success and progress of employment services offered under this section.]~~

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:

6259 (a) family skill building classes;

6260 (b) respite hours for class attendance; or

6261 (c) professional intervention.

6262 (3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

6263 Administrative Rulemaking Act, as necessary for the implementation and administration of this  
6264 section.

6265 (4) In accordance with Subsection (5), within funds appropriated by the Legislature for

6266 the pilot program described in this section, the division shall provide family preservation

6267 services to a person with a disability, and that person's family, if that person:

6268 (a) is eligible to receive services from the division;

6269 (b) has applied for, and is willing to receive, services from the division;

6270 (c) is not receiving other ongoing services from the division;

6271 (d) is not able to receive sufficient family preservation services from other sources;

6272 (e) is determined by the division to be a person who would substantially benefit from  
6273 the provision of family preservation services; and

6274 (f) does not require the provision of other ongoing services from the division in order  
6275 to substantially benefit from the provision of family preservation services.

6276 (5) (a) The division shall provide family preservation services under this section

6277 outside of the prioritization criteria established by the division for the receipt of other services  
6278 from the division.

6279 (b) The division shall establish criteria to determine the priority, between persons  
6280 eligible for services under this section, for receiving services under this section.

6281 (6) It is the intent of the Legislature that the services provided under the pilot program  
6282 described in this section:

6283 (a) shall be provided separately from the Medicaid program described in Title XIX of  
6284 the Social Security Act;

6285 (b) may not be supported with Medicaid funds;

6286 (c) may not be provided as part of a Medicaid waiver;

6287 (d) do not constitute an entitlement of any kind; and

6288 (e) may be withdrawn from a person at any time.

6289 Section 170. Section **26B-6-409**, which is renumbered from Section 62A-5-103.3 is

6290 renumbered and amended to read:

6291 ~~[62A-5-103.3].~~ 26B-6-409. **Employment first emphasis on the provision of**  
6292 **services.**

6293 (1) When providing services to a person with a disability under this chapter, the  
6294 division shall, within funds appropriated by the Legislature and in accordance with the  
6295 requirements of federal and state law, give priority to providing services that assist the person  
6296 in obtaining and retaining meaningful and gainful employment that enables the person to:

- 6297 (a) purchase goods and services;  
6298 (b) establish self-sufficiency; and  
6299 (c) exercise economic control of the person's life.

6300 (2) The division shall develop a written plan to implement the policy described in  
6301 Subsection (1) that includes:

- 6302 (a) assessing the strengths and needs of a person with a disability;  
6303 (b) customizing strength-based approaches to obtaining employment;  
6304 (c) expecting, encouraging, providing, and rewarding:  
6305 (i) integrated employment in the workplace at competitive wages and benefits; and  
6306 (ii) self-employment;  
6307 (d) developing partnerships with potential employers;  
6308 (e) maximizing appropriate employment training opportunities;  
6309 (f) coordinating services with other government agencies and community resources;  
6310 (g) to the extent possible, eliminating practices and policies that interfere with the  
6311 policy described in Subsection (1); and  
6312 (h) arranging sub-minimum wage work or volunteer work when employment at market  
6313 rates cannot be obtained.

6314 (3) The division shall, on an annual basis:

- 6315 (a) set goals to implement the policy described in Subsection (1) and the plan described  
6316 in Subsection (2);  
6317 (b) determine whether the goals for the previous year have been met; and  
6318 (c) modify the plan described in Subsection (2) as needed.

6319 Section 171. Section **26B-6-410**, which is renumbered from Section 62A-5-103.5 is  
6320 renumbered and amended to read:

6321           ~~[62A-5-103.5].~~       **26B-6-410.** Disbursal of public funds -- Background check of  
6322 a direct service worker.

6323           (1) For purposes of this section, "office" means the same as that term is defined in  
6324 Section ~~[62A-2-101]~~ 26B-2-101.

6325           (2) Public funds may not be disbursed to pay a direct service worker for personal  
6326 services rendered to a person unless the office approves the direct service worker to have direct  
6327 access and provide services to a child or a vulnerable adult pursuant to Section ~~[62A-2-120]~~  
6328 26B-2-120.

6329           (3) For purposes of Subsection (2), the office shall conduct a background check of a  
6330 direct service worker:

6331           (a) before public funds are disbursed to pay the direct service worker for the personal  
6332 services described in Subsection (2); and

6333           (b) using the same procedures established for a background check of an applicant for a  
6334 license under Section ~~[62A-2-120]~~ 26B-2-120.

6335           (4) A child who is in the legal custody of the department or any of the department's  
6336 divisions may not be placed with a direct service worker unless, before the child is placed with  
6337 the direct service worker, the direct service worker passes a background check, pursuant to the  
6338 requirements of Subsection ~~[62A-2-120]~~ 26B-2-120(14).

6339           (5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public  
6340 Transit District Act, contracts with the division to provide services:

6341           (a) the provisions of this section are not applicable to a direct service worker employed  
6342 by the public transit district; and

6343           (b) the division may not reimburse the public transit district for services provided  
6344 unless a direct service worker hired or transferred internally after July 1, 2013, by the public  
6345 transit district to drive a paratransit route:

6346           (i) is approved by the office to have direct access to children and vulnerable adults in  
6347 accordance with Section ~~[62A-2-120]~~ 26B-2-120; and

6348           (ii) is subject to a background check established in a statute or rule governing a public  
6349 transit district or other public transit district policy.

6350           Section 172. Section **~~26B-6-411~~**, which is renumbered from Section 62A-5-109 is  
6351 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.

(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 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

6383 individual by the individual, a court, or a parent, grandparent, or legal guardian of the  
6384 individual;

6385 (v) that is irrevocable, except that the trust document may provide that the trust be  
6386 terminated if the individual no longer has a disability, as defined in 42 U.S.C. Sec. 1382c;

6387 (vi) that is invalid as to any portion funded by property that is or may be subject to a  
6388 lien by the state; and

6389 (vii) that provides that, upon the death of the individual, the state will receive all  
6390 amounts remaining in the trust, up to an amount equal to the total medical assistance paid on  
6391 behalf of the individual.

6392 (b) "Medical assistance" means the same as that term is defined in Section [~~26-18-2~~]  
6393 [26B-3-101](#).

6394 (2) A state agency providing services or support to an individual with a disability may:

6395 (a) waive application of Subsection (1)(a)(v) with respect to that individual if the state  
6396 agency determines that application of the criteria would place an undue hardship upon that  
6397 individual; and

6398 (b) define, by rule, what constitutes "undue hardship" for purposes of this section.

6399 (3) A discretionary trust for an individual with a disability is not liable for  
6400 reimbursement or payment to the state or any state agency, for financial aid or services  
6401 provided to that individual except:

6402 (a) to the extent that the trust property has been distributed directly to or is otherwise  
6403 under the control of the beneficiary with a disability; or

6404 (b) as provided in Subsection (1)(a)(vi).

6405 (4) Property, goods, and services that are purchased or owned by a discretionary trust  
6406 for an individual with a disability and that are used or consumed by a beneficiary with a  
6407 disability shall not be considered trust property that is distributed to or under the control of the  
6408 beneficiary.

6409 (5) The benefits that an individual with a disability is otherwise legally entitled to may  
6410 not be reduced, impaired, or diminished in any way because of contribution to a discretionary  
6411 trust for that individual.

6412 (6) All state agencies shall disregard a discretionary trust for an individual with a  
6413 disability as a resource when determining eligibility for services or support except as, and only

to the extent that it is otherwise prohibited by federal law.

(7) This section applies to all discretionary trusts that meet the requirements contained in Subsection (1) created before, on, or after July 1, 1994.

Section 174. Section **26B-6-413**, which is renumbered from Section 62A-5-402 is renumbered and amended to read:

**~~[62A-5-402].~~        26B-6-413. Scope of home based services -- Purpose -- Principles -- Services for individuals younger than 11 years old.**

(1) The purpose of this section is to provide support to families in their role as primary caregivers for family members with disabilities.

~~[(1)]~~ (2) (a) To enable a person with a disability and the person's family to select services and supports that best suit their needs and preferences, the division shall, within appropriations from the Legislature, provide services and supports under this part by giving direct financial assistance to the parent or guardian of a person with a disability who resides at home.

(b) The dollar value of direct financial assistance is determined by the division based on:

- (i) appropriations from the Legislature; and
- (ii) the needs of the person with a disability.

(c) In determining whether to provide direct financial assistance to the family, the division shall consider:

- (i) the family's preference; and
- (ii) the availability of approved providers in the area where the family resides.

(d) If the division provides direct financial assistance, the division:

- (i) shall require the family to account for the use of that financial assistance; and
- (ii) shall tell the person with a disability or the person's parent or guardian how long the direct financial assistance is intended to provide services and supports before additional direct financial assistance is issued.

(e) Except for eligibility determination services directly connected to the provision of direct financial assistance, service coordination is not provided under this part by the division unless the person with a disability or the person's parent or guardian uses the direct financial assistance to purchase such services.



6445           ~~[(2)]~~ (3) The following principles shall be used as the basis for supporting families who  
6446 care for family members with disabilities:

6447           (a) all children, regardless of disability, should reside in a family-like environment;

6448           (b) families should receive the support they need to care for their children at home;

6449           (c) services should:

6450           (i) focus on the person with a disability;

6451           (ii) take into consideration the family of the person described in Subsection ~~[(2)]~~

6452 (3)(c)(i);

6453           (iii) be sensitive to the unique needs, preferences, and strengths of individual families;

6454 and

6455           (iv) complement and reinforce existing sources of help and support that are available to  
6456 each family.

6457           (4) Except as provided in Subsection (5), after June 30, 1996, the division may not  
6458 provide residential services to persons with disabilities who are under 11 years of age.

6459           (5) The prohibition of Subsection (4) does not include residential services that are  
6460 provided:

6461           (a) for persons in the custody of the Division of Child and Family Services;

6462           (b) under a plan for home-based services, including respite and temporary residential  
6463 care or services provided by a professional parent under contract with the division; or

6464           (c) after a written finding by the director that out-of-home residential placement is the  
6465 most appropriate way to meet the needs of the person with disabilities and his family.

6466           Section 175. Section **26B-6-501** is enacted to read:

6467                               **Part 5. Utah State Developmental Center**

6468           **26B-6-501. Definitions.**

6469           The definitions in Section 26B-6-401 apply to this part.

6470           Section 176. Section **26B-6-502**, which is renumbered from Section 62A-5-201 is  
6471 renumbered and amended to read:

6472           ~~**[62A-5-201].**~~           **26B-6-502. Utah State Developmental Center.**

6473           (1) The intermediate care facility for people with an intellectual disability located in  
6474 American Fork City, Utah County, shall be known as the "Utah State Developmental Center."

6475           (2) Within appropriations authorized by the Legislature, the role and function of the

6476 developmental center is to:

6477 (a) provide care, services, and treatment to persons described in Subsection (3); and

6478 (b) provide the following services and support to persons with disabilities who do not

6479 reside at the developmental center:

6480 (i) psychiatric testing;

6481 (ii) specialized medical treatment and evaluation;

6482 (iii) specialized dental treatment and evaluation;

6483 (iv) family and client special intervention;

6484 (v) crisis management;

6485 (vi) occupational, physical, speech, and audiology services; and

6486 (vii) professional services, such as education, evaluation, and consultation, for families,

6487 public organizations, providers of community and family support services, and courts.

6488 (3) Except as provided in Subsection (6), within appropriations authorized by the

6489 Legislature, and notwithstanding the provisions of Part [3] 6, Admission to an Intermediate

6490 Care Facility for People with an Intellectual Disability, only the following persons may be

6491 residents of, be admitted to, or receive care, services, or treatment at the developmental center:

6492 (a) persons with an intellectual disability;

6493 (b) persons who receive services and supports under Subsection (2)(b); and

6494 (c) persons who require at least one of the following services from the developmental

6495 center:

6496 (i) continuous medical care;

6497 (ii) intervention for conduct that is dangerous to self or others; or

6498 (iii) temporary residential assessment and evaluation.

6499 (4) (a) Except as provided in Subsection (6), the division shall, in the division's

6500 discretion:

6501 (i) place residents from the developmental center into appropriate less restrictive

6502 placements; and

6503 (ii) determine each year the number to be placed based upon the individual assessed

6504 needs of the residents.

6505 (b) The division shall confer with parents and guardians to ensure the most appropriate

6506 placement for each resident.

6507 (5) Except as provided in Subsection (7), within appropriations authorized by the  
6508 Legislature, and notwithstanding the provisions of Subsection (3) and Part [3] 6, Admission to  
6509 an Intermediate Care Facility for People with an Intellectual Disability, a person who is under  
6510 18 years of age may be a resident of, admitted to, or receive care, services, or treatment at the  
6511 developmental center only if the director certifies in writing that the developmental center is  
6512 the most appropriate placement for that person.

6513 (6) (a) If the division determines, pursuant to Utah's Community Supports Waiver for  
6514 Individuals with Intellectual Disabilities and Other Related Conditions, that a person who  
6515 otherwise qualifies for placement in an intermediate care facility for people with an intellectual  
6516 disability should receive services in a home or community-based setting, the division shall:

6517 (i) if the person does not have a legal representative or legal guardian:

6518 (A) inform the person of any feasible alternatives under the waiver; and

6519 (B) give the person the choice of being placed in an intermediate care facility for  
6520 people with an intellectual disability or receiving services in a home or community-based  
6521 setting; or

6522 (ii) if the person has a legal representative or legal guardian:

6523 (A) inform the legal representative or legal guardian of any feasible alternatives under  
6524 the waiver; and

6525 (B) give the legal representative or legal guardian the choice of having the person  
6526 placed in an intermediate care facility for people with an intellectual disability or receiving  
6527 services in a home or community-based setting.

6528 (b) If a person chooses, under Subsection (6)(a)(i), to be placed in an intermediate care  
6529 facility for people with an intellectual disability instead of receiving services in a home or  
6530 community-based setting, the division shall:

6531 (i) ask the person whether the person prefers to be placed in the developmental center  
6532 rather than a private intermediate care facility for people with an intellectual disability; and

6533 (ii) if the person expresses a preference to be placed in the developmental center:

6534 (A) place the person in the developmental center if the cost of placing the person in the  
6535 developmental center is equal to, or less than, the cost of placing the person in a private  
6536 intermediate care facility for people with an intellectual disability; or

6537 (B) (I) strongly consider the person's preference to be placed in the developmental

center if the cost of placing the person in the developmental center exceeds the cost of placing the person in a private intermediate care facility for people with an intellectual disability; and

(II) place the person in the developmental center or a private intermediate care facility for people with an intellectual disability.

(c) If a legal representative or legal guardian chooses, under Subsection (6)(a)(ii), to have the person placed in an intermediate care facility for people with an intellectual disability instead of receiving services in a home or community-based setting, the division shall:

(i) ask the legal representative or legal guardian whether the legal representative or legal guardian prefers to have the person placed in the developmental center rather than a private intermediate care facility for people with an intellectual disability; and

(ii) if the legal representative or legal guardian expresses a preference to have the person placed in the developmental center:

(A) place the person in the developmental center if the cost of placing the person in the developmental center is equal to, or less than, the cost of placing the person in a private intermediate care facility for people with an intellectual disability; or

(B) (I) strongly consider the legal representative's or legal guardian's preference for the person's placement if the cost of placing the person in the developmental center exceeds the cost of placing the person in a private intermediate care facility for people with an intellectual disability; and

(II) place the person in the developmental center or a private intermediate care facility for people with an intellectual disability.

(7) The certification described in Subsection (5) is not required for a person who receives services and support under Subsection (2)(b).

Section 177. Section **26B-6-503**, which is renumbered from Section 62A-5-202 is renumbered and amended to read:

~~[62A-5-202].~~        **26B-6-503. Developmental center within division.**

The programs and facilities of the developmental center are within the division, and under the policy direction of the division.

Section 178. Section **26B-6-504**, which is renumbered from Section 62A-5-203 is renumbered and amended to read:

~~[62A-5-203].~~        **26B-6-504. Operation, maintenance, and repair of**

6569 **developmental center buildings and grounds.**

6570 (1) The division shall operate, maintain, and repair the buildings, grounds, and physical  
6571 properties of the developmental center. However, the roads and driveways on the grounds of  
6572 the developmental center shall be maintained by the Department of Transportation.

6573 (2) The division has authority to make improvements to the buildings, grounds, and  
6574 physical properties of the developmental center, as it deems necessary for the care and safety of  
6575 the residents.

6576 Section 179. Section **26B-6-505**, which is renumbered from Section 62A-5-205 is  
6577 renumbered and amended to read:

6578 **[62A-5-205]. 26B-6-505. State Board of Education -- Education of**  
6579 **children at developmental center.**

6580 (1) The State Board of Education is responsible for the education of school-aged  
6581 children at the developmental center.

6582 (2) In order to fulfill its responsibility under Subsection (1), the State Board of  
6583 Education shall, where feasible, contract with local school districts or other appropriate  
6584 agencies to provide educational and related administrative services.

6585 (3) Medical, residential, and other services that are not the responsibility of the State  
6586 Board of Education or other state agencies are the responsibility of the division.

6587 Section 180. Section **26B-6-506**, which is renumbered from Section 62A-5-206 is  
6588 renumbered and amended to read:

6589 **[62A-5-206]. 26B-6-506. Powers and duties of division.**

6590 The powers and duties of the division, with respect to the developmental center are as  
6591 follows:

6592 (1) to establish rules, not inconsistent with law, for the government of the  
6593 developmental center;

6594 (2) to establish rules governing the admission and discharge of persons with an  
6595 intellectual disability in accordance with state law;

6596 (3) to employ necessary medical and other professional personnel to assist in  
6597 establishing rules relating to the developmental center and to the treatment and training of  
6598 persons with an intellectual disability at the center;

6599 (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, parents who have the ability to pay, or guardians where funds for that purpose are available; and

(8) supervision and administration of security responsibilities for the developmental center is vested in the division. The executive director may designate, as special function officers, individuals to perform special security functions for the developmental center that require peace officer authority. Those special function officers may not become or be designated as members of the Public Safety Retirement System.

Section 181. Section **26B-6-507**, which is renumbered from Section 62A-5-206.6 is renumbered and amended to read:

~~[62A-5-206.6]~~. **26B-6-507**. **Utah State Developmental Center land and water rights.**

(1) As used in this section, "long-term lease" means:

(a) a lease with a term of five years or more; or

(b) a lease with a term of less than five years that may be unilaterally renewed by the lessee.

(2) (a) Notwithstanding Section 65A-4-1, any sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the developmental center shall be

6631 conducted as provided in this Subsection (2).

6632 (b) The board shall:

6633 (i) approve the sale, long-term lease, or other disposition of real property, water rights,  
6634 or water shares associated with the developmental center;

6635 (ii) secure the approval of the Legislature before offering the real property, water  
6636 rights, or water shares for sale, long-term lease, or other disposition; and

6637 (iii) if the Legislature's approval is secured, as described in Subsection (2)(b)(ii), direct  
6638 the Division of Facilities Construction and Management to convey, lease, or dispose of the real  
6639 property, water rights, or water shares associated with the developmental center according to  
6640 the board's determination.

6641 Section 182. Section **26B-6-508**, which is renumbered from Section 62A-5-207 is  
6642 renumbered and amended to read:

6643 **[62A-5-207]. 26B-6-508. Superintendent -- Qualifications.**

6644 The superintendent of the developmental center, appointed in accordance with  
6645 Subsection [~~62A-5-104~~] 26B-6-404(4), shall have a bachelor's degree from an accredited  
6646 university or college, be experienced in administration, and be knowledgeable in  
6647 developmental disabilities and intellectual disability.

6648 Section 183. Section **26B-6-509**, which is renumbered from Section 62A-5-208 is  
6649 renumbered and amended to read:

6650 **[62A-5-208]. 26B-6-509. Powers and duties of superintendent.**

6651 The chief administrative officer of the developmental center is the superintendent, and  
6652 has the following powers and duties:

6653 (1) to manage the developmental center and administer the division's rules governing  
6654 the developmental center;

6655 (2) to hire, control, and remove all employees, and to fix their compensation according  
6656 to state law; and

6657 (3) with the approval of the division, to make any expenditures necessary in the  
6658 performance of his duties.

6659 Section 184. Section **26B-6-510**, which is renumbered from Section 62A-5-211 is  
6660 renumbered and amended to read:

6661 **[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 individuals served and the services provided; and

(3) the progress toward the establishment of a financially independent dental clinic that:

(a) has a full-time dentist who has specialized training to treat an individual with an intellectual disability; and

(b) has the facility, equipment, and staff necessary to legally and safely perform dental procedures and examinations and to administer general anesthesia.

Section 185. Section **26B-6-601** is enacted to read:

**Part 6. Admission to an Intermediate Care Facility for People with an Intellectual Disability**

**26B-6-601. Definitions.**

The definitions in Section ~~26B-6-401~~ apply to this part.

Section 186. Section **26B-6-602**, which is renumbered from Section 62A-5-302 is renumbered and amended to read:

~~[62A-5-302].~~        **26B-6-602. Division responsibility.**

The division is responsible:

(1) for the supervision, care, and treatment of persons with an intellectual disability in this state who are committed to the division's jurisdiction under the provisions of this part; and

(2) to evaluate and determine the most appropriate, least restrictive setting for an individual with an intellectual disability.

Section 187. Section **26B-6-603**, which is renumbered from Section 62A-5-305 is renumbered and amended to read:

~~[62A-5-305].~~        **26B-6-603. Residency requirements -- Transportation of person to another state.**

(1) A person with an intellectual disability who has a parent or guardian residing in this



state may be admitted to an intermediate care facility for people with an intellectual disability 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.

Section 189. Section **26B-6-605**, which is renumbered from Section 62A-5-309 is renumbered and amended to read:

6724 ~~[62A-5-309].~~ 26B-6-605. **Commitment -- Individual who is 18 years old or**  
6725 **older.**

6726 (1) The director, or the director's designee may commit to the division an individual 18  
6727 years old or older who has an intellectual disability, for observation, diagnosis, care, and  
6728 treatment if that commitment is based on:

6729 (a) involuntary commitment in accordance with Section [~~62A-5-312~~] 26B-6-608; or

6730 (b) temporary emergency commitment in accordance with Section [~~62A-5-311~~] 26B-6-  
6731 607.

6732 (2) If an individual who is 18 years old or older is committed to the custody of the Utah  
6733 State Developmental Center by the juvenile court, the director or the director's designee shall  
6734 give the juvenile court written notice of the intention to release the individual not fewer than  
6735 five days before the day on which the individual is released.

6736 Section 190. Section **26B-6-606**, which is renumbered from Section 62A-5-310 is  
6737 renumbered and amended to read:

6738 ~~[62A-5-310].~~ 26B-6-606. **Involuntary commitment.**

6739 An individual may not be involuntarily committed to an intermediate care facility for  
6740 people with an intellectual disability except in accordance with Sections [~~62A-5-311~~ and  
6741 ~~62A-5-312~~] 26B-6-607 and 26B-6-608.

6742 Section 191. Section **26B-6-607**, which is renumbered from Section 62A-5-311 is  
6743 renumbered and amended to read:

6744 ~~[62A-5-311].~~ 26B-6-607. **Temporary emergency commitment --**  
6745 **Observation and evaluation.**

6746 (1) The director of the division or his designee may temporarily commit an individual  
6747 to the division and therefore, as a matter of course, to an intermediate care facility for people  
6748 with an intellectual disability for observation and evaluation upon:

6749 (a) written application by a responsible person who has reason to know that the  
6750 individual is in need of commitment, stating:

6751 (i) a belief that the individual has an intellectual disability and is likely to cause serious  
6752 injury to self or others if not immediately committed;

6753 (ii) personal knowledge of the individual's condition; and

6754 (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 ~~[62A-5-312]~~ 26B-6-608.

(5) If an individual is committed to the division under this section on the application of any person other than the individual's legal guardian, spouse, parent, or next of kin, the director or his designee shall immediately give notice of the commitment to the individual's legal guardian, spouse, parent, or next of kin, if known.

Section 192. Section **26B-6-608**, which is renumbered from Section 62A-5-312 is renumbered and amended to read:

~~[62A-5-312]~~. **26B-6-608. Involuntary commitment -- Procedures -- Necessary findings -- Periodic review.**

(1) Any responsible person who has reason to know that an individual is in need of

commitment, who has a belief that the individual has an intellectual disability, and who has personal knowledge of the conditions and circumstances supporting that belief, may commence proceedings for involuntary commitment by filing a written petition with the district court, or if the subject of the petition is less than 18 years of age with the juvenile court, of the county in which the individual to be committed is physically located at the time the petition is filed. The application shall be accompanied by:

(a) a certificate of a licensed physician or a designated intellectual disability professional, stating that within a seven-day period immediately preceding the certification, the physician or designated intellectual disability professional examined the individual and believes that the individual has an intellectual disability and is in need of involuntary commitment; or

(b) a written statement by the petitioner that:

(i) states that the individual was requested to, but refused to, submit to an examination for an intellectual disability by a licensed physician or designated intellectual disability professional, and that the individual refuses to voluntarily go to the division or an intermediate care facility for people with an intellectual disability recommended by the division for treatment;

(ii) is under oath; and

(iii) sets forth the facts on which the statement is based.

(2) Before issuing a detention order, the court may require the petitioner to consult with personnel at the division or at an intermediate care facility for people with an intellectual disability and may direct a designated intellectual disability professional to interview the petitioner and the individual to be committed, to determine the existing facts, and to report them to the court.

(3) The court may issue a detention order and may direct a peace officer to immediately take the individual to an intermediate care facility for people with an intellectual disability to be detained for purposes of an examination if the court finds from the petition, from other statements under oath, or from reports of physicians or designated intellectual disability professionals that there is a reasonable basis to believe that the individual to be committed:

(a) poses an immediate danger of physical injury to self or others;

(b) requires involuntary commitment pending examination and hearing;

(c) the individual was requested but refused to submit to an examination by a licensed physician or designated intellectual disability professional; or

(d) the individual refused to voluntarily go to the division or to an intermediate care facility for people with an intellectual disability recommended by the division.

(4) (a) If the court issues a detention order based on an application that did not include a certification by a designated intellectual disability professional or physician in accordance with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual, report the results of the examination to the court and inform the court:

(i) whether the director or his designee believes that the individual has an intellectual disability; and

(ii) whether appropriate treatment programs are available and will be used by the 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.

6848 (b) If an individual cannot or refuses to disclose the identity of persons to be notified,  
6849 the extent of notice shall be determined by the court.

6850 (7) That notice shall:

6851 (a) set forth the allegations of the petition and all supporting facts;

6852 (b) be accompanied by a copy of any detention order issued under Subsection (3); and

6853 (c) state that a hearing will be held within the time provided by law, and give the time  
6854 and place for that hearing.

6855 (8) The court may transfer the case and the custody of the individual to be committed  
6856 to any other district court within the state, if:

6857 (a) there are no appropriate facilities for persons with an intellectual disability within  
6858 the judicial district; and

6859 (b) the transfer will not be adverse to the interests of the individual.

6860 (9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any  
6861 order or commitment under a detention order, the court shall appoint two designated  
6862 intellectual disability professionals to examine the individual. If requested by the individual's  
6863 counsel, the court shall appoint a reasonably available, qualified person designated by counsel  
6864 to be one of the examining designated intellectual disability professionals. The examinations  
6865 shall be conducted:

6866 (i) separately;

6867 (ii) at the home of the individual to be committed, a hospital, an intermediate care  
6868 facility for people with an intellectual disability, or any other suitable place not likely to have a  
6869 harmful effect on the individual; and

6870 (iii) within a reasonable period of time after appointment of the examiners by the court.

6871 (b) The court shall set a time for a hearing to be held within 10 court days of the  
6872 appointment of the examiners. However, the court may immediately terminate the proceedings  
6873 and dismiss the application if, prior to the hearing date, the examiners, the director, or his  
6874 designee informs the court that:

6875 (i) the individual does not have an intellectual disability; or

6876 (ii) treatment programs are available and will be used by the individual without court  
6877 proceedings.

6878 (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.

(11) The division or a designated intellectual disability professional in charge of the individual's care shall provide all documented information on the individual to be committed and to the court at the time of the hearing. The individual's attorney shall have access to all documented information on the individual at the time of and prior to the hearing.

(12) (a) The court shall provide an opportunity to the individual, the petitioner, and all other persons to whom notice is required to be given to appear at the hearing, to testify, and to present and cross-examine witnesses.

(b) The court may, in its discretion:

- (i) receive the testimony of any other person;
- (ii) allow a waiver of the right to appear only for good cause shown;
- (iii) exclude from the hearing all persons not necessary to conduct the proceedings; and
- (iv) upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiner.

(c) The hearing shall be conducted 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 individual. The Utah Rules of Evidence apply, and the hearing shall be a matter of court record. A verbatim record of the proceedings shall be maintained.

(13) The court may order commitment if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that all of the following conditions are met:

- (a) the individual to be committed has an intellectual disability;
- (b) because of the individual's intellectual disability one or more of the following conditions exist:
  - (i) the individual poses an immediate danger of physical injury to self or others;
  - (ii) the individual lacks the capacity to provide the basic necessities of life, such as food, clothing, or shelter; or

(iii) the individual is in immediate need of habilitation, rehabilitation, care, or treatment to minimize the effects of the condition which poses a threat of serious physical or psychological injury to the individual, and the individual lacks the capacity to engage in a rational decision-making process concerning the need for habilitation, rehabilitation, care, or treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or treatment and the alternatives to it;

(c) there is no appropriate, less restrictive alternative reasonably available; and

(d) the division or the intermediate care facility for people with an intellectual disability recommended by the division in which the individual is to be committed can provide the individual with treatment, care, habilitation, or rehabilitation that is adequate and appropriate to the individual's condition and needs.

(14) In the absence of any of the required findings by the court, described in Subsection (13), the court shall dismiss the proceedings.

(15) (a) The order of commitment shall designate the period for which the individual will be committed. An initial commitment may not exceed six months. Before the end of the initial commitment period, the administrator of the intermediate care facility for people with an intellectual disability shall commence a review hearing on behalf of the individual.

(b) At the conclusion of the review hearing, the court may issue an order of commitment for up to a one-year period.

(16) An individual committed under this part has the right to a rehearing, upon filing a petition with the court within 30 days after entry of the court's order. If the petition for rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial licensed physician and two impartial designated intellectual disability professionals who have not previously been involved in the case to examine the individual. The rehearing shall, in all other respects, be conducted in accordance with this part.

(17) (a) The court shall maintain a current list of all individuals under its orders of commitment. That list shall be reviewed in order to determine those patients who have been 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.



6941 (c) The staff of the division shall immediately:

6942 (i) reexamine the reasons upon which the order of commitment was based and report  
6943 the results of the examination to the court;

6944 (ii) discharge the resident from involuntary commitment if the conditions justifying  
6945 commitment no longer exist; and

6946 (iii) immediately inform the court of any discharge.

6947 (d) If the director of the division reports to the court that the conditions justifying  
6948 commitment no longer exist, and the administrator of the intermediate care facility for people  
6949 with an intellectual disability does not discharge the individual at the end of the designated  
6950 period, the court shall order the immediate discharge of the individual, unless involuntary  
6951 commitment proceedings are again commenced in accordance with this section.

6952 (e) If the director of the division, or the director's designee reports to the court that the  
6953 conditions designated in Subsection (13) still exist, the court may extend the commitment order  
6954 for up to one year. At the end of any extension, the individual must be reexamined in  
6955 accordance with this section, or discharged.

6956 (18) When a resident is discharged under this subsection, the division shall provide any  
6957 further support services available and required to meet the resident's needs.

6958 Section 193. Section **26B-6-609**, which is renumbered from Section 62A-5-313 is  
6959 renumbered and amended to read:

6960 **[62A-5-313].** **26B-6-609. Transfer -- Procedures.**

6961 (1) The director of the division, or the director's designee, may place an involuntarily  
6962 committed resident in appropriate care or treatment outside the intermediate care facility for  
6963 people with an intellectual disability. During that placement, the order of commitment shall  
6964 remain in effect, until the resident is discharged or the order is terminated.

6965 (2) If the resident, or the resident's parent or guardian, objects to a proposed placement  
6966 under this section, the resident may appeal the decision to the executive director or the  
6967 executive director's designee. Those appeals shall be conducted in accordance with the  
6968 procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. If an  
6969 objection is made, the proposed placement may not take effect until the committee holds that  
6970 hearing and the executive director makes a final decision on the placement.

6971 Section 194. Section **26B-6-610**, which is renumbered from Section 62A-5-315 is

6972 renumbered and amended to read:

6973 ~~[62A-5-315].~~ **26B-6-610. Petition for reexamination.**

6974 (1) A resident committed under Section ~~[62A-5-312]~~ 26B-6-608, or his parent, spouse,  
6975 legal guardian, relative, or attorney, may file a petition for reexamination with the district court  
6976 of the county in which the resident is domiciled or detained.

6977 (2) Upon receipt of that petition, the court shall conduct proceedings under Section  
6978 ~~[62A-5-312]~~ 26B-6-608.

6979 Section 195. Section **26B-6-611**, which is renumbered from Section 62A-5-316 is  
6980 renumbered and amended to read:

6981 ~~[62A-5-316].~~ **26B-6-611. Temporary detention.**

6982 (1) Pending removal to an intermediate care facility for people with an intellectual  
6983 disability, an individual taken into custody or ordered to be committed under this part may be  
6984 detained in the individual's home, or in some other suitable facility.

6985 (2) The individual shall not, however, be detained in a nonmedical facility used for  
6986 detention of individuals charged with or convicted of penal offenses, except in a situation of  
6987 extreme emergency.

6988 (3) The division shall take reasonable measures, as may be necessary, to assure proper  
6989 care of an individual temporarily detained under this part.

6990 Section 196. Section **26B-6-612**, which is renumbered from Section 62A-5-317 is  
6991 renumbered and amended to read:

6992 ~~[62A-5-317].~~ **26B-6-612. Authority to transfer resident.**

6993 (1) The administrator of an intermediate care facility for people with an intellectual  
6994 disability, or the administrator's designee, may transfer or authorize the transfer of a resident to  
6995 another intermediate care facility for people with an intellectual disability if, before the  
6996 transfer, the administrator conducts a careful evaluation of the resident and the resident's  
6997 treatment needs, and determines that a transfer would be in the best interest of that resident. If  
6998 a resident is transferred, the administrator shall give immediate notice of the transfer to the  
6999 resident's spouse, guardian, parent, or advocate or, if none of those persons are known, to the  
7000 resident's nearest known relative.

7001 (2) If a resident, or the resident's parent or guardian, objects to a proposed transfer  
7002 under this section, the administrator shall conduct a hearing on the objection before a

committee composed of persons selected by the administrator. That committee shall hear all evidence and make a recommendation to the administrator concerning the proposed transfer. The transfer may not take effect until the committee holds that hearing and the administrator renders a final decision on the proposed transfer.

Section 197. Section **26B-6-613**, which is renumbered from Section 62A-5-318 is renumbered and amended to read:

**[62A-5-318].        26B-6-613. Involuntary treatment with medication -- Committee -- Findings.**

(1) If, after commitment, a resident elects to refuse treatment with medication, the director, the administrator of the intermediate care facility for people with an intellectual disability, or a designee, shall submit documentation regarding the resident's proposed treatment to a committee composed of:

(a) a licensed physician experienced in treating persons with an intellectual disability, who is not directly involved in the resident's treatment or diagnosis, and who is not biased toward any one facility;

(b) a psychologist who is a designated intellectual disability professional who is not directly involved in the resident's treatment or diagnosis; and

(c) another designated intellectual disability professional of the facility for persons with an intellectual disability, or a designee.

(2) Based upon the court's finding, under Subsection [62A-5-312] 26B-6-608(13), that the resident lacks the ability to engage in a rational decision-making process regarding the need for habilitation, rehabilitation, care, or treatment, as demonstrated by evidence of inability to weigh the possible costs and benefits of treatment, the committee may authorize involuntary treatment with medication if it determines that:

(a) the proposed treatment is in the medical best interest of the resident, taking into account the possible side effects as well as the potential benefits of the medication; and

(b) the proposed treatment is in accordance with prevailing standards of accepted medical practice.

(3) In making the determination described in Subsection (2), the committee shall consider the resident's general history and present condition, the specific need for medication and its possible side effects, and any previous reaction to the same or comparable medication.

(4) Any authorization of involuntary treatment under this section shall be periodically reviewed in accordance with rules promulgated by the division.

Section 198. Section **26B-6-701**, which is renumbered from Section 62A-5-501 is renumbered and amended to read:

**Part 7. Disability Ombudsman**

**[62A-5-501]. 26B-6-701. Definitions.**

**[As]** In addition to the definitions in Section 26B-6-401, as used in this part:

(1) "Complainant" means a person who initiates a complaint.

(2) "Complaint" means a complaint initiated with the ombudsman identifying a person who has violated the rights and privileges of an individual with a disability.

(3) "Ombudsman" means the ombudsman appointed in Section [62A-5-502] 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 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:

- 7065 (1) develop and maintain expertise in laws and policies governing the rights and  
7066 privileges of an individual with a disability;
- 7067 (2) provide training and information to private citizens, civic groups, governmental  
7068 entities, and other interested parties across the state regarding:
- 7069 (a) the role and duties of the ombudsman;
- 7070 (b) the rights and privileges of an individual with a disability; and
- 7071 (c) services available in the state to an individual with a disability;
- 7072 (3) develop a website to provide the information described in Subsection (2) in a form  
7073 that is easily accessible;
- 7074 (4) receive, process, and investigate complaints in accordance with this part;
- 7075 (5) review periodically the procedures of state entities that serve individuals with a  
7076 disability;
- 7077 (6) cooperate and coordinate with governmental entities and other organizations in the  
7078 community in exercising the duties under this section, including the long-term care  
7079 ombudsman program, created in Section [~~62A-3-203~~] 26B-2-303, and the child protection  
7080 ombudsman, appointed under Section [~~62A-4a-208~~] 80-2-1104, when there is overlap between  
7081 the responsibilities of the ombudsman and the long-term care ombudsman program or the child  
7082 protection ombudsman;
- 7083 (7) as appropriate, make recommendations to the division regarding rules to be made in  
7084 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the  
7085 ombudsman considers necessary to carry out the ombudsman's duties under this part;
- 7086 (8) submit annually, by July 1, to the Health and Human Services Interim Committee, a  
7087 report describing:
- 7088 (a) the work of the ombudsman; and
- 7089 (b) any recommendations for statutory changes to improve the effectiveness of the  
7090 ombudsman in performing the duties under this section; and
- 7091 (9) perform other duties required by law.

7092 Section 201. Section **26B-6-704**, which is renumbered from Section 62A-5-504 is  
7093 renumbered and amended to read:

7094 [~~62A-5-504~~]. **26B-6-704. Investigation of complaints -- Procedures --**  
7095 **Rulemaking.**

(1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a complaint, investigate the complaint.

(2) An ombudsman's investigation of a complaint may include:

(a) a referral to a governmental entity or other services;

(b) the collection of facts, information, or documentation;

(c) holding an investigatory hearing; or

(d) an inspection of the premises of the person named in the complaint.

(3) (a) The ombudsman may decline to investigate a complaint.

(b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify the complainant and the division of the declination.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the ombudsman's process for:

(a) receiving and processing complaints; and

(b) conducting an investigation in accordance with this section.

Section 202. Section **26B-6-705**, which is renumbered from Section 62A-5-505 is renumbered and amended to read:

**[62A-5-505].            26B-6-705. Confidentiality of materials relating to complaints or investigations -- Rulemaking.**

(1) The division shall establish procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.

(2) The identity of a complainant or a party named in the complaint may not be disclosed by the ombudsman unless:

(a) the complainant or a legal representative of the complainant consents to the disclosure;

(b) disclosure is ordered by a court of competent jurisdiction; or

(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the complainant, to an agency or entity in the community that:

(i) has statutory responsibility for the complainant, over the action alleged in the complaint, or another party named in the complaint;

(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)]~~ (3) (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 tasks;

(B) alerting an individual who is deaf or hard of hearing to the presence of people or sounds;

(C) providing non-violent protection or rescue work;

(D) pulling a wheelchair;  
(E) assisting an individual during a seizure;  
(F) alerting an individual to the presence of an allergen;  
(G) retrieving an item for the individual;  
(H) providing physical support and assistance with balance and stability; or  
(I) helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

(b) "Service animal" does not include:

- (i) an animal other than a dog, whether wild or domestic, trained or untrained; or
- (ii) an animal used solely to provide:

(A) a crime deterrent;

(B) emotional support;

(C) well-being;

(D) comfort; or

(E) companionship.

(4) "Sterilization" means any medical procedure, treatment, or operation rendering an individual permanently incapable of procreation.

~~[(3)]~~ (5) "Support animal" means an animal, other than a service animal, that qualifies as a reasonable accommodation under federal law for an individual with a disability.

Section 204. Section **26B-6-802**, which is renumbered from Section 62A-5b-103 is renumbered and amended to read:

~~[62A-5b-103].~~ **26B-6-802. Rights and privileges of an individual with a 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



7189 this state, and to places of amusement or resort to which the public is invited.

7190 (4) (a) An individual with a disability has equal rights and access to public and private  
7191 housing accommodations offered for rent, lease, or other compensation in this state.

7192 (b) This chapter does not require a person renting, leasing, or selling private housing or  
7193 real property to modify the housing or property in order to accommodate an individual with a  
7194 disability or to provide a higher degree of care for that individual than for someone who is not  
7195 an individual with a disability.

7196 (c) A person renting, leasing, or selling private housing or real property to an  
7197 individual with a disability shall comply with the provisions of Section [~~62A-5b-104~~] 26B-6-  
7198 803.

7199 Section 205. Section **26B-6-803**, which is renumbered from Section 62A-5b-104 is  
7200 renumbered and amended to read:

7201 [~~62A-5b-104~~]. **26B-6-803. Right to be accompanied by service animal or**  
7202 **support animal -- Security deposits -- Discrimination -- Liability.**

7203 (1) (a) An individual with a disability has the right to be accompanied by a service  
7204 animal, unless the service animal is a danger or nuisance to others as interpreted under the  
7205 Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

7206 (i) in any of the places specified in Section [~~62A-5b-103~~] 26B-6-802; and

7207 (ii) without additional charge for the service animal.

7208 (b) An owner or lessor of private housing accommodations:

7209 (i) may not, in any manner, discriminate against an individual with a disability on the  
7210 basis of the individual's possession of a service animal or a support animal, including by  
7211 charging an extra fee or deposit for a service animal or a support animal; and

7212 (ii) may recover a reasonable cost to repair damage caused by a service animal or a  
7213 support animal.

7214 (2) An individual who is not an individual with a disability has the right to be  
7215 accompanied by an animal that is in training to become a service animal or a police service  
7216 canine, as defined in Section 53-16-102:

7217 (a) in any of the places specified in Section [~~62A-5b-103~~] 26B-6-802; and

7218 (b) without additional charge for the animal.

7219 (3) An individual described in Subsection (1) or (2) is liable for any loss or damage the

individual's accompanying service animal, support animal, or animal described in Subsection (2) causes or inflicts to the premises of a place specified in Section ~~[62A-5b-103]~~ 26B-6-802.

(4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a service animal or a support animal from a place described in Section ~~[62A-5b-103]~~ 26B-6-802.

Section 206. Section **26B-6-804**, which is renumbered from Section 62A-5b-105 is renumbered and amended to read:

~~[62A-5b-105]~~. **26B-6-804. Policy of state to employ individuals with a disability.**

It is the policy of this state that an individual with a disability is employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as an individual who is not an individual with a disability, unless it is shown that the particular disability prevents the performance of the work involved.

Section 207. Section **26B-6-805**, which is renumbered from Section 62A-5b-106 is renumbered and amended to read:

~~[62A-5b-106]~~. **26B-6-805. Interference with rights provided in this part -- Misrepresentation of rights under this part.**

(1) Any individual, or agent of any individual, who denies or interferes with the rights provided in this chapter is guilty of a class C misdemeanor.

(2) An individual is guilty of a class C misdemeanor if:

(a) the individual intentionally and knowingly falsely represents to another person that an animal is a service animal or a support animal;

(b) the individual knowingly and intentionally misrepresents a material fact to a health care provider for the purpose of obtaining documentation from the health care provider necessary to designate an animal as a service animal or a support animal; or

(c) the individual, except for an individual with a disability, uses an animal to gain treatment or benefits only provided for an individual with a disability.

(3) This section does not affect the enforceability of any criminal law, including Subsection 76-6-501(2).

(4) An agent of a protection and advocacy agency, acting in the agent's professional capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., and

42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).

Section 208. Section **26B-6-806**, which is renumbered from Section 62A-6-102 is renumbered and amended to read:

~~[62A-6-102].~~        **26B-6-806. Sterilization of persons 18 years of age or older.**

(1) It is lawful for a physician to sterilize a person who is 18 years of age or older and who has the capacity to give informed consent.

(2) It is unlawful for a physician to sterilize a person who is 18 years of age or older and who is institutionalized, unless:

(a) the physician, through careful examination and counseling, ensures that the person is capable of giving informed consent and that no undue influence or coercion to consent has 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 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 of age.**

It is unlawful for a physician to sterilize a person who is under 18 years of age 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 person's medical record.

Section 211. Section **26B-6-809**, which is renumbered from Section 62A-6-105 is renumbered and amended to read:

~~[62A-6-105].~~            **26B-6-809. Persons who may give informed consent.**

For purposes of this ~~[chapter]~~ part, the following persons may give informed consent to sterilization:

(1) a person who is the subject of sterilization, if ~~[he]~~ the person is capable of giving informed consent; and

(2) a person appointed by the court to give informed consent on behalf of a subject of sterilization who is incapable of giving informed consent.

Section 212. Section **26B-6-810**, which is renumbered from Section 62A-6-106 is renumbered and amended to read:

~~[62A-6-106].~~            **26B-6-810. Declaration of capacity to give informed consent -- Hearing.**

(1) A person who desires sterilization but whose capacity to give informed consent is questioned by any interested party may file a petition for declaration of capacity to give informed consent.

(2) If, after hearing all the relevant evidence, the court finds by a preponderance of the evidence that the person is capable of giving informed consent, the court shall enter an order declaring that the person has the capacity to give informed consent.

Section 213. Section **26B-6-811**, which is renumbered from Section 62A-6-107 is renumbered and amended to read:

~~[62A-6-107].~~            **26B-6-811. Petition for order authorizing sterilization.**

(1) A petition for an order authorizing sterilization may be filed by a person who desires sterilization, or by ~~[his]~~ the person's parent, spouse, guardian, custodian, or other

interested party.

(2) The court shall adjudicate the petition for sterilization in accordance with Section ~~62A-6-108~~ 26B-6-812.

Section 214. Section **26B-6-812**, which is renumbered from Section 62A-6-108 is renumbered and amended to read:

~~62A-6-108~~. **26B-6-812. Factors to be considered by court -- Evaluations -- Interview -- Findings of fact.**

(1) If the court finds that the subject of sterilization is not capable of giving informed consent, the court shall consider, but not by way of limitation, the following factors concerning that person:

(a) the nature and degree of ~~his~~ the person's mental impairment, and the likelihood that the condition is permanent;

(b) the level of ~~his~~ the person's understanding regarding the concepts of reproduction and contraception, and whether ~~his~~ the person's ability to understand those concepts is likely to improve;

(c) ~~his~~ the person's capability for procreation or reproduction~~[- It is]~~, with a rebuttable presumption that the ability to procreate and reproduce exists in a person of normal physical development;

(d) the potentially injurious physical and psychological effects from sterilization, pregnancy, childbirth, and parenthood;

(e) the alternative methods of birth control presently available including, but not limited to, drugs, intrauterine devices, education and training, and the feasibility of one or more of those methods as an alternative to sterilization;

(f) the likelihood that ~~he~~ the person will engage in sexual activity or could be sexually abused or exploited;

(g) the method of sterilization that is medically advisable, and least intrusive and destructive of ~~his~~ the person's rights to bodily and psychological integrity;

(h) the advisability of postponing sterilization until a later date; and

(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:

~~[62A-6-110].~~        **26B-6-814. Notice of hearing -- Service.**

(1) A copy of the petition and notice of the hearing shall be served personally on the person to be sterilized not less than 20 days before the hearing date.

(2) The notice shall state the date, time, and place of the hearing, and shall specifically state that the hearing is to adjudicate either a petition for declaration of capacity to give informed consent to sterilization or a petition for sterilization.

(3) Notice shall be served on that person's parents, spouse, guardian, or custodian and on his attorney by the clerk of the court, by certified mail, not less than 10 days before the hearing date.

Section 217. Section **26B-6-815**, which is renumbered from Section 62A-6-111 is renumbered and amended to read:

**~~[62A-6-111].~~            26B-6-815. Guardian ad litem -- Procedural rights.**

(1) The court shall appoint an attorney to act as guardian ad litem to defend the rights and interests of the person to be sterilized.

(2) The person to be sterilized is entitled to appear and testify at the hearing, to examine and cross examine witnesses, and to compel the attendance of witnesses.

(3) (a) The person who is the subject of a sterilization proceeding may, on motion to the court and for good cause shown, waive the right to be present at the hearing.

(b) If the court grants that motion, the person shall be represented by a guardian ad litem at the hearing.

Section 218. Section **26B-6-816**, which is renumbered from Section 62A-6-112 is renumbered and amended to read:

**~~[62A-6-112].~~            26B-6-816. Jury -- Rules of evidence -- Transcript -- Burden of proof.**

(1) The petitioner is entitled to request a jury to hear the petition.

(2) The rules of evidence apply in any hearing on a petition for sterilization.

(3) A transcript shall be made of the hearing and shall be made a permanent part of the record.

~~[(2)]~~ (4) The burden of producing evidence and the burden of proof shall be upon the petitioner to prove by clear and convincing evidence that the petition for or order authorizing sterilization should be granted.

Section 219. Section **26B-6-817**, which is renumbered from Section 62A-6-113 is renumbered and amended to read:

**~~[62A-6-113].~~            26B-6-817. Appeal to Supreme Court -- Stay.**

(1) Any party to a proceeding under this chapter may file a notice of appeal from any adverse decision with the Supreme Court in accordance with Rule 73, Utah Rules of Civil Procedure.

(2) The pendency of an appeal in the Supreme Court shall stay the proceedings until the appeal is finally determined.

Section 220. Section **26B-6-818**, which is renumbered from Section 62A-6-114 is renumbered and amended to read:

**[62A-6-114].**            **26B-6-818. Treatment for therapeutic reasons unaffected.**

Nothing in this chapter shall be construed to prevent the medical or surgical treatment, for sound therapeutic reasons, of any person by a physician or surgeon licensed by this state, which treatment may incidentally involve destruction of reproductive functions.

Section 221. Section **26B-6-819**, which is renumbered from Section 62A-6-115 is renumbered and amended to read:

**[62A-6-115].**            **26B-6-819. Immunity.**

(1) A physician, assistant, or any other person acting pursuant to an order authorizing sterilization, as provided in this [chapter] part, is not civilly or criminally liable for participation in or assistance to sterilization.

(2) This section does not apply to negligent acts committed in the performance of sterilization.

Section 222. Section **26B-6-820**, which is renumbered from Section 62A-6-116 is renumbered and amended to read:

**[62A-6-116].**            **26B-6-820. Unauthorized sterilization -- Criminal penalty.**

Except as authorized by this [chapter] part, any person who intentionally performs, encourages, assists in, or otherwise promotes the performance of a sterilization procedure for the purpose of destroying the power to procreate the human species, with knowledge that the provisions of this [chapter] part have not been met, is guilty of a third degree felony.

Section 223. Section **26B-7-101** is amended to read:

## **CHAPTER 7. PUBLIC HEALTH AND PREVENTION.**

### **Part 1. Health Promotion and Risk Reduction.**

#### **26B-7-101. Definitions.**

[Reserved] As used in this part:

(1) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(2) "Maternal and child health services" means:



(a) the provision of educational, preventative, diagnostic, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward reducing infant mortality and improving the health of mothers and children provided, however, that nothing in this Subsection (2) shall be construed to allow any agency of the state to interfere with the rights of the parent of an unmarried minor in decisions about the providing of health information or services;

(b) the development, strengthening, and improvement of standards and techniques relating to the services and care;

(c) the training of personnel engaged in the provision, development, strengthening, or improvement of the services and care; and

(d) necessary administrative services connected with Subsections (2)(a), (b), and (c).

(3) "Minor" means a person under the age of 18.

(4) "Services to children with disabilities" means:

(a) the early location of children with a disability, provided that any program of prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn child will not be used for screening, but rather will be utilized only when there are medical or genetic indications that warrant diagnosis;

(b) the provision for children described in Subsection (4)(a), of preventive, diagnosis, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of those children or toward the restoration of the children to maximum physical and mental health;

(c) the development, strengthening, and improvement of standards and techniques relating to services and care described in this Subsection (4);

(d) the training of personnel engaged in the provision, development, strengthening, or improvement of services and care described in this Subsection (4); and

(e) necessary administrative services connected with Subsections (4)(a), (b), and (c).

Section 224. Section **26B-7-102**, which is renumbered from Section 26-10-3 is renumbered and amended to read:

**[~~26-10-3~~].    26B-7-102. Director of family health services programs.**

The executive director may appoint a director of family health services programs who

7468 shall be a board certified pediatrician or obstetrician with at least two years experience in  
7469 public health programs.

7470 Section 225. Section **26B-7-103**, which is renumbered from Section 26-10-4 is  
7471 renumbered and amended to read:

7472 **~~[26-10-4].~~ 26B-7-103. State plan for maternal and child health services.**

7473 The department shall prepare and submit a state plan for maternal and child health  
7474 services as required by Title II of the Public Health Services Act. The plan shall be the official  
7475 state plan for the state and shall be used as the basis for administration of Title V programs  
7476 within the state.

7477 Section 226. Section **26B-7-104**, which is renumbered from Section 26-10-5.5 is  
7478 renumbered and amended to read:

7479 **~~[26-10-5.5].~~ 26B-7-104. Child literacy -- Distribution of information kits.**

7480 (1) The Legislature recognizes that effective child literacy programs can have a  
7481 dramatic long-term impact on each child's ability to:

- 7482 (a) succeed in school;
- 7483 (b) successfully compete in a global society; and
- 7484 (c) become a productive, responsible citizen.

7485 (2) (a) To help further this end, the department may make available to parents of  
7486 new-born infants, as a resource, an information kit regarding child development, the  
7487 development of emerging literacy skills, and activities which promote and enhance emerging  
7488 literacy skills, including reading aloud to the child on a regular basis.

7489 (b) The department shall seek private funding to help support this program.

7490 (3) (a) The department may seek assistance from the State Board of Education and  
7491 local hospitals in making the information kit available to parents on a voluntary basis.

7492 (b) The department may also seek assistance from private entities in making the kits  
7493 available to parents.

7494 Section 227. Section **26B-7-105**, which is renumbered from Section 26-10-10 is  
7495 renumbered and amended to read:

7496 **~~[26-10-10].~~ 26B-7-105. Cytomegalovirus (CMV) public education and testing.**

7497 (1) As used in this section "CMV" means cytomegalovirus.

7498 (2) The department shall establish and conduct a public education program to inform

7499 pregnant women and women who may become pregnant regarding:  
7500 (a) the incidence of CMV;  
7501 (b) the transmission of CMV to pregnant women and women who may become  
7502 pregnant;  
7503 (c) birth defects caused by congenital CMV;  
7504 (d) methods of diagnosing congenital CMV; and  
7505 (e) available preventative measures.  
7506 (3) The department shall provide the information described in Subsection (2) to:  
7507 (a) child care programs licensed under [~~Title 26, Chapter 39, Utah Child Care~~  
7508 ~~Licensing Act~~] Chapter 2, Part 4, Child Care Licensing, and their employees;  
7509 (b) a person described in Subsection [~~26-39-403~~] 26B-2-405(1)(a)(iii) and Subsections  
7510 [~~26-39-403~~] 26B-2-405(2)(a), (b), (c), (e), and (f);  
7511 (c) a person serving as a school nurse under Section 53G-9-204;  
7512 (d) a person offering health education in a school district;  
7513 (e) health care providers offering care to pregnant women and infants; and  
7514 (f) religious, ecclesiastical, or denominational organizations offering children's  
7515 programs as a part of worship services.  
7516 (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection  
7517 [~~26-10-6~~] 26B-4-319(1), a medical practitioner shall:  
7518 (a) test the newborn infant for CMV before the newborn is 21 days of age, unless a  
7519 parent of the newborn infant objects; and  
7520 (b) provide to the parents of the newborn infant information regarding:  
7521 (i) birth defects caused by congenital CMV; and  
7522 (ii) available methods of treatment.  
7523 (5) The department shall provide to the family and the medical practitioner, if known,  
7524 information regarding the testing requirements under Subsection (4) when providing results  
7525 indicating that an infant has failed the newborn hearing screening test(s) under Subsection  
7526 [~~26-10-6~~] 26B-4-319(1).  
7527 (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah  
7528 Administrative Rulemaking Act, as necessary to administer the provisions of this section.  
7529 Section 228. Section **26B-7-106**, which is renumbered from Section 26-10-14 is

7530 renumbered and amended to read:

7531 **[~~26-10-14~~]. 26B-7-106. Down syndrome diagnosis -- Information and support.**

7532 (1) The department shall provide contact information for state and national Down  
7533 syndrome organizations that are nonprofit and that provide information and support services  
7534 for parents, including first-call programs and information hotlines specific to Down syndrome,  
7535 resource centers or clearinghouses, and other education and support programs for Down  
7536 syndrome.

7537 (2) The department shall:

7538 (a) post the information described in Subsection (1) on the department's website; and

7539 (b) create an informational support sheet with the information described in Subsection

7540 (1) and the web address described in Subsection (2)(a).

7541 (3) A Down syndrome organization may request that the department include the  
7542 organization's informational material and contact information on the website. The department  
7543 may add the information to the website, if the information meets the description under  
7544 Subsection (1).

7545 (4) Upon request, the department shall provide a health care facility or health care  
7546 provider a copy of the informational support sheet described in Subsection (2)(b) to give to a  
7547 pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn  
7548 child has or may have Down syndrome.

7549 Section 229. Section **26B-7-107**, which is renumbered from Section 26-10-15 is  
7550 renumbered and amended to read:

7551 **[~~26-10-15~~]. 26B-7-107. Lead exposure public education and testing.**

7552 (1) The department shall establish a child blood lead epidemiology and surveillance  
7553 program to:

7554 (a) encourage pediatric health care providers to include a lead test in accordance with  
7555 the department's recommendations under Subsection (2); and

7556 (b) conduct a public education program to inform parents of children who are two  
7557 years old or younger regarding:

7558 (i) the effects of lead exposure in children;

7559 (ii) the availability of free screening and testing for lead exposure; and

7560 (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 230. 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 231. 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 232. 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 develop and implement a two-year program in coordination with the Division of Professional Licensing, the Utah Labor Commission, and the Utah attorney general, to:

(a) investigate the causes of and risk factors for death and nonfatal complications of prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled Substance Database created in Section 58-37f-201;

(b) study the risks, warning signs, and solutions to the risks associated with prescription opiate medications for chronic pain, including risks and prevention of misuse and diversion of those medications;

(c) provide education to health care providers, patients, insurers, and the general public on the appropriate management of chronic pain, including the effective use of medical treatment and quality care guidelines that are scientifically based and peer reviewed; and

(d) educate the public regarding:

(i) the purpose of the Controlled Substance Database established in Section 58-37f-201; and

(ii) the requirement that a person's name and prescription information be recorded on

the database when the person fills a prescription for a schedule II, III, IV, or V controlled substance.

Section 233. Section **26B-7-111**, which is renumbered from Section 26-1-38 is renumbered and amended to read:

~~[26-1-38]~~. **26B-7-111. Local health emergency assistance program.**

(1) As used in this section:

(a) "Local health department" means the same as that term is defined in Section [26A-1-102](#).

(b) "Local health emergency" means an unusual event or series of events causing or resulting in a substantial risk or substantial potential risk to the health of a significant portion of the population within the boundary of a local health department, as determined by the local 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

7654 program fund exclusively for purposes of the program.

7655 (ii) The department may use money in the program fund to cover its costs of  
7656 administering the program.

7657 (b) Money that the Legislature appropriates to the program fund is nonlapsing in  
7658 accordance with Section [63J-1-602.1](#).

7659 (c) Any interest earned on money in the program fund shall be deposited to the General  
7660 Fund.

7661 Section 234. Section **26B-7-112**, which is renumbered from Section 26-1-42 is  
7662 renumbered and amended to read:

7663 **[26-1-42]. 26B-7-112. Health care grant requests and funding.**

7664 (1) Any time the United States Department of Health and Human Services accepts  
7665 grant applications, the department shall apply for a grant under Title X of the Public Health  
7666 Service Act, 42 U.S.C. Sec. 300 et seq.

7667 (2) (a) As part of the application described in Subsection (1), the department shall  
7668 request that the United States Department of Health and Human Services waive the  
7669 requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4)  
7670 pertaining to providing certain services to a minor without parental consent.

7671 (b) If the department's application described in Subsection (1) is denied, and at such  
7672 time the United States Department of Health and Human Services creates a waiver application  
7673 process, the department shall apply for a waiver from compliance with the requirements found  
7674 in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental  
7675 consent in order to be eligible for a grant under Title X of the Public Health Service Act, 42  
7676 U.S.C. Sec. 300 et seq.

7677 (3) If the department receives a grant under Subsection (1), the department shall  
7678 prioritize disbursement of grant funds in the prioritization order described in Subsection (4).

7679 (4) (a) (i) When disbursing grant funds, the department shall give first priority to  
7680 nonpublic entities that provide family planning services as well as other comprehensive  
7681 services to enable women to give birth and parent or place for adoption.

7682 (ii) The department shall give preference to entities described in Subsection (4)(a)(i)  
7683 that:

7684 (A) expand availability of prenatal and postnatal care in low-income and under-served



7685 areas of the state;

7686 (B) provide support for a woman to carry a baby to term;

7687 (C) emphasize the health and viability of the fetus; and

7688 (D) provide education and maternity support.

7689 (iii) If the department receives applications from qualifying nonpublic entities as

7690 described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying

7691 nonpublic entities described in Subsection (4)(a).

7692 (b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for

7693 grant funding under the criteria described in Subsection (4)(a), the department shall give

7694 second priority for grant funds to nonpublic entities that provide:

7695 (i) family planning services; and

7696 (ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

7697 (c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity

7698 qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the

7699 department shall give third priority for grant funds to public entities that provide family

7700 planning services, including state, county, or local community health clinics, and community

7701 action organizations.

7702 (d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no

7703 entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c),

7704 the department shall give fourth priority for grant funds to nonpublic entities that provide

7705 family planning services but do not provide required primary health services as described in 42

7706 U.S.C. Sec. 254b(b)(1)(A).

7707 Section 235. Section **26B-7-113**, which is renumbered from Section 26-7-1 is

7708 renumbered and amended to read:

7709 **~~[26-7-1]~~. 26B-7-113. Identification of major risk factors by department --**

7710 **Education of public -- Establishment of programs.**

7711 The department shall identify the major risk factors contributing to injury, sickness,

7712 death, and disability within the state and where it determines that a need exists, educate the

7713 public regarding these risk factors, and the department may establish programs to reduce or

7714 eliminate these factors except that such programs may not be established if adequate programs

7715 exist in the private sector.

Section 236. 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 Disparities Reduction -- 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 created in this section.

(2) There is created within the department the Office of Health Disparities Reduction.

(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 multicultural or minority health issue;

(c) promote the dissemination and use of information on a multicultural or minority health issue by minority populations, health care providers, and others;

(d) seek federal funding and other resources to accomplish the office's mission;

(e) provide technical assistance to organizations within the state seeking funding to study or address a multicultural or minority health issue;

- 7747 (f) develop and increase the capacity of the office to:
- 7748 (i) ensure the delivery of qualified timely culturally appropriate translation services
- 7749 across department programs; and
- 7750 (ii) provide, when appropriate, linguistically competent translation and communication
- 7751 services for limited English proficiency individuals;
- 7752 (g) provide staff assistance to any advisory committee created by the department to
- 7753 study a multicultural or minority health issue; and
- 7754 (h) annually report to the Legislature on its activities and accomplishments.

7755 Section 237. Section **26B-7-115**, which is renumbered from Section 26-7-4 is

7756 renumbered and amended to read:

7757 **[26-7-4]. 26B-7-115. Utah Registry of Autism and Developmental Disabilities.**

- 7758 (1) As used in this section, "URADD" means the Utah Registry of Autism and
- 7759 Developmental Disabilities.
- 7760 (2) The department may enter into an agreement with:
- 7761 (a) the University of Utah or another person for the operation of URADD; and
- 7762 (b) a person to conduct a public education campaign to:
- 7763 (i) improve public awareness of the early warning signs of autism spectrum disorders
- 7764 and developmental disabilities; and
- 7765 (ii) promote the early identification of autism spectrum disorders and developmental
- 7766 disabilities.
- 7767 (3) URADD shall consist of a database that collects information on people in the state
- 7768 who have an autism spectrum disorder or a developmental disability.
- 7769 (4) The purpose of URADD is to assist health care providers to:
- 7770 (a) determine the risk factors and causes of autism spectrum disorders and
- 7771 developmental disabilities;
- 7772 (b) plan for and develop resources, therapies, methods of diagnoses, and other services
- 7773 for people with an autism spectrum disorder or a developmental disability;
- 7774 (c) facilitate measuring and tracking of treatment outcomes;
- 7775 (d) gather statistics relating to autism spectrum disorders and developmental
- 7776 disabilities; and
- 7777 (e) improve coordination and cooperation between agencies and other programs that

7778 provide services to people with an autism spectrum disorder or a developmental disability.

7779 Section 238. Section **26B-7-116**, which is renumbered from Section 26-7-7 is  
7780 renumbered and amended to read:

7781 ~~[26-7-7]~~. **26B-7-116. Radon awareness campaign.**

7782 The department shall, in consultation with the Division of Waste Management and  
7783 Radiation Control, develop a statewide electronic awareness campaign to educate the public  
7784 regarding:

7785 (1) the existence and prevalence of radon gas in buildings and structures;

7786 (2) the health risks associated with radon gas;

7787 (3) options for radon gas testing; and

7788 (4) options for radon gas remediation.

7789 Section 239. Section **26B-7-117**, which is renumbered from Section 26-7-8 is  
7790 renumbered and amended to read:

7791 ~~[26-7-8]~~. **26B-7-117. Syringe exchange and education.**

7792 (1) The following may operate a syringe exchange program in the state to prevent the  
7793 transmission of disease and reduce morbidity and mortality among individuals who inject  
7794 drugs, and those individuals' contacts:

7795 (a) a government entity, including:

7796 (i) the department;

7797 (ii) a local health department~~[, as defined in Section 26A-1-102;]~~

7798 (iii) the Division of ~~[Substance Abuse and Mental Health within the Department of~~  
7799 ~~Human Services]~~ Integrated Healthcare within the department; or

7800 (iv) a local substance abuse authority, as defined in Section ~~[62A-15-102]~~ 26B-5-101;

7801 (b) a nongovernment entity, including:

7802 (i) a nonprofit organization; or

7803 (ii) a for-profit organization; or

7804 (c) any other entity that complies with Subsections (2) and (4).

7805 (2) An entity operating a syringe exchange program in the state shall:

7806 (a) facilitate the exchange of an individual's used syringe for one or more new syringes  
7807 in sealed sterile packages;

7808 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:

7809 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis  
7810 C and human immunodeficiency virus; and  
7811 (ii) options for obtaining:  
7812 (A) services for the treatment of a substance use disorder;  
7813 (B) testing for a blood-borne disease; and  
7814 (C) an opiate antagonist [~~under Chapter 55, Opiate Overdose Response Act~~]; and  
7815 (c) report annually to the department the following information about the program's  
7816 activities:  
7817 (i) the number of individuals who have exchanged syringes;  
7818 (ii) the number of used syringes exchanged for new syringes; and  
7819 (iii) the number of new syringes provided in exchange for used syringes.  
7820 (3) No later than October 1, 2017, and every two years thereafter, the department shall  
7821 report to the Legislature's Health and Human Services Interim Committee on:  
7822 (a) the activities and outcomes of syringe programs operating in the state, including:  
7823 (i) the number of individuals who have exchanged syringes;  
7824 (ii) the number of used syringes exchanged for new syringes;  
7825 (iii) the number of new syringes provided in exchange for used syringes;  
7826 (iv) the impact of the programs on blood-borne infection rates; and  
7827 (v) the impact of the programs on the number of individuals receiving treatment for a  
7828 substance use disorder;  
7829 (b) the potential for additional reductions in the number of syringes contaminated with  
7830 blood-borne disease if the programs receive additional funding;  
7831 (c) the potential for additional reductions in state and local government spending if the  
7832 programs receive additional funding;  
7833 (d) whether the programs promote illicit use of drugs; and  
7834 (e) whether the programs should be continued, continued with modifications, or  
7835 terminated.  
7836 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
7837 Administrative Rulemaking Act, specifying how and when an entity operating a syringe  
7838 exchange program shall make the report required by Subsection (2)(c).  
7839 Section 240. Section **26B-7-118**, which is renumbered from Section 26-7-9 is

7840 renumbered and amended to read:

7841 ~~[26-7-9]~~. **26B-7-118. Online public health education module for**  
7842 **vaccine-preventable diseases.**

7843 (1) As used in this section:

7844 (a) "Health care provider" means the same as that term is defined in Section  
7845 [78B-3-403](#).

7846 (b) "Nonimmune" means that a child or an individual:

7847 (i) has not received each vaccine required in Section [53G-9-305](#) and has not developed  
7848 a natural immunity through previous illness to a vaccine-preventable disease, as documented  
7849 by a health care provider;

7850 (ii) cannot receive each vaccine required in Section [53G-9-305](#); or

7851 (iii) is otherwise known to not be immune to a vaccine-preventable disease.

7852 (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by  
7853 a vaccination required in Section [53G-9-305](#).

7854 (2) The department shall develop an online education module regarding  
7855 vaccine-preventable diseases:

7856 (a) to assist a parent of a nonimmune child to:

7857 (i) recognize the symptoms of vaccine-preventable diseases;

7858 (ii) respond in the case of an outbreak of a vaccine-preventable disease;

7859 (iii) protect children who contract a vaccine-preventable disease; and

7860 (iv) prevent the spread of vaccine-preventable diseases;

7861 (b) that contains only the following:

7862 (i) information about vaccine-preventable diseases necessary to achieve the goals  
7863 stated in Subsection (2)(a), including the best practices to prevent the spread of

7864 vaccine-preventable diseases;

7865 (ii) recommendations to reduce the likelihood of a nonimmune individual contracting  
7866 or transmitting a vaccine-preventable disease; and

7867 (iii) information about additional available resources related to vaccine-preventable  
7868 diseases and the availability of low-cost vaccines;

7869 (c) that includes interactive questions or activities; and

7870 (d) that is expected to take an average user 20 minutes or less to complete, based on

7871 user testing.

7872 (3) In developing the online education module described in Subsection (2), the  
7873 department shall consult with individuals interested in vaccination or vaccine-preventable  
7874 diseases, including:

- 7875 (a) representatives from organizations of health care professionals; and
- 7876 (b) parents of nonimmune children.

7877 (4) The department shall make the online education module described in Subsection  
7878 (2) publicly available to parents through:

- 7879 (a) a link on the department's website;
- 7880 (b) county health departments, as that term is defined in Section 26A-1-102;
- 7881 (c) local health departments, as that term is defined in Section 26A-1-102;
- 7882 (d) local education agencies, as that term is defined in Section 53E-1-102; and
- 7883 (e) other public health programs or organizations.

7884 Section 241. Section **26B-7-119**, which is renumbered from Section 26-7-11 is  
7885 renumbered and amended to read:

7886 **[~~26-7-11~~]. 26B-7-119. Hepatitis C Outreach Pilot Program.**

7887 (1) As used in this section, "Hepatitis C outreach organization" means a private  
7888 nonprofit organization that:

7889 (a) has an established relationship with individuals who are at risk of acquiring acute  
7890 Hepatitis C;

7891 (b) helps individuals who need Hepatitis C treatment, but who do not qualify for  
7892 payment of the treatment by the Medicaid program or another health insurer, to obtain  
7893 treatment;

7894 (c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and  
7895 diagnosis, including clinical staff with the training and ability to provide:

- 7896 (i) specimen collection for Hepatitis C testing;
- 7897 (ii) clinical assessments;
- 7898 (iii) consultation regarding blood-borne diseases; and
- 7899 (iv) case management services for patient support during Hepatitis C treatment; or
- 7900 (d) has a partnership with a health care facility that can provide clinical follow-up and  
7901 medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.

(2) There is created within the department the Hepatitis C Outreach Pilot Program.

(3) Before September 1, 2020, the department shall, as funding permits, make grants to Hepatitis C outreach organizations in accordance with criteria established by the department under Subsection (4).

(4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) create application requirements for a grant from the program;

(b) establish criteria for determining:

(i) whether a grant is awarded, including criteria that ensure grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and

(ii) the amount of a grant; and

(c) specify reporting requirements for the recipient of a grant under this section.

(5) Before October 1, 2021, and before October 1 every year thereafter, the department shall submit a report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot Program.

Section 242. Section **26B-7-201**, which is renumbered from Section 26-6-2 is renumbered and amended to read:

**Part 2. Detection and Management of Communicable Diseases and Public Health Emergencies**

**~~[26-6-2]~~. 26B-7-201. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Ambulatory surgical center" ~~[is as]~~ means the same as that term is defined in Section ~~[26-21-2]~~ 26B-2-201.

(2) "Carrier" means an infected individual or animal who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection 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



7933 carrier, or long duration, as a chronic carrier.

7934 (3) "Communicable disease" means illness due to a specific infectious agent or its toxic  
7935 products which arises through transmission of that agent or its products from a reservoir to a  
7936 susceptible host, either directly, as from an infected individual or animal, or indirectly, through  
7937 an intermediate plant or animal host, vector, or the inanimate environment.

7938 (4) "Communicable period" means the time or times during which an infectious agent  
7939 may be transferred directly or indirectly from an infected individual to another individual, from  
7940 an infected animal to ~~[man]~~ a human, or from an infected ~~[man]~~ human to an animal, including  
7941 arthropods.

7942 (5) "Contact" means an individual or animal having had association with an infected  
7943 individual, animal, or contaminated environment so as to have had an opportunity to acquire  
7944 the infection.

7945 (6) "End stage renal disease facility" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

7946 (7) (a) "Epidemic" means the occurrence or outbreak in a community or region of cases  
7947 of an illness clearly in excess of normal expectancy and derived from a common or propagated  
7948 source.

7949 (b) The number of cases indicating an epidemic will vary according to the infectious  
7950 agent, size, and type of population exposed, previous experience or lack of exposure to the  
7951 disease, and time and place of occurrence.

7952 (c) Epidemicity is considered to be relative to usual frequency of the disease in the  
7953 same area, among the specified population, at the same season of the year.

7954 (8) "General acute hospital" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

7955 (9) "Incubation period" means the time interval between exposure to an infectious  
7956 agent and appearance of the first sign or symptom of the disease in question.

7957 (10) "Infected individual" means an individual who harbors an infectious agent and  
7958 who has manifest disease or inapparent infection. An infected individual is one from whom the  
7959 infectious agent can be naturally acquired.

7960 (11) "Infection" means the entry and development or multiplication of an infectious  
7961 agent in the body of man or animals. Infection is not synonymous with infectious disease; the  
7962 result may be inapparent or manifest. The presence of living infectious agents on exterior  
7963 surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but

contamination of such surfaces and articles.

(12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

(13) "Infectious disease" means a disease of man or animals resulting from an infection.

(14) "Isolation" means the separation, for the period of communicability, of infected individuals or animals from others, in such places and under such conditions as to prevent the direct or indirect conveyance of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.

(15) "Order of constraint" means the same as that term is defined in Section ~~[26-23b-102]~~ [26B-7-301](#).

(16) "Quarantine" means the restriction of the activities of well individuals or animals who have been exposed to a communicable disease during its period of communicability to prevent disease transmission.

(17) "School" means a public, private, or parochial nursery school, licensed or unlicensed day care center, child care facility, family care home, headstart program, kindergarten, elementary, or secondary school through grade 12.

(18) "Sexually transmitted disease" means those diseases transmitted through sexual intercourse or any other sexual contact.

(19) "Specialty hospital" is as defined in Section ~~[26-21-2]~~ [26B-2-201](#).

Section 243. Section **26B-7-202**, which is renumbered from Section 26-6-3 is renumbered and amended to read:

**~~[26-6-3]~~. 26B-7-202. Authority to investigate and control epidemic infections and communicable disease.**

(1) Subject to Subsection (3) and the restrictions in this title, the department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.

(2) (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:

(i) medically accurate information about sexually transmitted diseases that may cause

7995 infertility and sterility if left untreated, including descriptions of:

7996 (A) the probable side effects resulting from an untreated sexually transmitted disease,  
7997 including infertility and sterility;

7998 (B) medically accepted treatment for sexually transmitted diseases;

7999 (C) the medical risks commonly associated with the medical treatment of sexually  
8000 transmitted diseases; and

8001 (D) suggested screening by a private physician or physician assistant; and

8002 (ii) information about:

8003 (A) public services and agencies available to assist individuals with obtaining  
8004 treatment for the sexually transmitted disease;

8005 (B) medical assistance benefits that may be available to the individual with the  
8006 sexually transmitted disease; and

8007 (C) abstinence before marriage and fidelity after marriage being the surest prevention  
8008 of sexually transmitted disease.

8009 (b) The information required by Subsection (2)(a):

8010 (i) shall be distributed by the department and by local health departments free of  
8011 charge;

8012 (ii) shall be relevant to the geographic location in which the information is distributed  
8013 by:

8014 (A) listing addresses and telephone numbers for public clinics and agencies providing  
8015 services in the geographic area in which the information is distributed; and

8016 (B) providing the information in English as well as other languages that may be  
8017 appropriate for the geographic area.

8018 (c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written  
8019 material that includes the information required by this Subsection (2).

8020 (ii) In addition to the written materials required by Subsection (2)(c)(i), the department  
8021 may distribute the information required by this Subsection (2) by any other methods the  
8022 department determines is appropriate to educate the public, excluding public schools, including  
8023 websites, toll free telephone numbers, and the media.

8024 (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the  
8025 written pamphlet developed by the department, the written material shall include either a

website, or a 24-hour toll free telephone number that the public may use to obtain that information.

(3) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department as described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department as described in this section in response to a declared public health emergency.

Section 244. Section **26B-7-203**, which is renumbered from Section 26-6-3.5 is renumbered and amended to read:

**[26-6-3.5]. 26B-7-203. Reporting AIDS and HIV infection -- Anonymous testing.**

(1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection, the department shall:

(a) require reporting of those conditions; and

(b) utilize contact tracing and other methods for "partner" identification and notification. The department shall, by rule, define individuals who are considered "partners" for purposes of this section.

(2) (a) The requirements of Subsection (1) do not apply to seroprevalence and other epidemiological studies conducted by the department.

(b) The requirements of Subsection (1) do not apply to, and anonymity shall be provided in, research studies conducted by universities or hospitals, under the authority of institutional review boards if those studies are funded in whole or in part by research grants and if anonymity is required in order to obtain the research grant or to carry out the research.

(3) For all purposes of this ~~[chapter]~~ part, Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection are considered communicable and infectious diseases.

(4) The department may establish or allow one site or agency within the state to provide anonymous testing.

(a) The site or agency that provides anonymous testing shall maintain accurate records regarding:

(i) the number of HIV positive individuals that it is able to contact or inform of their condition;

(ii) the number of HIV positive individuals who receive extensive counseling;

(iii) how many HIV positive individuals provide verifiable information for partner notification; and

(iv) how many cases in which partner notification is carried through.

(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 245. 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.

Section 246. Section **26B-7-205**, which is renumbered from Section 26-6-5 is  
renumbered and amended to read:

~~[26-6-5]~~. **26B-7-205. Willful introduction of communicable disease a  
misdemeanor.**

Any person who willfully or knowingly introduces any communicable or infectious  
disease into any county, municipality, or community is guilty of a class A misdemeanor, except  
as provided in Section 76-10-1309.

Section 247. Section **26B-7-206**, which is renumbered from Section 26-6-6 is  
renumbered and amended to read:

~~[26-6-6]~~. **26B-7-206. Duty to report individual suspected of having  
communicable disease.**

The following shall report to the department or the local health department regarding  
any individual suffering from or suspected of having a disease that is communicable, as  
required by department rule:

- (1) health care providers as defined in Section 78B-3-403;
- (2) facilities licensed under [~~Title 26, Chapter 21,~~] Chapter 2, Part 2, Health Care  
Facility Licensing and Inspection [Act];
- (3) health care facilities operated by the federal government;
- (4) mental health facilities;
- (5) care facilities licensed by the [~~Department of Human Services~~] department;
- (6) nursing homes and other care facilities;
- (7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for  
individuals who are suffering from a disease suspected of being communicable;
- (8) individuals who have knowledge of others who have a communicable disease;
- (9) individuals in charge of schools having responsibility for any individuals who have  
a disease suspected of being communicable; and
- (10) child care programs, as defined in Section [~~26-39-102~~] 26B-2-401.

Section 248. Section **26B-7-207**, which is renumbered from Section 26-6-7 is

8119 renumbered and amended to read:

8120 ~~[26-6-7].~~ **26B-7-207.** **Designation of communicable diseases by department --**  
8121 **Establishment of rules for detection, reporting, investigation, prevention, and control.**

8122 The department may designate those diseases which are communicable, of concern to  
8123 the public health, and reportable; and establish rules for the detection, reporting, investigation,  
8124 prevention, and control of communicable diseases, epidemic infections, and other health  
8125 hazards that affect the public health.

8126 Section 249. Section **26B-7-208**, which is renumbered from Section 26-6-8 is  
8127 renumbered and amended to read:

8128 ~~[26-6-8].~~ **26B-7-208.** **Tuberculosis -- Duty of department to investigate,**  
8129 **control, and monitor.**

8130 (1) The department shall conduct or oversee the investigation, control, and monitoring  
8131 of suspected or confirmed tuberculosis infection and disease within the state. Local health  
8132 departments shall investigate, control, and monitor suspected or confirmed tuberculosis  
8133 infection and disease within their respective jurisdictions.

8134 (2) A health care provider who treats an individual with suspected or confirmed  
8135 tuberculosis shall treat the individual according to guidelines established by the department.

8136 Section 250. Section **26B-7-209**, which is renumbered from Section 26-6-9 is  
8137 renumbered and amended to read:

8138 ~~[26-6-9].~~ **26B-7-209.** **Tuberculosis -- Testing of high risk individuals.**

8139 Individuals at high risk for tuberculosis shall be tested as required by department rule[  
8140 ~~The department rule~~], which:

8141 (1) shall establish criteria to identify individuals who are at high risk for tuberculosis;  
8142 and

8143 (2) may establish who is responsible for the costs of the testing.

8144 Section 251. Section **26B-7-210**, which is renumbered from Section 26-6-11 is  
8145 renumbered and amended to read:

8146 ~~[26-6-11].~~ **26B-7-210.** **Rabies or other animal disease -- Investigation and**  
8147 **order of quarantine.**

8148 (1) As used in this section, "quarantine" means strict confinement upon the private  
8149 premises of the owners, under restraint by leash, closed cage or paddock of all animals

8150 specified by the order.

8151 (2) (a) Whenever rabies or any other animal disease dangerous to the health of human  
8152 beings is reported, the department shall investigate to determine whether such disease exists,  
8153 and the probable area of the state in which man or beast is thereby endangered.

8154 (b) If the department finds that such disease exists, a quarantine may be declared  
8155 against all animals designated in the quarantine order and within the area specified in the order.

8156 (c) If the quarantine is for the purpose of preventing the spread of rabies or  
8157 hydrophobia, the order shall contain a warning to the owners of dogs within the quarantined  
8158 area to confine or muzzle all dogs to prevent biting.

8159 (d) Any dog not muzzled found running at large in a quarantined area or any dog  
8160 known to have been removed from or escaped from such area, may be killed by any person  
8161 without liability therefor.

8162 (3) Following the order of quarantine the department shall make a thorough  
8163 investigation as to the extent of the disease, the probable number of persons and beasts  
8164 exposed, and the area involved.

8165 (4) During the period any quarantine order is in force all peace officers may kill or  
8166 capture and hold for further action by the department all animals in a quarantined area not held  
8167 in restraint on private premises.

8168 Section 252. Section **26B-7-211**, which is renumbered from Section 26-6-15 is  
8169 renumbered and amended to read:

8170 **[26-6-15]. 26B-7-211. Rabies or other animal disease -- Possession of animal in**  
8171 **violation of part a misdemeanor.**

8172 Any person in possession of any animal being held in violation of this [chapter] part is  
8173 guilty of a class C misdemeanor.

8174 Section 253. Section **26B-7-212**, which is renumbered from Section 26-6-16 is  
8175 renumbered and amended to read:

8176 **[26-6-16]. 26B-7-212. Sexually transmitted infections declared dangerous to**  
8177 **public health.**

8178 Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby  
8179 declared to be contagious, infectious, communicable and dangerous to the public health.

8180 Section 254. Section **26B-7-213**, which is renumbered from Section 26-6-17 is



8181 renumbered and amended to read:

8182           ~~[26-6-17].~~     **26B-7-213.** Sexually transmitted infections -- Examinations by  
8183 **authorities -- Treatment of infected persons.**

8184           State, county, and municipal health officers within their respective jurisdictions may  
8185 make examinations of persons reasonably suspected of being infected with venereal disease.  
8186 Persons infected with venereal disease shall be required to report for treatment to either a  
8187 reputable physician or physician assistant and continue treatment until cured or to submit to  
8188 treatment provided at public expense until cured.

8189           Section 255. Section **26B-7-214**, which is renumbered from Section 26-6-18 is  
8190 renumbered and amended to read:

8191           ~~[26-6-18].~~     **26B-7-214.** Sexually transmitted infections -- Consent of minor to  
8192 **treatment.**

8193           (1) A consent to medical care or services by a hospital or public clinic or the  
8194 performance of medical care or services by a licensed physician or physician assistant executed  
8195 by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the  
8196 same legal effect upon the minor and the same legal obligations with regard to the giving of  
8197 consent as a consent given by a person of full legal age and capacity, the infancy of the minor  
8198 and any contrary provision of law notwithstanding.

8199           (2) The consent of the minor is not subject to later disaffirmance by reason of minority  
8200 at the time it was given and the consent of no other person or persons shall be necessary to  
8201 authorize hospital or clinical care or services to be provided to the minor by a licensed  
8202 physician or physician assistant.

8203           (3) The provisions of this section shall apply also to minors who profess to be in need  
8204 of hospital or clinical care and services or medical care or services provided by a physician or  
8205 physician assistant for suspected sexually transmitted disease, regardless of whether such  
8206 professed suspicions are subsequently substantiated on a medical basis.

8207           Section 256. Section **26B-7-215**, which is renumbered from Section 26-6-19 is  
8208 renumbered and amended to read:

8209           ~~[26-6-19].~~     **26B-7-215.** Sexually transmitted infections -- Examination and  
8210 **treatment of persons in prison or jail.**

8211           (1) (a) All persons confined in any state, county, or city prison or jail shall be

8212 examined, and if infected, treated for venereal diseases by the health authorities.

8213       (b) The prison authorities of every state, county, or city prison or jail shall make  
8214 available to the health authorities such portion of the prison or jail as may be necessary for a  
8215 clinic or hospital wherein all persons suffering with venereal disease at the time of the  
8216 expiration of their terms of imprisonment, shall be isolated and treated at public expense until  
8217 cured.

8218       (2) (a) The department may require persons suffering with venereal disease at the time  
8219 of the expiration of their terms of imprisonment to report for treatment to a licensed physician  
8220 or physician assistant or submit to treatment provided at public expense in lieu of isolation.

8221       (b) Nothing in this section shall interfere with the service of any sentence imposed by a  
8222 court as a punishment for the commission of crime.

8223       Section 257. Section **26B-7-216**, which is renumbered from Section 26-6-20 is  
8224 renumbered and amended to read:

8225       ~~[26-6-20]~~.     **26B-7-216**. **Serological testing of pregnant or recently delivered**  
8226 **women.**

8227       (1) As used in this section, a "standard serological test" means a test for syphilis  
8228 approved by the department and made at an approved laboratory.

8229       ~~[(+)]~~ (2) (a) Every licensed physician and surgeon attending a pregnant or recently  
8230 delivered woman for conditions relating to her pregnancy shall take or cause to be taken a  
8231 sample of blood of the woman at the time of first examination or within 10 days thereafter.

8232       (b) The blood sample shall be submitted to an approved laboratory for a standard  
8233 serological test for syphilis.

8234       (c) The provisions of this section do not apply to any female who objects thereto on the  
8235 grounds that she is a bona fide member of a specified, well recognized religious organization  
8236 whose teachings are contrary to the tests.

8237       ~~[(2)]~~ (3) (a) Every other person attending a pregnant or recently delivered woman, who  
8238 is not permitted by law to take blood samples, shall within 10 days from the time of first  
8239 attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

8240       (b) The blood sample shall be submitted to an approved laboratory for a standard  
8241 serological test for syphilis.

8242       ~~[(3)]~~ (4) (a) An approved laboratory is a laboratory approved by the department

8243 according to its rules governing the approval of laboratories for the purpose of this title.

8244 (b) In submitting the sample to the laboratory the physician or physician assistant shall  
8245 designate whether it is a prenatal test or a test following recent delivery.

8246 [~~(4) For the purpose of this chapter, a "standard serological test" means a test for~~  
8247 ~~syphilis approved by the department and made at an approved laboratory.~~]

8248 (5) The laboratory shall transmit a detailed report of the standard serological test,  
8249 showing the result thereof to the physician or physician assistant.

8250 Section 258. Section **26B-7-217**, which is renumbered from Section 26-6-27 is  
8251 renumbered and amended to read:

8252 **[~~26-6-27~~]. 26B-7-217. Information regarding communicable or reportable**  
8253 **diseases confidentiality -- Exceptions.**

8254 (1) (a) Information collected [~~pursuant to this chapter~~] under this part in the possession  
8255 of the department or local health departments relating to an individual who has or is suspected  
8256 of having a disease designated by the department as a communicable or reportable disease  
8257 under this [~~chapter~~] shall be held by the department and local health departments as strictly  
8258 confidential.

8259 (b) The department and local health departments may not release or make public that  
8260 information upon subpoena, search warrant, discovery proceedings, or otherwise, except as  
8261 provided by this section.

8262 (2) The information described in Subsection (1) may be released by the department or  
8263 local health departments only in accordance with the requirements of this [~~chapter~~] part and as  
8264 follows:

8265 (a) specific medical or epidemiological information may be released with the written  
8266 consent of the individual identified in that information or, if that individual is deceased, [~~his~~]  
8267 the individual's next-of-kin;

8268 (b) specific medical or epidemiological information may be released to medical  
8269 personnel or peace officers in a medical emergency, as determined by the department in  
8270 accordance with guidelines it has established, only to the extent necessary to protect the health  
8271 or life of the individual identified in the information, or of the attending medical personnel or  
8272 law enforcement or public safety officers;

8273 (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, the information may be released to the Division of Child and Family Services within the ~~[Department of Human Services]~~ department in accordance with Section ~~80-2-602~~~~[.H]~~, and if that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Individual, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a <sup>[u]</sup>health care provider<sup>[u]</sup> as defined in Section ~~78B-3-403~~, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section ~~78B-3-403~~, may be released to the department, the appropriate local health department, and the Division of Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section ~~[26-6-31]~~ 26B-7-221 if an individual is not identifiable; and

8305 (k) specific medical or epidemiological information may be released to a state agency  
 8306 as defined in Section [67-27-102](#), to perform the analysis described in Subsection [[26-6-32](#)]  
 8307 [26B-7-222](#)(4) if the state agency agrees to act in accordance with the requirements in this  
 8308 [~~chapter~~] part.

8309 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is  
 8310 intended only to aid health care providers in their treatment and containment of infectious  
 8311 disease.

8312 Section 259. Section **26B-7-218**, which is renumbered from Section 26-6-28 is  
 8313 renumbered and amended to read:

8314 **[~~26-6-28~~]. 26B-7-218. Protection from examination in legal proceedings --**  
 8315 **Exceptions.**

8316 (1) Except as provided in Subsection (2), an officer or employee of the department or  
 8317 of a local health department may not be examined in a legal proceeding of any kind or  
 8318 character as to the existence or content of information retained pursuant to this [~~chapter~~] part or  
 8319 obtained as a result of an investigation conducted pursuant to this [~~chapter~~] part, without the  
 8320 written consent of the individual who is identified in the information or, if that individual is  
 8321 deceased, the consent of [~~his~~] the individual's next-of-kin.

8322 (2) This section does not restrict testimony and evidence provided by an employee or  
 8323 officer of the department or a local health department about:

8324 (a) persons who are under restrictive actions taken by the department in accordance  
 8325 with Subsection [~~26-6-27~~] [26B-7-317](#)(2)(e); or

8326 (b) individuals or groups of individuals subject to examination, treatment, isolation,  
 8327 and quarantine actions under [~~Chapter 6b, Communicable Diseases -~~] Part 3, Treatment,  
 8328 Isolation, and Quarantine Procedures for Communicable Diseases.

8329 Section 260. Section **26B-7-219**, which is renumbered from Section 26-6-29 is  
 8330 renumbered and amended to read:

8331 **[~~26-6-29~~]. 26B-7-219. Violation -- Penalty.**

8332 (1) Any individual or entity entitled to receive confidential information from the  
 8333 [~~Department of Health~~] department or a local health department under this [~~chapter~~] part, other  
 8334 than the individual identified in that information, who violates this [~~chapter~~] part by releasing  
 8335 or making public confidential information, or by otherwise breaching the confidentiality

requirements of this ~~[chapter]~~ part, is guilty of a class B misdemeanor.

(2) This ~~[chapter]~~ part does 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]~~ part, if that individual or entity has obtained the information from a source other than the department or a local health department.

Section 261. 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]~~ part 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 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 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]~~ part 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 262. 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 State Centers for Disease Control and Prevention pursuant to the Center for Medicare and Medicaid Services rules for infection

8367 reporting.

8368       (b) Access to data under this Subsection (1) may include data sharing through the  
8369 National Healthcare Safety Network.

8370       (2) (a) The department shall, beginning May 1, 2013, use the data submitted by the  
8371 facilities in accordance with Subsection (1) to compile an annual report on health care  
8372 associated infections in ambulatory surgical facilities, general acute hospitals, and specialty  
8373 hospitals for public distribution in accordance with the requirements of this subsection. The  
8374 department shall publish the report on the department's website and the Utah Health Exchange.

8375       (b) The department's report under this section shall:

8376       (i) include the following health care associated infections as required by the Center for  
8377 Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety  
8378 Network in the [~~Center~~] Centers for Disease Control and Prevention:

8379       (A) central line associated bloodstream infections;

8380       (B) catheter associated urinary tract infections;

8381       (C) surgical site infections from procedures on the colon or an abdominal  
8382 hysterectomy;

8383       (D) methicillin-resistant staphylococcus aureus bacteremia;

8384       (E) clostridium difficile of the colon; and

8385       (F) other health care associated infections when reporting is required by the Center for  
8386 Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety  
8387 Network in the [~~Center~~] Centers for Disease Control and Prevention;

8388       (ii) include data on the rate of health care associated infections:

8389       (A) for the infection types described in Subsection (2)(b)(i); and

8390       (B) by health care facility or hospital;

8391       (iii) include data on how the rate of health care associated infections in ambulatory  
8392 surgical facilities, general acute hospitals, and specialty hospitals compares with the rates in  
8393 other states;

8394       (iv) in compiling the report described in Subsection (2)(a), use analytical  
8395 methodologies that meet accepted standards of validity and reliability;

8396       (v) clearly identify and acknowledge, in the report, the limitations of the data sources  
8397 and analytic methodologies used to develop comparative facility or hospital information;

8398 (vi) decide whether information supplied by a facility or hospital under Subsection (1)  
8399 is appropriate to include in the report;

8400 (vii) adjust comparisons among facilities and hospitals for patient case mix and other  
8401 relevant factors, when appropriate; and

8402 (viii) control for provider peer groups, when appropriate.

8403 (3) Before posting or releasing the report described in Subsection (2)(a), the  
8404 department shall:

8405 (a) disclose to each ambulatory surgical facility, general acute hospital, and specialty  
8406 hospital whose data is included in the report:

8407 (i) the entire methodology for analyzing the data; and

8408 (ii) the comparative facility or hospital information and other information the  
8409 department has compiled for the facility or hospital; and

8410 (b) give the facility or hospital 30 days to suggest corrections or add explanatory  
8411 comments about the data.

8412 (4) The department shall develop and implement effective safeguards to protect against  
8413 the unauthorized use or disclosure of ambulatory surgical facility, general acute hospital, and  
8414 specialty hospital data, including the dissemination of inconsistent, incomplete, invalid,  
8415 inaccurate, or subjective data.

8416 (5) The report described in Subsection (2)(a):

8417 (a) may include data that compare and identify general acute hospitals, ambulatory  
8418 surgical centers, and specialty hospitals;

8419 (b) shall contain only statistical, non-identifying information and may not disclose the  
8420 identity of:

8421 (i) an employee of an ambulatory surgical facility, a general acute hospital, or a  
8422 specialty hospital;

8423 (ii) a patient; or

8424 (iii) a health care provider licensed under Title 58, Occupations and Professions; and

8425 (c) may not be used as evidence in a criminal, civil, or administrative proceeding.

8426 (6) This section does not limit the department's authority to investigate and collect data  
8427 regarding infections and communicable diseases under other provisions of state or federal law.

8428 Section 263. Section **26B-7-222**, which is renumbered from Section 26-6-32 is



8429 renumbered and amended to read:

8430 ~~[26-6-32]~~. **26B-7-222. Testing for COVID-19 for high-risk individuals at care**  
8431 **facilities -- Collection and release of information regarding risk factors and comorbidities**  
8432 **for COVID-19.**

8433 (1) As used in this section:

8434 (a) "Care facility" means a facility described in Subsections ~~[26-6-6]~~ 26B-7-206(2)  
8435 through (6).

8436 (b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

8437 (2) (a) At the request of the department or a local health department, an individual who  
8438 meets the criteria established by the department under Subsection (2)(b) shall submit to testing  
8439 for COVID-19.

8440 (b) The department:

8441 (i) shall establish protocols to identify and test individuals who are present at a care  
8442 facility and are at high risk for contracting COVID-19;

8443 (ii) may establish criteria to identify care facilities where individuals are at high risk for  
8444 COVID-19; and

8445 (iii) may establish who is responsible for the costs of the testing.

8446 (c) (i) The protocols described in Subsection (2)(b)(i) shall:

8447 (A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care  
8448 facility to refuse testing; and

8449 (B) specify criteria for when an individual's refusal to submit to testing under  
8450 Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

8451 (ii) Notwithstanding any other provision of state law, a care facility may discharge a  
8452 resident who declines testing requested by the department under Subsection (2)(a) if:

8453 (A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the  
8454 resident's refusal to submit to testing endangers the health or safety of other individuals at the  
8455 care facility; and

8456 (B) discharging the resident does not violate federal law.

8457 (3) The department may establish protocols to collect information regarding the  
8458 individual's age and relevant comorbidities from an individual who receives a positive test  
8459 result for COVID-19.

(4) (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.

(b) The department may work with a state agency as defined in Section 67-27-102, to perform the analysis or publish the information described in Subsection (4)(a).

Section 264. Section **26B-7-223**, which is renumbered from Section 26-6-42 is renumbered and amended to read:

**[26-6-42]. 26B-7-223. Department support for local education agency test to stay programs -- Department guidance for local education agencies.**

(1) As used in this section:

(a) "Case threshold" means the same as that term is defined in Section 53G-9-210.

(b) "COVID-19" means the same as that term is defined in Section 53G-9-210.

(c) "Local education agency" or "LEA" means the same as that term is defined in Section 53G-9-210.

(d) "Test to stay program" means the same as that term is defined in Section 53G-9-210.

(2) At the request of an LEA, the department shall provide support for the LEA's test to stay program if a school in the LEA reaches the case threshold, including by providing:

(a) COVID-19 testing supplies;

(b) a mobile testing unit; and

(c) other support requested by the LEA related to the LEA's test to stay program.

(3) The department shall ensure that guidance the department provides to LEAs related to test to stay programs complies with Section 53G-9-210, including the determination of whether a school meets a case threshold described in Subsection 53G-9-210(3).

(4) Subsection (2) regarding the requirement to support an LEA's test to stay program does not apply after February 2, 2022, unless the test to stay requirement is triggered under Subsection 53G-9-210(2)(c).

Section 265. Section **26B-7-224**, which is renumbered from Section 26-7-14 is renumbered and amended to read:

**[26-7-14]. 26B-7-224. Study on violent incidents and fatalities involving substance abuse -- Report.**

(1) As used in this section:

(a) "Drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance or alcohol was combined, that results in an individual requiring medical assistance.

(b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(c) "Violent incident" means:

(i) aggravated assault as described in Section 76-5-103;

(ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

(iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

(vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

(vii) a domestic violence offense, as defined in Section 77-36-1; and

(viii) any other violent offense, as determined by the department.

(2) In 2021 and continuing every other year, the department shall provide a report before October 1 to the Health and Human Services Interim Committee regarding the number of:

(a) violent incidents and fatalities that occurred in the state during the preceding calendar year that, at the time of occurrence, involved substance abuse;

(b) drug overdose events in the state during the preceding calendar year; and

(c) recommendations for legislation, if any, to prevent the occurrence of the events described in Subsections (2)(a) and (b).

~~[(3) Before October 1, 2020, the department shall:]~~

~~[(a) determine what information is necessary to complete the report described in Subsection (2) and from which local, state, and federal agencies the information may be obtained;]~~

~~[(b) determine the cost of any research or data collection that is necessary to complete the report described in Subsection (2);]~~

~~[(c) make recommendations for legislation, if any, that is necessary to facilitate the~~

research or data collection described in Subsection (3)(b), including recommendations for legislation to assist with information sharing between local, state, federal, and private entities and the department; and]

[~~(d) report the findings described in Subsections (3)(a) through (c) to the Health and Human Services Interim Committee.~~]

[~~(4)~~] (3) The department may contract with another state agency, private entity, or research institution to assist the department with the report described in Subsection (2).

Section 266. Section **26B-7-225**, which is renumbered from Section 26-8d-102 is renumbered and amended to read:

~~[26-8d-102].~~        **26B-7-225. Statewide stroke registry.**

(1) The department shall establish and supervise a statewide stroke registry to:

(a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of stroke;

(b) promote optimal care for stroke patients;

(c) alleviate unnecessary death and disability from stroke;

(d) encourage the efficient and effective continuum of patient care, including prevention, prehospital care, hospital care, and rehabilitative care; and

(e) minimize the overall cost of stroke.

(2) The department shall utilize the registry established under Subsection (1) to assess:

(a) the effectiveness of the data collected by the registry; and

(b) the impact of the statewide stroke registry on the provision of stroke care.

(3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the data elements that general acute hospitals shall report to the registry; and

(ii) the time frame and format for reporting.

(b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics consistent with data elements used in nationally recognized data set platforms for stroke care.

(c) The department shall permit a general acute hospital to submit data required under this section through an electronic exchange of clinical health information that meets the standards established by the department under Section ~~[26-1-37]~~ 26B-8-411.

(4) A general acute hospital shall submit stroke data in accordance with rules

8553 established under Subsection (3).

8554 (5) Data collected under this section shall be subject to [~~Chapter 3,~~] Chapter 8, Part 4,  
8555 Health Statistics.

8556 (6) No person may be held civilly liable for providing data to the department in  
8557 accordance with this section.

8558 Section 267. Section **26B-7-226**, which is renumbered from Section 26-8d-103 is  
8559 renumbered and amended to read:

8560 **[26-8d-103].** **26B-7-226. Statewide cardiac registry.**

8561 (1) The department shall establish and supervise a statewide cardiac registry to:

8562 (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation  
8563 of cardiac diseases;

8564 (b) promote optimal care for cardiac patients;

8565 (c) alleviate unnecessary death and disability from cardiac diseases;

8566 (d) encourage the efficient and effective continuum of patient care, including  
8567 prevention, prehospital care, hospital care, and rehabilitative care; and

8568 (e) minimize the overall cost of cardiac care.

8569 (2) The department shall utilize the registry established under Subsection (1) to assess:

8570 (a) the effectiveness of the data collected by the registry; and

8571 (b) the impact of the statewide cardiac registry on the provision of cardiac care.

8572 (3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
8573 Administrative Rulemaking Act, to establish:

8574 (i) the data elements that general acute hospitals shall report to the registry; and

8575 (ii) the time frame and format for reporting.

8576 (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics  
8577 consistent with data elements used in nationally recognized data set platforms for cardiac care.

8578 (c) The department shall permit a general acute hospital to submit data required under  
8579 this section through an electronic exchange of clinical health information that meets the  
8580 standards established by the department under Section [~~26-1-37~~] 26B-8-411.

8581 (4) A general acute hospital shall submit cardiac data in accordance with rules  
8582 established under Subsection (3).

8583 (5) Data collected under this section shall be subject to [~~Chapter 3~~] Chapter 8, Part 4,

8584 Health Statistics.

8585 (6) No person may be held civilly liable for providing data to the department in  
8586 accordance with this section.

8587 Section 268. Section **26B-7-227**, which is renumbered from Section 26-5-1 is  
8588 renumbered and amended to read:

8589 ~~[26-5-1]~~. **26B-7-227. Chronic disease control -- Establishing a prevention**  
8590 **program -- Detection, monitoring, and community education.**

8591 (1) As used in this ~~[chapter]~~ section, "chronic disease" means an impairment or  
8592 deviation from the normal functioning of the human body having one or more of the following  
8593 characteristics:

8594 ~~[(1)-(f)]~~ (a) is permanent;

8595 ~~[(2)-(f)]~~ (b) leaves residual disability;

8596 ~~[(3)-(f)]~~ (c) is caused by nonreversible pathological alterations;

8597 ~~[(4)-(f)]~~ (d) requires special patient education and instruction for rehabilitation; or

8598 ~~[(5)-(f)]~~ (e) may require a long period of supervision, observation and care.

8599 (2) The department shall establish and operate reasonable programs to prevent, delay,  
8600 and detect the onset of chronic diseases including cancer, diabetes, cardiovascular and  
8601 pulmonary diseases, genetic diseases, and such other chronic diseases as the department  
8602 determines are important in promoting, protecting, and maintaining the public's health.

8603 (3) (a) The department shall develop and maintain a system for detecting and  
8604 monitoring chronic diseases within the state and shall investigate and determine the  
8605 epidemiology of those conditions which contributed to preventable and premature sickness, or  
8606 both, and to death and disability.

8607 (b) Beginning July 1, 2004, the department shall consider the disease known as "lupus"  
8608 a chronic disease subject to the detection and monitoring provisions of Subsection (3)(a).

8609 (4) The department shall establish programs of community and professional education  
8610 relevant to the detection, prevention and control of chronic diseases.

8611 Section 269. Section **26B-7-301**, which is renumbered from Section 26-23b-102 is  
8612 renumbered and amended to read:

8613 **Part 3. Treatment, Isolation, and Quarantine Procedures for Communicable Diseases**

8614 ~~[26-23b-102]~~. **26B-7-301. Definitions.**

8615 As used in this ~~[chapter]~~ part:

8616 (1) "Bioterrorism" means:

8617 (a) the intentional use of any microorganism, virus, infectious substance, or biological  
8618 product to cause death, disease, or other biological malfunction in a human, an animal, a plant,  
8619 or another living organism in order to influence, intimidate, or coerce the conduct of  
8620 government or a civilian population; and

8621 (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic  
8622 fevers.

8623 (2) "Diagnostic information" means a clinical facility's record of individuals who  
8624 present for treatment, including the reason for the visit, chief complaint, presenting diagnosis,  
8625 final diagnosis, and any pertinent lab results.

8626 (3) "Epidemic or pandemic disease":

8627 (a) means the occurrence in a community or region of cases of an illness clearly in  
8628 excess of normal expectancy; and

8629 (b) includes diseases designated by the department which have the potential to cause  
8630 serious illness or death.

8631 (4) "Exigent circumstances" means a significant change in circumstances following the  
8632 expiration of a public health emergency declared in accordance with this title that:

8633 (a) substantially increases the threat to public safety or health relative to the  
8634 circumstances in existence when the public health emergency expired;

8635 (b) poses an imminent threat to public safety or health; and

8636 (c) was not known or foreseen and could not have been known or foreseen at the time  
8637 the public health emergency expired.

8638 (5) "First responder" means:

8639 (a) a law enforcement officer as defined in Section [53-13-103](#);

8640 (b) emergency medical service personnel as defined in Section [26B-4-101](#);

8641 (c) firefighters; and

8642 (d) public health personnel having jurisdiction over the location where an individual  
8643 subject to restriction is found.

8644 ~~[(5)]~~ (6) "Health care provider" means the same as that term is defined in Section  
8645 [78B-3-403](#).

8646           ~~[(6)]~~ (7) "Legislative emergency response committee" means the same as that term is  
8647 defined in Section [53-2a-203](#).

8648           ~~[(7)]~~ (8) (a) "Order of constraint" means an order, rule, or regulation issued in response  
8649 to a declared public health emergency under this ~~[chapter]~~ part, that:

8650           (i) applies to all or substantially all:

8651           (A) individuals or a certain group of individuals; or

8652           (B) public places or certain types of public places; and

8653           (ii) for the protection of the public health and in response to the declared public health  
8654 emergency:

8655           (A) establishes, maintains, or enforces isolation or quarantine;

8656           (B) establishes, maintains, or enforces a stay-at-home order;

8657           (C) exercises physical control over property or individuals;

8658           (D) requires an individual to perform a certain action or engage in certain behavior; or

8659           (E) closes theaters, schools, or other public places or prohibits gatherings of people to  
8660 protect the public health.

8661           (b) "Order of constraint" includes a stay-at-home order.

8662           (9) "Order of restriction" means an order issued by a department or a district court  
8663 which requires an individual or group of individuals who are subject to restriction to submit to  
8664 an examination, treatment, isolation, or quarantine.

8665           ~~[(8)]~~ (10) "Public health emergency" means an occurrence or imminent credible threat  
8666 of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or  
8667 novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a  
8668 significant number of human fatalities or incidents of permanent or long-term disability. Such  
8669 illness or health condition includes an illness or health condition resulting from a natural  
8670 disaster.

8671           (11) "Public health official" means:

8672           (a) the executive director or the executive director's authorized representative; or

8673           (b) the executive director of a local health department or the executive director's  
8674 authorized representative.

8675           ~~[(9)]~~ (12) "Reportable emergency illness and health condition" includes the diseases,  
8676 conditions, or syndromes designated by the department.



8677 ~~[(10)]~~ (13) "Stay-at-home order" means an order of constraint that:

8678 (a) restricts movement of the general population to suppress or mitigate an epidemic or  
8679 pandemic disease by directing individuals within a defined geographic area to remain in their  
8680 respective residences; and

8681 (b) may include exceptions for certain essential tasks.

8682 (14) "Subject to restriction" as applied to an individual, or a group of individuals,  
8683 means the individual or group of individuals is:

8684 (a) infected or suspected to be infected with a communicable disease that poses a threat  
8685 to the public health and who does not take action as required by the department to prevent  
8686 spread of the disease;

8687 (b) contaminated or suspected to be contaminated with an infectious agent that poses a  
8688 threat to the public health, and that could be spread to others if remedial action is not taken;

8689 (c) in a condition or suspected condition which, if the individual is exposed to others,  
8690 poses a threat to public health, or is in a condition which if treatment is not completed the  
8691 individual will pose a threat to public health; or

8692 (d) contaminated or suspected to be contaminated with a chemical or biological agent  
8693 that poses a threat to the public health and that could be spread to others if remedial action is  
8694 not taken.

8695 Section 270. Section **26B-7-302**, which is renumbered from Section 26-1-12 is  
8696 renumbered and amended to read:

8697 **~~[26-1-12].~~ 26B-7-302. Executive director -- Power to order abatement of**  
8698 **public health hazard.**

8699 If the executive director finds that a condition of filth, sanitation, or other health hazard  
8700 exists which creates a clear present hazard to the public health and which requires immediate  
8701 action to protect human health or safety, the executive director with the concurrence of the  
8702 governor may order persons causing or contributing to the condition to reduce, discontinue, or  
8703 ameliorate it to the extent that the public health hazard is eliminated.

8704 Section 271. Section **26B-7-303**, which is renumbered from Section 26-6b-1 is  
8705 renumbered and amended to read:

8706 **~~[26-6b-1].~~ 26B-7-303. Applicability -- Administrative procedures.**

8707 (1) ~~[This chapter applies]~~ Sections 26B-7-304 through 26B-7-315 apply to involuntary

8708 examination, treatment, isolation, and quarantine actions applied to individuals or groups of  
8709 individuals by the department or a local health department.

8710 (2) The provisions of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-315](#) supersede  
8711 the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

8712 (3) The ~~[Department of Health]~~ department may adopt rules in accordance with Title  
8713 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the  
8714 provisions of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-315](#).

8715 Section 272. Section **26B-7-304**, which is renumbered from Section 26-6b-3 is  
8716 renumbered and amended to read:

8717 **~~[26-6b-3]~~. [26B-7-304](#). Order of restriction.**

8718 (1) Subject to Subsection (5), the department or a local health department having  
8719 jurisdiction over the location where an individual or a group of individuals who are subject to  
8720 restriction are found may:

8721 (a) issue a written order of restriction for the individual or group of individuals  
8722 pursuant to Section ~~[26-1-30]~~ [26B-1-202](#) or Subsection [26A-1-114](#)(1)(b) upon compliance with  
8723 the requirements of this ~~[chapter]~~ part; and

8724 (b) issue a verbal order of restriction for an individual or group of individuals pursuant  
8725 to Subsection (2)(c).

8726 (2) (a) A department or local health department's determination to issue an order of  
8727 restriction shall be based upon the totality of circumstances reported to and known by the  
8728 department or local health department, including:

8729 (i) observation;

8730 (ii) information that the department or local health department determines is credible  
8731 and reliable information; and

8732 (iii) knowledge of current public health risks based on medically accepted guidelines as  
8733 may be established by the ~~[Department of Health]~~ department by administrative rule.

8734 (b) An order of restriction issued by the department or a local health department shall:

8735 (i) in the opinion of the public health official, be for the shortest reasonable period of  
8736 time necessary to protect the public health;

8737 (ii) use the least intrusive method of restriction that, in the opinion of the department or  
8738 local health department, is reasonable based on the totality of circumstances known to the

8739 department or local health department issuing the order of restriction;

8740 (iii) be in writing unless the provisions of Subsection (2)(c) apply; and

8741 (iv) contain notice of an individual's rights as required in Section ~~[26-6b-3.3]~~ 26B-7-  
8742 307.

8743 (c) (i) ~~[A]~~ The department or a local health department may issue a verbal order of  
8744 restriction, without prior notice to the individual or group of individuals if the delay in  
8745 imposing a written order of restriction would significantly jeopardize the department or local  
8746 health department's ability to prevent or limit:

8747 (A) the transmission of a communicable or possibly communicable disease that poses a  
8748 threat to public health;

8749 (B) the transmission of an infectious agent or possibly infectious agent that poses a  
8750 threat to public health;

8751 (C) the exposure or possible exposure of a chemical or biological agent that poses a  
8752 threat to public health; or

8753 (D) the exposure or transmission of a condition that poses a threat to public health.

8754 (ii) A verbal order of restriction issued under ~~[the provisions of]~~ Subsection (2)(c)(i):

8755 (A) is valid for 24 hours from the time the order of restriction is issued;

8756 (B) may be verbally communicated to the individuals or group of individuals subject to  
8757 restriction by a first responder;

8758 (C) may be enforced by the first responder until the department or local health  
8759 department is able to establish and maintain the place of restriction; and

8760 (D) may only be continued beyond the initial 24 hours if a written order of restriction is  
8761 issued pursuant to the provisions of Section ~~[26-6b-3.3]~~ 26B-7-307.

8762 (3) Pending issuance of a written order of restriction under Section ~~[26-6b-3.3]~~  
8763 26B-7-307, or judicial review of an order of restriction ~~[by the district court pursuant to]~~ under  
8764 Section ~~[26-6b-6]~~ 26B-7-311, an individual who is subject to the order of restriction may be  
8765 required to submit to involuntary examination, quarantine, isolation, or treatment in the  
8766 individual's home, a hospital, or any other suitable facility under reasonable conditions  
8767 prescribed by the department or local health department.

8768 (4) The department or local health department that issued the order of restriction shall  
8769 take reasonable measures, including the provision of medical care, as may be necessary to

8770 assure proper care related to the reason for the involuntary examination, treatment, isolation, or  
8771 quarantine of an individual ordered to submit to an order of restriction.

8772 (5) (a) The Legislature may at any time terminate by joint resolution an order of  
8773 restriction issued by the department or local health department as described in this section in  
8774 response to a declared public health emergency.

8775 (b) A county governing body may at any time terminate by majority vote an order of  
8776 restriction issued by the relevant local health department [~~as described in~~] under this section  
8777 issued in response to a declared public health emergency.

8778 Section 273. Section **26B-7-305**, which is renumbered from Section 26-6b-3.1 is  
8779 renumbered and amended to read:

8780 **[~~26-6b-3.1~~]. 26B-7-305. Consent to order of restriction -- Periodic review.**

8781 (1) (a) The department or a local health department shall either seek judicial review of  
8782 an order of restriction under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311, or  
8783 obtain the consent of an individual subject to an order of restriction.

8784 (b) If the department or a local department obtains consent, the consent shall be in  
8785 writing and shall inform the individual or group of individuals:

8786 (i) of the terms and duration of the order of restriction;

8787 (ii) of the importance of complying with the order of restriction to protect the public's  
8788 health;

8789 (iii) that each individual has the right to agree to the order of restriction, or refuse to  
8790 agree to the order of restriction and seek a judicial review of the order of restriction;

8791 (iv) that for any individual who consents to the order of restriction:

8792 (A) the order of restriction will not be reviewed by the [~~district~~] court unless the  
8793 individual withdraws consent to the order of restriction in accordance with Subsection  
8794 (1)(b)(iv)(B); and

8795 (B) the individual shall notify the department or local health department in writing,  
8796 with at least five business day's notice, if the individual intends to withdraw consent to the  
8797 order of restriction; and

8798 (v) that a breach of a consent agreement prior to the end of the order of restriction may  
8799 subject the individual to an involuntary order of restriction under Section [~~26-6b-3.2~~]

8800 26B-7-306.

8801 (2) (a) The department or local health department responsible for the care of an  
8802 individual who has consented to the order of restriction shall periodically reexamine the  
8803 reasons upon which the order of restriction was based. This reexamination shall occur at least  
8804 once every six months.

8805 (b) (i) If at any time, the department or local health department determines that the  
8806 conditions justifying the order of restriction for either a group or an individual no longer exist,  
8807 the department or local health department shall immediately discharge the individual or group  
8808 from the order of restriction.

8809 (ii) If the department or local health department determines that the conditions  
8810 justifying the order of restriction continue to exist, the department or local health department  
8811 shall send to the individual a written notice of:

8812 (A) the department or local health department's findings, the expected duration of the  
8813 order of restriction, and the reason for the decision; and

8814 (B) the individual's right to a judicial review of the order of restriction by the [district]  
8815 court if requested by the individual.

8816 (iii) Upon request for judicial review by an individual, the department or local health  
8817 department shall:

8818 (A) file a petition [~~in district~~] with the court within five business days after the  
8819 individual's request for a judicial review; and

8820 (B) proceed under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311.

8821 Section 274. Section **26B-7-306**, which is renumbered from Section 26-6b-3.2 is  
8822 renumbered and amended to read:

8823 **[~~26-6b-3.2~~]. 26B-7-306. Involuntary order of restriction -- Notice -- Effect of**  
8824 **order during judicial review.**

8825 (1) If the department or local health department cannot obtain consent to the order of  
8826 restriction from an individual, or if an individual withdraws consent to an order under  
8827 Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B), the department or local health department  
8828 shall:

8829 (a) give the individual or group of individuals subject to the order of restriction a  
8830 written notice of:

8831 (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 judicial review of the order of restriction ~~[with the district]~~ within the period of time required by this section.

(b) Law enforcement officers with jurisdiction in the area where the individual who is subject to the order of restriction can be located shall assist the department or local health department with enforcing the order of restriction.

Section 275. Section **26B-7-307**, which is renumbered from Section 26-6b-3.3 is renumbered and amended to read:

~~[26-6b-3.3]~~. **26B-7-307. Contents of notice of order of restriction -- Rights of individuals.**

(1) A written order of restriction issued by a department or local health department shall include the following information:

(a) the identity of the individual or a description of the group of individuals subject to the order of restriction;

(b) the identity or location of any premises that may be subject to restriction;

(c) the date and time for which the restriction begins and the expected duration of the restriction;

(d) the suspected communicable disease, infectious, chemical or biological agent, or other condition that poses a threat to public health;

(e) the requirements for termination of the order of restriction, such as necessary laboratory reports, the expiration of an incubation period, or the completion of treatment for the communicable disease;

(f) any conditions on the restriction, such as limitation of visitors or requirements for

8863 medical monitoring;

8864 (g) the medical or scientific information upon which the restriction is based;

8865 (h) a statement advising of the right to a judicial review of the order of restriction by  
8866 the [district] court; and

8867 (i) pursuant to Subsection (2), the rights of each individual subject to restriction.

8868 (2) An individual subject to restriction has the following rights:

8869 (a) the right to be represented by legal counsel in any judicial review of the order of  
8870 restriction in accordance with Subsection [~~26-6b-4~~] [26B-7-309](#)(3);

8871 (b) the right to be provided with prior notice of the date, time, and location of any  
8872 hearing concerning the order of restriction;

8873 (c) the right to participate in any hearing, in a manner established by the court based on  
8874 precautions necessary to prevent additional exposure to communicable or possibly  
8875 communicable diseases or to protect the public health;

8876 (d) the right to respond and present evidence and arguments on the individual's own  
8877 behalf in any hearing;

8878 (e) the right to cross examine witnesses; and

8879 (f) the right to review and copy all records in the possession of the department that  
8880 issued the order of restriction which relate to the subject of the written order of restriction.

8881 (3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local  
8882 health department issues an order of restriction for a group of individuals, the department or  
8883 local health department may modify the method of providing notice to the group or modify the  
8884 information contained in the notice, if the public health official determines the modification of  
8885 the notice is necessary to:

8886 (i) protect the privacy of medical information of individuals in the group; or

8887 (ii) provide notice to the group in a manner that will efficiently and effectively notify  
8888 the individuals in the group within the period of time necessary to protect the public health.

8889 (b) When the department or a local health department modifies notice to a group of  
8890 individuals under Subsection (3)(a), the department or local health department shall provide  
8891 each individual in the group with notice that complies with the provisions of Subsection (1) as  
8892 soon as reasonably practical.

8893 (4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an

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 276. 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]~~ part 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]~~ part, 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]~~ part shall be sealed by the ~~[district]~~ court at the conclusion of the case.

Section 277. 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)(b) 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) 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

8956 the department to provide notice to the individual or group of individuals in a manner  
8957 determined by the court.

8958 (3) (a) If the individual who is subject to an order of restriction is in custody, he shall  
8959 be afforded an opportunity to be represented by counsel. If neither the individual nor others  
8960 provide for counsel, the [district] court shall appoint counsel and allow counsel sufficient time  
8961 to consult with the individual prior to the hearing. If the individual is indigent, the payment of  
8962 reasonable attorney fees for counsel, as determined by the [district] court, shall be made by the  
8963 county in which the individual resides or was found.

8964 (b) The parties may appear at the hearings, to testify, and to present and cross-examine  
8965 witnesses. The [district] court may, in its discretion, receive the testimony of any other  
8966 individual.

8967 (c) The [district] court may allow a waiver of the individual's right to appear only for  
8968 good cause shown, and that cause shall be made a part of the court record.

8969 (d) The [district] court may order that the individual participate in the hearing by  
8970 telephonic or other electronic means if the individual's condition poses a health threat to those  
8971 who physically attend the hearing or to others if the individual is transported to the court.

8972 (4) The [district] court may, in its discretion, order that the individual be moved to a  
8973 more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may  
8974 transfer the proceedings to any other [district] court within this state where venue is proper,  
8975 provided that the transfer will not be adverse to the legal interests of the individual.

8976 (5) All persons to whom notice is required to be given may attend the hearings. The  
8977 [district] court may exclude from the hearing all persons not necessary for the conduct of the  
8978 proceedings.

8979 (6) All hearings shall be conducted in as informal a manner as may be consistent with  
8980 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the  
8981 health of the individual or others required to participate in the hearing.

8982 (7) The [district] court shall receive all relevant and material evidence which is offered,  
8983 subject to Utah Rules of Evidence.

8984 (8) The [district] court may order law enforcement to assist the petitioner in locating  
8985 the individuals subject to restriction and enforcing the order of restriction.

8986 Section 278. Section **26B-7-310**, which is renumbered from Section 26-6b-5 is

8987 renumbered and amended to read:

8988 ~~[26-6b-5].~~ **26B-7-310. Petition for judicial review of order of restriction --**

8989 **Court-ordered examination period.**

8990 (1) (a) A department may petition for a judicial review of the department's order of  
8991 restriction for an individual or group of individuals who are subject to restriction by filing a  
8992 written petition with the ~~[district]~~ court of the county in which the individual or group of  
8993 individuals reside or are located.

8994 (b) (i) The county attorney for the county where the individual or group of individuals  
8995 reside or are located shall represent the local health department in any proceedings under this  
8996 ~~[chapter]~~ part.

8997 (ii) The Office of the Attorney General shall represent the department when the  
8998 petitioner is the ~~[Department of Health]~~ department in any proceedings under this ~~[chapter]~~  
8999 part.

9000 (2) The petition under Subsection (1) shall be accompanied by:

9001 (a) written affidavit of the department stating:

9002 (i) a belief the individual or group of individuals are subject to restriction;

9003 (ii) a belief that the individual or group of individuals who are subject to restriction are  
9004 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately  
9005 restrained;

9006 (iii) this failure would pose a threat to the public health; and

9007 (iv) the personal knowledge of the individual's or group of individuals' condition or the  
9008 circumstances that lead to that belief; and

9009 (b) a written statement by a licensed physician or physician assistant indicating the  
9010 physician or physician assistant finds the individual or group of individuals are subject to  
9011 restriction.

9012 (3) The court shall issue an order of restriction requiring the individual or group of  
9013 individuals to submit to involuntary restriction to protect the public health if the ~~[district]~~ court  
9014 finds:

9015 (a) there is a reasonable basis to believe that the individual's or group of individuals'  
9016 condition requires involuntary examination, quarantine, treatment, or isolation pending  
9017 examination and hearing; or

(b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

(4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.

(5) At least 24 hours prior to the hearing required by Section ~~[26-6b-6]~~ [26B-7-311](#), the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:

(a) regarding whether the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possible 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;

(b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;

(c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and

(d) whether the petitioner believes the individual or group of individuals will comply without court proceedings.

Section 279. Section **26B-7-311**, which is renumbered from Section 26-6b-6 is renumbered and amended to read:

~~[26-6b-6]~~. **26B-7-311. Court determination for an order of restriction after examination period.**

(1) The ~~[district]~~ court shall set a hearing regarding the involuntary order of restriction of an individual or group of individuals, to be held within 10 business days of the issuance of its order of restriction issued pursuant to Section ~~[26-6b-5]~~ [26B-7-310](#), unless the petitioner informs the ~~[district]~~ court prior to this hearing that the individual or group of individuals:

(a) are not subject to restriction; or

9049 (b) have stipulated to the issuance of an order of restriction.

9050 (2) If the individual or an individual in a group of individuals has stipulated to the  
9051 issuance of an order of restriction, the court may issue an order as provided in Subsection (6)  
9052 for those individuals without further hearing.

9053 (3) (a) If the examination report required in Section ~~[26-6b-5]~~ [26B-7-310](#) proves the  
9054 individual or group of individuals are not subject to restriction, the court may without further  
9055 hearing terminate the proceedings and dismiss the petition.

9056 (b) The court may, after a hearing at which the individual or group of individuals are  
9057 present in person or by telephonic or other electronic means and have had the opportunity to be  
9058 represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90  
9059 days, if the court has reason to believe the individual or group of individuals are infected by or  
9060 contaminated with:

9061 (i) a communicable or possibly communicable disease that poses a threat to public  
9062 health;

9063 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

9064 (iii) a chemical or biological agent that poses a threat to public health; or

9065 (iv) a condition that poses a threat to public health, but, despite the exercise of  
9066 reasonable diligence the diagnostic studies have not been completed.

9067 (4) The petitioner shall, at the time of the hearing, provide the ~~[district]~~ court with the  
9068 following items, to the extent that they have been issued or are otherwise available:

9069 (a) the order of restriction issued by the petitioner;

9070 (b) admission notes if any individual was hospitalized; and

9071 (c) medical records pertaining to the current order of restriction.

9072 (5) The information provided to the court under Subsection (4) shall also be provided  
9073 to the individual's or group of individual's counsel at the time of the hearing, and at any time  
9074 prior to the hearing upon request of counsel.

9075 (6) (a) The ~~[district]~~ court shall order the individual and each individual in a group of  
9076 individuals to submit to the order of restriction if, upon completion of the hearing and  
9077 consideration of the record, it finds by clear and convincing evidence that:

9078 (i) the individual or group of individuals are infected with a communicable disease or  
9079 infectious agent, are contaminated with a chemical or biological agent, or are in a condition

9080 that poses a threat to public health;

9081 (ii) there is no appropriate and less restrictive alternative to a court order of  
9082 examination, quarantine, isolation, and treatment, or any of them;

9083 (iii) the petitioner can provide the individual or group of individuals with treatment  
9084 that is adequate and appropriate to the individual's or group of individuals' conditions and  
9085 needs; and

9086 (iv) it is in the public interest to order the individual or group of individuals to submit  
9087 to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing  
9088 the following factors:

9089 (A) the personal or religious beliefs, if any, of the individual that are opposed to  
9090 medical examination or treatment;

9091 (B) the ability of the department to control the public health threat with treatment  
9092 alternatives that are requested by the individual;

9093 (C) the economic impact for the department if the individual is permitted to use an  
9094 alternative to the treatment recommended by the department; and

9095 (D) other relevant factors as determined by the court.

9096 (b) If upon completion of the hearing the court does not find all of the conditions listed  
9097 in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

9098 (7) The order of restriction shall designate the period, subject to Subsection (8), for  
9099 which the individual or group of individuals shall be examined, treated, isolated, or  
9100 quarantined.

9101 (8) (a) The order of restriction may not exceed six months without benefit of a [~~district~~]  
9102 court review hearing.

9103 (b) (i) The [~~district~~] court review hearing shall be held prior to the expiration of the  
9104 order of restriction issued under Subsection (7).

9105 (ii) At the review hearing the court may issue an order of restriction for up to an  
9106 indeterminate period, if the [~~district~~] court enters a written finding in the record determining by  
9107 clear and convincing evidence that the required conditions in Subsection (6) will continue for  
9108 an indeterminate period.

9109 Section 280. Section **26B-7-312**, which is renumbered from Section 26-6b-7 is  
9110 renumbered and amended to read:

9111 ~~[26-6b-7].~~ **26B-7-312. Periodic review of individuals under court order.**

9112 (1) (a) At least two weeks prior to the expiration of the designated period of any court  
9113 order still in effect, the petitioner shall inform the court that issued the order that the order is  
9114 about to expire.

9115 (b) The petitioner shall immediately reexamine the reasons upon which the court's  
9116 order was based.

9117 (c) If the petitioner determines that the conditions justifying that order no longer exist,  
9118 [it] the petitioner shall discharge the individual from involuntary quarantine, isolation, or  
9119 treatment and report its action to the court for a termination of the order.

9120 (d) ~~[Otherwise]~~ If the conditions justifying the order still exist, the court shall schedule  
9121 a hearing prior to the expiration of ~~[its]~~ the court's order and proceed under Sections ~~[26-6b-4]~~  
9122 26B-7-309 through ~~[26-6b-6]~~ 26B-7-311.

9123 (2) (a) The petitioner responsible for the care of an individual under a court order of  
9124 involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month  
9125 intervals reexamine the reasons upon which the order of indeterminate duration was based.

9126 (b) If the petitioner determines that the conditions justifying that the court's order no  
9127 longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation,  
9128 or treatment and immediately report its action to the court for a termination of the order.

9129 (c) If the petitioner determines that the conditions justifying the involuntary quarantine,  
9130 isolation, or treatment continue to exist, the petitioner shall send a written report of those  
9131 findings to the court.

9132 (d) The petitioner shall notify the individual and his counsel of record in writing that  
9133 the involuntary quarantine, isolation, or treatment will be continued, the reasons for that  
9134 decision, and that the individual has the right to a review hearing by making a request to the  
9135 court.

9136 (e) Upon receiving the request for a review, the court shall immediately set a hearing  
9137 date and proceed under Sections ~~[26-6b-4]~~ 26B-6-309 through ~~[26-6b-6]~~ 26B-6-311.

9138 Section 281. Section **26B-7-313**, which is renumbered from Section 26-6b-8 is  
9139 renumbered and amended to read:

9140 ~~[26-6b-8].~~ **26B-7-313. Transportation of individuals subject to temporary or**  
9141 **court-ordered restriction.**

Transportation of an individual subject to an order of restriction to court, or to a place for examination, quarantine, isolation, or treatment pursuant a temporary order issued by a department or local health department, or pursuant to a court order, shall be conducted by the county sheriff where the individual is located.

Section 282. Section **26B-7-314**, which is renumbered from Section 26-6b-9 is renumbered and amended to read:

**[26-6b-9]. 26B-7-314. Examination, quarantine, isolation, and treatment costs.**

If a local health department obtains approval from the ~~[Department of Health]~~ department, the costs that the local health department would otherwise have to bear for examination, quarantine, isolation, and treatment ordered under the provisions of this chapter shall be paid by the ~~[Department of Health]~~ department to the extent that the individual is unable to pay and that other sources and insurance do not pay.

Section 283. Section **26B-7-315**, which is renumbered from Section 26-6b-10 is renumbered and amended to read:

**[26-6b-10]. 26B-7-315. Severability.**

~~[If any provision of this chapter,]~~ With respect to Sections [26B-7-404](#) through [26B-7-414](#), if the provisions or the application of [this chapter] the provisions to any person or circumstance[;] is found to be unconstitutional, the provision is found to be unconstitutional is severable and the balance of ~~[this chapter remains]~~ any sections not found to be constitutional remain effective, notwithstanding ~~[that unconstitutionality]~~ those sections found to be unconstitutional.

Section 284. 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



9173 substantial risk of a significant number of human fatalities or incidences of permanent or  
9174 long-term disability.

9175 (b) A health care provider shall immediately submit the report required by Subsection  
9176 (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).

9177 (2) (a) A report required by this section shall be submitted electronically, verbally, or in  
9178 writing to the department or appropriate local health department.

9179 (b) A report submitted pursuant to Subsection (1) shall include, if known:

9180 (i) diagnostic information on the specific illness or health condition that is the subject  
9181 of the report, and, if transmitted electronically, diagnostic codes assigned to the visit;

9182 (ii) the patient's name, date of birth, sex, race, occupation, and current home and work  
9183 address and phone number;

9184 (iii) the name, address, and phone number of the health care provider; and

9185 (iv) the name, address, and phone number of the reporting individual.

9186 (3) The department may impose a sanction against a health care provider for failure to  
9187 make a report required by this section only if the department can show by clear and convincing  
9188 evidence that a health care provider willfully failed to file a report.

9189 Section 285. Section **26B-7-317**, which is renumbered from Section 26-23b-104 is  
9190 renumbered and amended to read:

9191 ~~[26-23b-104]~~. **26B-7-317. Authorization to report -- Declaration of a public**  
9192 **health emergency -- Termination of a public health emergency -- Order of constraint.**

9193 (1) A health care provider is authorized to report to the department any case of a  
9194 reportable emergency illness or health condition in any person when:

9195 (a) the health care provider knows of a confirmed case; or

9196 (b) the health care provider believes, based on the health care provider's professional  
9197 judgment that a person likely harbors a reportable emergency illness or health condition.

9198 (2) A report ~~[pursuant to]~~ under this section shall include, if known:

9199 (a) the name of the facility submitting the report;

9200 (b) a patient identifier that allows linkage with the patient's record for follow-up  
9201 investigation if needed;

9202 (c) the date and time of visit;

9203 (d) the patient's age and sex;

- 9204 (e) the zip code of the patient's residence;  
9205 (f) the reportable illness or condition detected or suspected;  
9206 (g) diagnostic information and, if available, diagnostic codes assigned to the visit; and  
9207 (h) whether the patient was admitted to the hospital.

9208 (3) (a) Subject to Subsections (3)(b) and (4), if the department determines that a public  
9209 health emergency exists, the department may, with the concurrence of the governor and the  
9210 executive director or in the absence of the executive director, the executive director's designee,  
9211 declare a public health emergency, issue an order of constraint, and mandate reporting under  
9212 this section for a limited reasonable period of time, as necessary to respond to the public health  
9213 emergency.

9214 (b) (i) During a public health emergency that has been in effect for more than 30 days,  
9215 the department may not issue an order of constraint until the department has provided notice of  
9216 the proposed action to the legislative emergency response committee no later than 24 hours  
9217 before the department issues the order of constraint.

9218 (ii) The department:

9219 (A) shall provide the notice required by Subsection (3)(b)(i) using the best available  
9220 method under the circumstances as determined by the executive director;

9221 (B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and

9222 (C) shall provide the notice in written form, if practicable.

9223 (c) The department may not mandate reporting under this subsection for more than 90  
9224 days.

9225 (4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by  
9226 the department as described in Subsection (3) expires at the earliest of:

9227 (i) the day on which the department or the governor finds that the threat or danger has  
9228 passed or the public health emergency reduced to the extent that emergency conditions no  
9229 longer exist;

9230 (ii) 30 days after the date on which the department declared the public health  
9231 emergency; or

9232 (iii) the day on which the public health emergency is terminated by a joint resolution of  
9233 the Legislature.

9234 (b) (i) The Legislature, by joint resolution, may extend a public health emergency for a

9235 time period designated in the joint resolution.

9236 (ii) If the Legislature extends a public health emergency as described in Subsection  
9237 (4)(b)(i), the public health emergency expires on the date designated by the Legislature.

9238 (c) Except as provided in Subsection (4)(d), if a public health emergency declared by  
9239 the department expires as described in Subsection (4)(a) or (b), the department may not declare  
9240 a public health emergency for the same illness or occurrence that precipitated the previous  
9241 public health emergency declaration.

9242 (d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the  
9243 department finds that exigent circumstances exist, after providing notice to the Legislature, the  
9244 department may declare a new public health emergency for the same illness or occurrence that  
9245 precipitated a previous public health emergency declaration.

9246 (ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in  
9247 accordance with Subsection (4)(a) or (b).

9248 (e) If the Legislature terminates a public health emergency declared due to exigent  
9249 circumstances as described in Subsection (4)(d)(i), the department may not declare a new  
9250 public health emergency for the same illness, occurrence, or exigent circumstances.

9251 (5) During a declared public health emergency declared under this title:

9252 (a) the Legislature may:

9253 (i) at any time by joint resolution terminate an order of constraint issued by the  
9254 department; or

9255 (ii) by joint resolution terminate an order of constraint issued by a local health  
9256 department in response to a public health emergency that has been in effect for more than 30  
9257 days; and

9258 (b) a county legislative body may at any time terminate an order of constraint issued by  
9259 a local health department in response to a declared public health emergency.

9260 (6) (a) (i) If the department declares a public health emergency as described in this  
9261 ~~[chapter]~~ part, and the department finds that the public health emergency conditions warrant an  
9262 extension of the public health emergency beyond the 30-day term or another date designated by  
9263 the Legislature as described in this section, the department shall provide written notice to the  
9264 speaker of the House of Representatives and the president of the Senate at least 10 days before  
9265 the expiration of the public health emergency.

(ii) If a local health department declares a public health emergency as described in this [chapter] part, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the county governing body as described in this section, the local health department shall provide written notice to the county governing body at least 10 days before the expiration of the public health emergency.

(b) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency within the first 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate:

(i) shall poll the members of their respective bodies to determine whether the Legislature will extend the public health emergency; and

(ii) may jointly convene the committee created in Section 53-2a-218.

(c) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency that has been extended beyond the 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate shall jointly convene the committee created in Section 53-2a-218.

(7) If the committee created in Section 53-2a-218 is convened as described in Subsection (6), the committee shall conduct a public meeting to:

(a) discuss the nature of the public health emergency and conditions of the public health emergency;

(b) evaluate options for public health emergency response;

(c) receive testimony from individuals with expertise relevant to the current public health emergency;

(d) receive testimony from members of the public; and

(e) provide a recommendation to the Legislature whether to extend the public health emergency by joint resolution.

(8) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the

9297 individual's official department or local health department capacity, may not:

9298 (A) prevent a religious gathering that is held in a manner consistent with any order of  
9299 constraint issued pursuant to this title; or

9300 (B) impose a penalty for a previous religious gathering that was held in a manner  
9301 consistent with any order of constraint issued pursuant to this title.

9302 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to  
9303 prevent the violation of this Subsection (8).

9304 (c) During a public health emergency declared as described in his title, the department  
9305 or a local health department shall not issue a public health order or impose or implement a  
9306 regulation that substantially burdens an individual's exercise of religion unless the department  
9307 or local health department demonstrates that the application of the burden to the individual:

9308 (i) is in furtherance of a compelling government interest; and

9309 (ii) is the least restrictive means of furthering that compelling government interest.

9310 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health  
9311 department shall allow reasonable accommodations for an individual to perform or participate  
9312 in a religious practice or rite.

9313 (9) (a) Unless the provisions of Subsection (3) apply, a health care provider is not  
9314 subject to penalties for failing to submit a report under this section.

9315 (b) If the provisions of Subsection (3) apply, a health care provider is subject to the  
9316 penalties of Subsection ~~[26-23b-103]~~ 26B-7-316(3) for failure to make a report under this  
9317 section.

9318 Section 286. Section **26B-7-318**, which is renumbered from Section 26-23b-105 is  
9319 renumbered and amended to read:

9320 ~~[26-23b-105]~~. **26B-7-318. Pharmacy reporting requirements.**

9321 (1) Notwithstanding the provisions of Subsection ~~[26-23b-103]~~ 26B-7-316(1)(a), a  
9322 pharmacist shall report unusual drug-related events as described in Subsection (2).

9323 (2) Unusual drug-related events that require a report include:

9324 (a) an unusual increase in the number of prescriptions filled for antimicrobials;

9325 (b) any prescription that treats a disease that has bioterrorism potential if that  
9326 prescription is unusual or in excess of the expected frequency; and

9327 (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]~~ part, 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 287. 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]~~ part, the director of the medical laboratory shall make the report

9359 required by this section on behalf of the health care facility.

9360 (4) The report required by this section shall be submitted in accordance with  
9361 Subsection ~~[26-23b-103]~~ 26B-7-316(2).

9362 (5) The director of a medical laboratory is subject to the penalties of Subsection  
9363 ~~[26-23b-103]~~ 26B-7-316(3) for failing to make a report required by this section.

9364 Section 288. Section **26B-7-320**, which is renumbered from Section 26-23b-107 is  
9365 renumbered and amended to read:

9366 ~~[26-23b-107]~~. **26B-7-320. Exemptions from liability.**

9367 (1) A health care provider may not be discharged, suspended, disciplined, or harassed  
9368 for making a report ~~[pursuant to this chapter]~~ under Sections 26B-7-316 through 26B-7-323.

9369 (2) A health care provider may not incur any civil or criminal liability as a result of  
9370 making any report under ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-323 so long as the  
9371 report is made in good faith.

9372 Section 289. Section **26B-7-321**, which is renumbered from Section 26-23b-108 is  
9373 renumbered and amended to read:

9374 ~~[26-23b-108]~~. **26B-7-321. Investigation of suspected bioterrorism and**  
9375 **diseases -- Termination of orders of constraint.**

9376 (1) Subject to Subsection (6), the department shall:

9377 (a) ascertain the existence of cases of an illness or condition caused by the factors  
9378 described in Subsections ~~[26-23b-103]~~ 26B-7-316(1) and ~~[26-23b-104]~~ 26B-7-317(1);

9379 (b) investigate all such cases for sources of infection or exposure;

9380 (c) ensure that any cases, suspected cases, and exposed persons are subject to proper  
9381 control measures; and

9382 (d) define the distribution of the suspected illness or health condition.

9383 (2) (a) Acting on information received from the reports required by this ~~[chapter]~~  
9384 Sections 26B-7-316 through 26B-7-320, or other reliable information, the department shall  
9385 identify all individuals thought to have been exposed to an illness or condition described in  
9386 Subsection ~~[26-23b-103]~~ 26B-7-316(1).

9387 (b) The department may request information from a health care provider concerning an  
9388 individual's identifying information as described in Subsection ~~[26-23b-103]~~ 26B-7-316(2)(b)  
9389 when:

9390 (i) the department is investigating a potential illness or condition described in  
9391 Subsection [~~26-23b-103~~] [26B-7-316](#)(1) and the health care provider has not submitted a report  
9392 to the department with the information requested; or

9393 (ii) the department has received a report from a pharmacist under Section [~~26-23b-105~~]  
9394 [26B-7-318](#), a medical laboratory under Section [~~26-23b-106~~] [26B-7-319](#), or another health care  
9395 provider under Subsection [~~26-23b-104~~] [26B-7-317](#)(1) and the department believes that further  
9396 investigation is necessary to protect the public health.

9397 (c) A health care provider shall submit the information requested under this section to  
9398 the department within 24 hours after receiving a request from the department.

9399 (3) The department shall counsel and interview identified individuals as appropriate to:

9400 (a) assist in the positive identification of other cases and exposed individuals;

9401 (b) develop information relating to the source and spread of the illness or condition;

9402 and

9403 (c) obtain the names, addresses, phone numbers, or other identifying information of  
9404 any other person from whom the illness or health condition may have been contracted and to  
9405 whom the illness or condition may have spread.

9406 (4) The department shall, for examination purposes, close, evacuate, or decontaminate  
9407 any facility when the department reasonably believes that such facility or material may  
9408 endanger the public health due to a condition or illness described in Subsection [~~26-23b-103~~]  
9409 [26B-7-316](#)(1).

9410 (5) The department [~~will~~] shall destroy personally identifying health information about  
9411 an individual collected by the department as a result of a report under [~~this chapter~~] Sections  
9412 [26B-7-316](#) through [26B-7-322](#) upon the earlier of:

9413 (a) the department's determination that the information is no longer necessary to carry  
9414 out an investigation under this [~~chapter~~] part; or

9415 (b) 180 days after the information is collected.

9416 (6) (a) The Legislature may at any time terminate by joint resolution an order of  
9417 constraint issued by the department in response to a declared public health emergency.

9418 (b) A county governing body may at any time terminate by majority vote an order of  
9419 constraint issued by the relevant local health department in response to a declared public health  
9420 emergency.



9421 Section 290. Section **26B-7-322**, which is renumbered from Section 26-23b-109 is  
 9422 renumbered and amended to read:

9423 ~~[26-23b-109].~~ **26B-7-322. Enforcement.**

9424 The department may enforce the provisions of ~~[this chapter]~~ Sections 26B-7-316  
 9425 through 26B-7-323 in accordance with existing enforcement laws and regulations.

9426 Section 291. Section **26B-7-323**, which is renumbered from Section 26-23b-110 is  
 9427 renumbered and amended to read:

9428 ~~[26-23b-110].~~ **26B-7-323. Information sharing with public safety**  
 9429 **authorities.**

9430 (1) ~~[For purposes of]~~ As used in this section, "public safety authority" means a local,  
 9431 state, or federal law enforcement authority including the Division of Emergency Management,  
 9432 emergency medical services personnel, and firefighters.

9433 (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records  
 9434 Access and Management Act:

9435 (a) whenever a public safety authority suspects a case of a reportable illness or  
 9436 condition under the provisions of this chapter, it shall immediately notify the department;

9437 (b) whenever the department learns of a case of a reportable illness or condition under  
 9438 this ~~[chapter]~~ part that ~~[it]~~ the department reasonably believes has the potential to be caused by  
 9439 one of the factors listed in Subsection ~~[26-23b-103]~~ 26B-7-316(1), ~~[it]~~ the department shall  
 9440 immediately notify the appropriate public safety authority; and

9441 (c) sharing of information reportable under ~~[the provisions of this chapter]~~ this part  
 9442 between persons authorized by this ~~[chapter]~~ part shall be limited to information necessary for  
 9443 the treatment, control, investigation, and prevention of a public health emergency.

9444 ~~[(3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28~~  
 9445 ~~apply to this chapter.]~~

9446 Section 292. Section **26B-7-324** is enacted to read:

9447 **26B-7-324. Applicability of confidentiality provisions**

9448 The provisions of Sections 26B-7-217 and 26B-7-218 apply to information collected  
 9449 under Sections 26B-7-316 through 26B-7-323 except to the extent that application of a  
 9450 provision in Section 26B-7-217 or 26B-7-218 is inconsistent with Sections 26B-7-316 through  
 9451 26B-7-323.

Section 293. Section **26B-7-401**, which is renumbered from Section 26-15a-102 is renumbered and amended to read:

**Part 4. General Sanitation and Food Safety**

~~[26-15a-102].~~ **26B-7-401. Definitions.**

As used in this part:

(1) "Agricultural tourism activity" means the same as that term is defined in Section 78B-4-512.

(2) "Agritourism" means the same as that term is defined in Section 78B-4-512.

(3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agricultural tourism activity.

(4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purpose of operating an agritourism food establishment.

~~[(1)]~~ (5) "Back country food service establishment" means a federal or state licensed back country guiding or outfitting business that:

(a) provides food services; and

(b) meets department recognized federal or state food service safety regulations for food handlers.

~~[(2)]~~ (6) "Certified food safety manager" means a manager of a food service establishment who:

(a) passes successfully a department-approved examination;

(b) successfully completes, every three years, renewal requirements established by department rule consistent with original certification requirements; and

(c) submits to the appropriate local health department the documentation required by Section ~~[26-15a-106]~~ 26B-7-412.

(7) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(8) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

9483           ~~[(3)]~~ (9) "Food service establishment" means any place or area within a business or  
9484 organization where potentially hazardous foods, as defined by the department under Section  
9485 26B-7-410, are prepared and intended for individual portion service and consumption by the  
9486 general public, whether the consumption is on or off the premises, and whether or not a fee is  
9487 charged for the food.

9488           ~~[(4) "Local health department" means a local health department as defined in~~  
9489 ~~Subsection 26A-1-102(5).]~~

9490           ~~[(5) "Potentially hazardous foods" shall be defined by the department by administrative~~  
9491 ~~rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

9492           (10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility  
9493 located in a private home and operated by a resident of the home where ready-to-eat food is  
9494 handled, stored, prepared, or offered for sale.

9495           (b) "Microenterprise home kitchen" does not include:

9496           (i) a catering operation;

9497           (ii) a cottage food operation;

9498           (iii) a food truck;

9499           (iv) an agritourism food establishment;

9500           (v) a bed and breakfast; or

9501           (vi) a residence-based group care facility.

9502           (11) "Microenterprise home kitchen permit" means a permit issued by a local health  
9503 department to the operator for the purpose of operating a microenterprise home kitchen.

9504           (12) "Ready-to-eat" means:

9505           (a) raw animal food that is cooked;

9506           (b) raw fruits and vegetables that are washed;

9507           (c) fruits and vegetables that are cooked for hot holding;

9508           (d) a time or temperature control food that is cooked to the temperature and time  
9509 required for the specific food in accordance with rules made by the department in accordance  
9510 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

9511           (e) a bakery item for which further cooking is not required for food safety.

9512           (13) "Time or temperature control food" means food that requires time or temperature  
9513 controls for safety to limit pathogenic microorganism growth or toxin formation.

9514 Section 294. Section **26B-7-402**, which is renumbered from Section 26-15-2 is  
9515 renumbered and amended to read:

9516 **[26-15-2]. 26B-7-402. Minimum rules of sanitation established by department.**

9517 The department shall establish and enforce, or provide for the enforcement of minimum  
9518 rules of sanitation necessary to protect the public health. Such rules shall include, but not be  
9519 limited to, rules necessary for the design, construction, operation, maintenance, or expansion  
9520 of:

9521 (1) restaurants and all places where food or drink is handled, sold or served to the  
9522 public;

9523 (2) public swimming pools;

9524 (3) public baths including saunas, spas, massage parlors, and suntan parlors;

9525 (4) public bathing beaches;

9526 (5) schools which are publicly or privately owned or operated;

9527 (6) recreational resorts, camps, and vehicle parks;

9528 (7) amusement parks and all other centers and places used for public gatherings;

9529 (8) mobile home parks and highway rest stops;

9530 (9) construction or labor camps;

9531 (10) jails, prisons and other places of incarceration or confinement;

9532 (11) hotels and motels;

9533 (12) lodging houses and boarding houses;

9534 (13) service stations;

9535 (14) barbershops and beauty shops, including a facility in which one or more  
9536 individuals are engaged in:

9537 (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and  
9538 Associated Professions Licensing Act; or

9539 (b) styling hair in accordance with the exemption from licensure described in Section  
9540 [58-11a-304](#)(13);

9541 (15) physician and dentist offices;

9542 (16) public buildings and grounds;

9543 (17) public conveyances and terminals; and

9544 (18) commercial tanning facilities.

Section 295. Section **26B-7-403**, which is renumbered from Section 26-15-3 is renumbered and amended to read:

**[26-15-3]. 26B-7-403. Department to advise regarding the plumbing code.**

(1) The department shall advise the Division of Professional Licensing and the Uniform Building Code Commission with respect to the adoption of a state construction code under Section **15A-1-204**, including providing recommendations as to:

(a) a specific edition of a plumbing code issued by a nationally recognized code authority; and

(b) any amendments to a nationally recognized code.

(2) The department may enforce the plumbing code adopted under Section **15A-1-204**.

(3) Section **58-56-9** does not apply to health inspectors acting under this section.

Section 296. Section **26B-7-404**, which is renumbered from Section 26-15-4 is renumbered and amended to read:

**[26-15-4]. 26B-7-404. Rules for wastewater disposal systems.**

The department shall establish rules necessary to protect the public health for the design, and construction, operation and maintenance of individual wastewater disposal systems.

Section 297. Section **26B-7-405**, which is renumbered from Section 26-15-7 is renumbered and amended to read:

**[26-15-7]. 26B-7-405. Rules for controlling vector-borne diseases and pests.**

(1) As used in this section:

(a) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well being of the people within the state.

(b) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.

(2) The department shall adopt rules to provide for the protection of the public health by controlling or preventing the spread of vector-borne diseases and infections and to control or reduce pests by the elimination of insanitary conditions which may include but not be limited to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

Section 298. Section **26B-7-406**, which is renumbered from Section 26-15-8 is

9576 renumbered and amended to read:

9577 ~~[26-15-8]~~. **26B-7-406. Periodic evaluation of local health sanitation programs**  
9578 **-- Minimum statewide enforcement standards -- Technical assistance.**

9579 (1) The department shall periodically evaluate the sanitation programs of local health  
9580 departments to determine the levels of sanitation being maintained throughout the state.

9581 (2) (a) The department shall ensure that each local health department's enforcement of  
9582 the minimum rules of sanitation adopted under Section ~~[26-15-2]~~ 26B-7-402 for restaurants  
9583 and other places where food or drink is handled meets or exceeds minimum statewide  
9584 enforcement standards established by the department by administrative rule.

9585 (b) Administrative rules adopted under Subsection (2)(a) shall include at least:

9586 (i) the minimum number of periodic on-site inspections that shall be conducted by each  
9587 local health department;

9588 (ii) criteria for conducting additional inspections; and

9589 (iii) standardized methods to be used by local health departments to assess compliance  
9590 with the minimum rules of sanitation adopted under Section ~~[26-15-2]~~ 26B-7-402.

9591 (c) The department shall help local health departments comply with the minimum  
9592 statewide enforcement standards adopted under this Subsection (2) by providing technical  
9593 assistance.

9594 Section 299. Section **26B-7-407**, which is renumbered from Section 26-15-13 is  
9595 renumbered and amended to read:

9596 ~~[26-15-13]~~. **26B-7-407. Regulation of tanning facilities.**

9597 (1) For purposes of this section:

9598 (a) "Minor" means ~~[a person under 18 years of age]~~ an individual who is younger than  
9599 18 years old.

9600 (b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a  
9601 health care professional in the treatment of disease.

9602 (c) (i) "Tanning device" means equipment to which a tanning facility provides access  
9603 that emits electromagnetic radiation with wavelengths in the air between 200 and 400  
9604 nanometers used for tanning of the skin, including:

9605 (A) a sunlamp; and

9606 (B) a tanning booth or bed.

9607 (ii) "Tanning device" does not include a phototherapy device.

9608 (d) "Tanning facility" means a commercial location, place, area, structure, or business  
9609 that provides access to a tanning device.

9610 (2) A tanning facility shall:

9611 (a) annually obtain a permit to do business as a tanning facility from the local health  
9612 department with jurisdiction over the location in which the facility is located; and

9613 (b) in accordance with Subsection (3) post a warning sign in a conspicuous location  
9614 that is readily visible to a person about to use a tanning device.

9615 (3) The posted warning and written consent required by Subsections (2) and (5) shall  
9616 be developed by the department through administrative rules and shall include:

9617 (a) that there are health risks associated with the use of a tanning device;

9618 (b) that the facility may not allow a minor to use a tanning device unless the minor:

9619 (i) has a written order from a physician; or

9620 (ii) at each time of use is accompanied at the tanning facility by a parent or legal  
9621 guardian who provides written consent authorizing the minor to use the tanning device.

9622 (4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning  
9623 device unless:

9624 (a) the minor has a written order from a physician as defined in Section 58-67-102, to  
9625 use a tanning device as a medical treatment; or

9626 (b) (i) the minor's parent or legal guardian appears in person at the tanning facility each  
9627 time that the minor uses a tanning device, except that the minor's parent or legal guardian is not  
9628 required to remain at the facility for the duration of the use; and

9629 (ii) the minor's parent or legal guardian signs the consent form required in Subsection  
9630 (5).

9631 (5) The written consent required by Subsection (4) shall be signed and dated each time  
9632 the minor uses a tanning device at the facility, and shall include at least:

9633 (a) information concerning the health risks associated with the use of a tanning device;  
9634 and

9635 (b) a statement that:

9636 (i) the parent or legal guardian of the minor has read and understood the warnings  
9637 given by the tanning facility, and consents to the minor's use of a tanning device; and

9638 (ii) the parent or legal guardian agrees that the minor will use protective eye wear.

9639 (6) The department shall adopt administrative rules in accordance with Title 63G,  
9640 Chapter 3, Utah Administrative Rulemaking Act, specifying:

9641 (a) minimum requirements a tanning facility shall satisfy to obtain a permit under  
9642 Subsection (2);

9643 (b) the written information concerning health risks a facility should include in the  
9644 posted signs required by Subsection (3) and in the consent form required by Subsection (5);

9645 (c) procedures a tanning facility shall implement to ensure a minor and the minor's  
9646 parent or legal guardian comply with Subsections (4) and (5), including use of a statewide  
9647 uniform form:

9648 (i) for a parent or legal guardian to certify and give consent under Subsection (5); and

9649 (ii) that clearly identifies the department's seal or other means to indicate that the form  
9650 is an official form of the department; and

9651 (d) the size, placement, and content of the sign a tanning facility must post under  
9652 Subsection (2).

9653 (7) (a) A violation of this section:

9654 (i) is an infraction; and

9655 (ii) may result in the revocation of a permit to do business as a tanning facility.

9656 (b) If a person misrepresents to a tanning facility that the person is 18 years of age or  
9657 older, the person is guilty of an infraction.

9658 (8) This section [~~supercedes~~] supersedes any ordinance enacted by the governing body  
9659 of a political subdivision that:

9660 (a) imposes restrictions on access to a tanning device by a person younger than age 18  
9661 that is not essentially identical to the provisions of this section; or

9662 (b) that require the posting of warning signs at the tanning facility that are not  
9663 essentially identical to the provisions of this section.

9664 Section 300. Section **26B-7-408**, which is renumbered from Section 26-31-201 is  
9665 renumbered and amended to read:

9666 **[26-31-201]. 26B-7-408. Procurement and use of a blood product is a**  
9667 **service and not a sale -- Blood donation by a minor.**

9668 (1) As used in this section:



9669            (a) "Blood" means human blood.

9670            (b) "Blood product" includes:

9671            (i) whole blood;

9672            (ii) blood plasma;

9673            (iii) a blood derivative;

9674            (iv) blood platelets; and

9675            (v) blood clotting agents.

9676            (2) The following are considered to be the rendition of a service by each participant

9677 and are not considered to be a sale:

9678            [(+)] (a) the procurement, processing, distribution, or use of a blood product for the

9679 purpose of injecting or transfusing the blood product into the human body; and

9680            [(2)] (b) the process of injecting or transfusing a blood product.

9681            (3) A minor who is at least 16 years old may donate blood to a voluntary,

9682 noncompensatory blood donation program if a parent or legal guardian of the minor consents to

9683 the donation.

9684            Section 301. Section **26B-7-409**, which is renumbered from Section 26-51-201 is

9685 renumbered and amended to read:

9686            **[26-51-201].            26B-7-409. Scientific standards for methamphetamine**

9687 **decontamination -- Public education concerning methamphetamine contamination.**

9688            (1) The department shall make rules adopting scientifically-based standards for

9689 methamphetamine decontamination.

9690            (2) A local health department, as defined in Title 26A, Local Health Authorities, shall

9691 follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6,

9692 Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

9693            (3) The department shall conduct a public education campaign to inform the public

9694 about potential health risks of methamphetamine contamination.

9695            Section 302. Section **26B-7-410**, which is renumbered from Section 26-15a-104 is

9696 renumbered and amended to read:

9697            **[26-15a-104].            26B-7-410. Food service establishment requirements --**

9698 **Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health**

9699 **departments.**

9700 (1) Each food service establishment in the state shall be managed by at least one  
9701 full-time certified food safety manager at each establishment site, who need not be present at  
9702 the establishment site during all its hours of operation.

9703 (2) Within 60 days of the termination of a certified food safety manager's employment  
9704 that results in the food service establishment no longer being in compliance with Subsection  
9705 (1), the food service establishment shall:

9706 (a) employ a new certified food safety manager; or

9707 (b) designate another employee to become the establishment's certified food safety  
9708 manager who shall commence a department-approved food safety manager training course.

9709 (3) Compliance with the 60-day time period provided in Subsection (2) may be  
9710 extended by the local health department for reasonable cause, as determined by the department  
9711 by rule.

9712 (4) (a) The local health department may determine whether a food service  
9713 establishment is in compliance with this section by visiting the establishment during regular  
9714 business hours and requesting information and documentation about the employment of a  
9715 certified food safety manager.

9716 (b) If a violation of this section is identified, the local health department shall propose  
9717 remedial action to bring the food service establishment into compliance.

9718 (c) (i) A food service establishment receiving notice of a violation and proposed  
9719 remedial action from a local health department may appeal the notice of violation and proposed  
9720 remedial action pursuant to procedures established by the local health department, which shall  
9721 be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative  
9722 Procedures Act.

9723 (ii) Notwithstanding the provisions of Section 63G-4-402, an appeal of a local health  
9724 department decision ~~[to a district court]~~ shall be conducted as an original, independent  
9725 proceeding, and not as a review of the proceedings conducted by the local health department.

9726 (iii) The ~~[district]~~ court shall give no deference to the findings or conclusions of the  
9727 local health department.

9728 (5) (a) The department shall establish by rule made in accordance with Title 63G,  
9729 Chapter 3, Utah Administrative Rulemaking Act:

9730 (i) a definition of "potentially hazardous foods" for purposes of this section and Section

9731 [26B-7-401](#); and

9732 (ii) any provisions necessary to implement this section.

9733 (b) The local health department with jurisdiction over the geographic area in which a  
9734 food service establishment is located shall enforce the provisions of this section.

9735 Section 303. Section **26B-7-411**, which is renumbered from Section 26-15a-105 is  
9736 renumbered and amended to read:

9737 ~~[26-15a-105].~~ **26B-7-411. Exemptions to food service establishment**  
9738 **requirements.**

9739 (1) The following are not subject to the provisions of Section ~~[26-15a-104]~~ [26B-7-410](#):

9740 (a) special events sponsored by municipal or nonprofit civic organizations, including  
9741 food booths at school sporting events and little league athletic events and church functions;

9742 (b) temporary event food services approved by a local health department;

9743 (c) vendors and other food service establishments that serve only commercially  
9744 prepackaged foods and beverages as defined by the department by rule;

9745 (d) private homes not used as a commercial food service establishment;

9746 (e) health care facilities licensed under Chapter ~~[21]~~ 2, Part 2, Health Care Facility  
9747 Licensing and Inspection ~~[Act]~~;

9748 (f) bed and breakfast establishments at which the only meal served is a continental  
9749 breakfast as defined by the department by rule;

9750 (g) residential child care providers;

9751 (h) child care providers and programs licensed under ~~[Chapter 39, Utah Child Care~~  
9752 ~~Licensing Act]~~ Chapter 2, Part 4, Child Care Licensing;

9753 (i) back country food service establishments;

9754 (j) an event that is sponsored by a charitable organization, if, at the event, the  
9755 organization:

9756 (i) provides food to a disadvantaged group free of charge; and

9757 (ii) complies with rules established by the department under Subsection (3); and

9758 (k) a lowest risk or permitted food establishment category determined by a risk  
9759 assessment evaluation established by the department by administrative rule adopted in  
9760 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9761 (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 304. 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 additional food safety training courses for any one of the following reasons:

(a) submitting information required under Subsection (1) or (2) that is false, incomplete, or misleading;

(b) repeated violations of department or local health department food safety rules; or

(c) operating a food service establishment in a way that causes or creates a health hazard or otherwise threatens the public health, safety, or welfare.

(4) A determination of a local health department made pursuant to Subsection (3) may be appealed by a certified food safety manager in the same manner provided for in Subsection ~~[26-15a-104]~~ 26B-7-410(4).

(5) No person may use the title "certified food safety manager," or any other similar title, unless the person has satisfied the requirements of this chapter.

(6) A local health department:

9793 (a) may not charge a fee to accept or process the documentation described in  
9794 Subsections (1) and (2);  
9795 (b) shall accept photocopies or electronic copies of the documentation described in  
9796 Subsections (1) and (2); and  
9797 (c) shall allow an individual to submit the documentation described in Subsections (1)  
9798 and (2) by mail, email, or in person.  
9799 (7) Certified food safety managers shall:  
9800 (a) establish and monitor compliance with practices and procedures in the food service  
9801 establishments where they are employed to maintain compliance with department and local  
9802 health department food safety rules; and  
9803 (b) perform such other duties that may be necessary to ensure food safety in the food  
9804 service establishments where they are employed.  
9805 (8) (a) The department shall establish by rule made in accordance with Title 63G,  
9806 Chapter 3, Utah Administrative Rulemaking Act:  
9807 (i) statewide, uniform standards for certified food safety managers;  
9808 (ii) criteria for food safety certification examinations; and  
9809 (iii) any provisions necessary to implement this section.  
9810 (b) The department shall approve food safety certification examinations in accordance  
9811 with this section.  
9812 (c) The local health department with jurisdiction over the geographic area in which a  
9813 food service establishment is located shall enforce the provisions of this section.  
9814 Section 305. Section **26B-7-413**, which is renumbered from Section 26-15-5 is  
9815 renumbered and amended to read:  
9816 **[26-15-5]. 26B-7-413. Requirements for food handlers -- Training program**  
9817 **and testing requirements for permit -- Rulemaking -- Exceptions.**  
9818 (1) As used in this section:  
9819 (a) "Approved food handler training program" means a training program described by  
9820 this section and approved by the department.  
9821 (b) "Food handler" means a person who works with unpackaged food, food equipment  
9822 or utensils, or food-contact surfaces for a food service establishment.  
9823 (c) "Food handler permit" means a permit issued by a local health department to allow

9824 a person to work as a food handler.

9825 ~~[(d) "Food service establishment" has the same meaning as provided in Section~~  
9826 ~~26-15a-102.]~~

9827 ~~[(e)]~~ (d) "Instructor" means an individual who is qualified to instruct an approved food  
9828 handler program on behalf of a provider.

9829 ~~[(f)]~~ (e) "Provider" means a person or entity that provides an approved food handler  
9830 training program.

9831 (2) A person may not work as a food handler for a food service establishment unless  
9832 the person:

9833 (a) successfully completes an approved food handler training program within 14 days  
9834 after the day on which the person begins employment that includes food handler services; and

9835 (b) obtains a food handler permit within 30 days after the day on which the person  
9836 begins employment that includes food handler services.

9837 (3) An approved food handler training program shall include:

9838 (a) at least 75 minutes of training time;

9839 (b) an exam, which requires a passing score of 75% and, except as provided in  
9840 Subsection (11), consists of:

9841 (i) 40 multiple-choice questions developed by the department, in consultation with  
9842 local health departments; and

9843 (ii) four content sections designated by rule of the department with 10 randomly  
9844 selected questions for each content section; and

9845 (c) upon completion, the awarding of a certificate of completion that is valid with any  
9846 local health department in the state for 30 days after the day on which the certificate is issued:

9847 (i) to a student who:

9848 (A) completes the training; and

9849 (B) passes the exam described in this Subsection (3) or an exam approved by the  
9850 department in accordance with Subsection (11); and

9851 (ii) which certificate of completion:

9852 (A) includes student identifying information determined by department rule; and

9853 (B) is delivered by mail or electronic means.

9854 (4) (a) A person may obtain a food handler permit by:

9855 (i) providing a valid certificate of completion of an approved food handler training  
9856 program and an application, approved by the local health department, to a local health  
9857 department; and

9858 (ii) paying a food handler permit fee to the local health department.

9859 (b) (i) A local health department may charge a food handler permit fee that is  
9860 reasonable and that reflects the cost of managing the food safety program.

9861 (ii) The department shall establish by rule the maximum amount a local health  
9862 department may charge for the fee described in Subsection (4)(b)(i).

9863 (5) A person working as a food handler for a food service establishment shall obtain a  
9864 food handler permit:

9865 (a) before handling any food;

9866 (b) within 30 days of initial employment with a food service establishment; and

9867 (c) within seven days of the expiration of an existing food handler permit.

9868 (6) (a) A person who holds a valid food handler permit under this section may serve as  
9869 a food handler throughout the state without restriction.

9870 (b) A food handler permit granted after June 30, 2013, is valid for three years from the  
9871 date of issuance.

9872 (7) An individual may not serve as an instructor, unless the provider includes the  
9873 individual on the provider's list of instructors.

9874 (8) The department, in consultation with local health departments, shall:

9875 (a) approve the content of an approved food handler training program required under  
9876 Subsection (3);

9877 (b) approve, as qualified, each provider; and

9878 (c) in accordance with applicable rules made under Subsection (12), provide a means to  
9879 authenticate:

9880 (i) documents used in an approved food handler training program;

9881 (ii) the identity of an approved instructor; and

9882 (iii) an approved provider.

9883 (9) An approved food handler training program shall:

9884 (a) provide basic instruction on the Centers for Disease Control and Prevention's top  
9885 five foodborne illness risk factors, including:

9886 (i) improper hot and cold holding temperatures of potentially hazardous food;  
9887 (ii) improper cooking temperatures of food;  
9888 (iii) dirty or contaminated utensils and equipment;  
9889 (iv) poor employee health and hygiene; and  
9890 (v) food from unsafe sources;  
9891 (b) be offered through:  
9892 (i) a trainer-led class;  
9893 (ii) the Internet; or  
9894 (iii) a combination of a trainer-led class and the Internet;  
9895 (c) maintain a system to verify a certificate of completion of an approved food handler  
9896 training program issued under Subsection (3) to the department, a local health department, and  
9897 a food service establishment; and  
9898 (d) provide to the department unrestricted access to classroom training sessions and  
9899 online course materials at any time for audit purposes.  
9900 (10) (a) A provider that provides an approved food handler training program may  
9901 charge a reasonable fee.  
9902 (b) If a person or an entity is not approved by the department to provide an approved  
9903 food handler training program, the person or entity may not represent, in connection with the  
9904 person's or entity's name or business, including in advertising, that the person or entity is a  
9905 provider of an approved food handler training program or otherwise represent that a program  
9906 offered by the person or entity will qualify an individual to work as a food handler in the state.  
9907 (11) (a) Subject to the approval of the department every three years, a provider may use  
9908 an exam that consists of questions that do not conform with the provisions of Subsection  
9909 (3)(b), if:  
9910 (i) the provider complies with the provisions of this Subsection (11);  
9911 (ii) the provider pays a fee every three years to the department, which fee shall be  
9912 determined by the department and shall reflect the cost of the review of the alternative test  
9913 questions; and  
9914 (iii) an independent instructional design and testing expert provides a written report to  
9915 the department containing a positive recommendation based on the expert's analysis as  
9916 described in Subsection 11(b).



9917 (b) (i) A provider may request approval of a different bank of test questions other than  
9918 the questions developed under Subsection (3) by submitting to the department a proposed bank  
9919 of at least 200 test questions organized by learning objective in accordance with Subsection  
9920 (9)(a).

9921 (ii) A provider proposing a different bank of test questions under this Subsection (11)  
9922 shall contract with an independent instructional design and testing expert approved by the  
9923 department at the provider's expense to analyze the provider's bank of test questions to ensure  
9924 the questions:

9925 (A) effectively measure the applicant's knowledge of the required learning objectives;  
9926 and

9927 (B) meet the appropriate testing standards for question structure.

9928 (c) If the department provides written notice to a provider that any test question of the  
9929 provider's approved exam under this Subsection (11) inadequately tests the required learning  
9930 objectives, the provider shall make required changes to the question within 30 days after the  
9931 day on which written notice is received by the provider.

9932 (d) A food handler exam offered by a provider may be:

9933 (i) a written exam;

9934 (ii) an online exam; or

9935 (iii) an oral exam, if circumstances require, including when an applicant's language or  
9936 reading abilities interfere with taking a written or online exam.

9937 (e) A provider shall routinely rotate test questions from the test question bank, change  
9938 the order of test questions in tests, and change the order of multiple-choice answers in test  
9939 questions to discourage cheating.

9940 (12) (a) When exercising rulemaking authority under this section the department shall  
9941 comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9942 (b) The department shall, by rule, establish requirements designed to inhibit fraud for  
9943 an approved food handler training program described in this section.

9944 (c) The requirements described in Subsection (12)(b) may include requirements to  
9945 ensure that:

9946 (i) an individual does not attempt to complete the program or exam in another  
9947 individual's place;

(ii) an individual taking the approved food handler training program is focused on training material and actively engaged throughout the training period;

(iii) if the individual is unable to participate online because of technical difficulties, an approved food handler training program provides technical support, such as requiring a telephone number, email, or other method of communication to allow an individual taking the online course or test to receive assistance;

(iv) an approved food handler training program provider maintains a system to reduce fraud as to who completes an approved food handler training program, such as requiring a distinct online certificate with information printed on the certificate that identifies a person taking an online course or exam, or requiring measures to inhibit duplication of a certificate of completion or of a food handler permit;

(v) the department may audit an approved food handler training program;

(vi) an individual taking an online course or certification exam has the opportunity to provide an evaluation of the online course or test;

(vii) an approved food handler training program provider track the Internet protocol address or similar electronic location of an individual who takes an online course or certification exam;

(viii) an individual who takes an online course or exam uses an electronic signature; or

(ix) if the approved food handler training program provider learns that a certificate of completion does not accurately reflect the identity of the individual who took the online course or certification exam, an approved food handler training program provider invalidates the 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 306. 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 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 307. 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 obtains a permit from the local health department that has jurisdiction over the area in which the farm is located.

(b) In accordance with Section [26A-1-121](#), and subject to the restrictions of this section, a local health department shall make standards and regulations relating to the permitting of an agritourism food establishment.

(c) In accordance with Section [26A-1-114](#), a local health department shall impose a fee for an agritourism food establishment permit in an amount that reimburses the local health department for the cost of regulating the agritourism food establishment.

(3) (a) A local health department with jurisdiction over an area in which a farm is located may grant an agritourism food establishment permit to the farm.

(b) Nothing in this section prevents a local health department from revoking an agritourism food establishment permit issued by the local health department if the operation of the agritourism food establishment violates the terms of the permit or the requirements of this

10010 section.

10011 [~~(+)~~] (4) A farm may qualify for an agritourism food establishment permit if:

10012 (a) poultry products that are served at the agritourism food establishment are  
10013 slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C.

10014 Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

10015 (b) meat not described in Subsection [~~(+)~~] (4)(a) that is served at the agritourism food  
10016 establishment is slaughtered and processed in compliance with the Federal Meat Inspection  
10017 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

10018 (c) a kitchen facility used to prepare food for the agritourism food establishment meets  
10019 the requirements established by the department;

10020 (d) the farm operates the agritourism food establishment for no more than 14  
10021 consecutive days at a time; and

10022 (e) the farm complies with the requirements of this section.

10023 [~~(2)~~] (5) The department shall, in accordance with Title 63G, Chapter 3, Utah  
10024 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance  
10025 requirements for agritourism food establishments.

10026 [~~(3)~~] (6) A local health department shall:

10027 (a) ensure compliance with the rules described in Subsection (2) when inspecting a  
10028 kitchen facility;

10029 (b) notwithstanding Section [26A-1-113](#), inspect the kitchen facility of a farm that  
10030 requests an agritourism food establishment permit only:

10031 (i) for an initial inspection, no more than one week before the agritourism food  
10032 establishment is scheduled to begin operation;

10033 (ii) for an unscheduled inspection:

10034 (A) of an event scheduled to last no more than three days if the local health department  
10035 conducts the inspection within three days before or after the day on which the agritourism food  
10036 establishment is scheduled to begin operation; or

10037 (B) of an event scheduled to last longer than three days if the local health department  
10038 conducts the inspection within three days before or after the day on which the agritourism food  
10039 establishment is scheduled to begin operation, or conducts the inspection during operating  
10040 hours of the agritourism food establishment; or

- 10041 (iii) for subsequent inspections if:
- 10042 (A) the local health department provides the operator with reasonable advanced notice
- 10043 about an inspection; or
- 10044 (B) the local health department has a valid reason to suspect that the agritourism food
- 10045 establishment is the source of an adulterated food or of an outbreak of illness caused by a
- 10046 contaminated food; and
- 10047 (c) document the reason for any inspection after the permitting inspection, keep a copy
- 10048 of that documentation on file with the agritourism food establishment's permit, and provide a
- 10049 copy of that documentation to the operator.
- 10050 ~~[(4)]~~ (7) An agritourism food establishment shall:
- 10051 (a) take steps to avoid any potential contamination to:
- 10052 (i) food;
- 10053 (ii) equipment;
- 10054 (iii) utensils; or
- 10055 (iv) unwrapped single-service and single-use articles; and
- 10056 (b) prevent an individual from entering the food preparation area while food is being
- 10057 prepared if the individual is known to be suffering from:
- 10058 (i) symptoms associated with acute gastrointestinal illness; or
- 10059 (ii) a communicable disease that is transmissible through food.
- 10060 ~~[(5)]~~ (8) When making the rules described in Subsection ~~[(2)]~~ (5), the department may
- 10061 not make rules regarding:
- 10062 (a) hand washing facilities, except to require that a hand washing station supplied with
- 10063 warm water, soap, and disposable hand towels is conveniently located;
- 10064 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
- 10065 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
- 10066 are sanitized between each use;
- 10067 (c) the individuals allowed access to the food preparation areas, food storage, and
- 10068 washing areas, except during food preparation;
- 10069 (d) display guards, covers, or containers for display foods, except to require that any
- 10070 food on display that is not protected from the direct line of a consumer's mouth by an effective
- 10071 means is not served or sold to any subsequent consumer;

- 10072 (e) outdoor display and sale of food, except to require that food is maintained at proper  
10073 holding temperatures;
- 10074 (f) reuse by an individual of drinking cups and tableware for multiple portions;
- 10075 (g) utensils and equipment, except to require that utensils and equipment used in the  
10076 home kitchen:
- 10077 (i) retain their characteristic qualities under normal use conditions;
- 10078 (ii) are properly sanitized after use; and
- 10079 (iii) are maintained in a sanitary manner between uses;
- 10080 (h) food contact surfaces, except to require that food contact surfaces are smooth,  
10081 easily cleanable, in good repair, and properly sanitized between tasks;
- 10082 (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in  
10083 residential settings, except to require that those surfaces are kept clean from the accumulation  
10084 of residue and debris;
- 10085 (j) clean-in-place equipment, except to require that the equipment is cleaned and  
10086 sanitized between uses;
- 10087 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and  
10088 smoke are able to escape the kitchen;
- 10089 (l) fixed temperature measuring devices or product mimicking sensors for the holding  
10090 equipment for ~~[time/temperature]~~ time or temperature control food, except to require non-fixed  
10091 temperature measuring devices for hot and cold holding of food during storage, serving, and  
10092 cooling;
- 10093 (m) fixed floor-mounted and table-mounted equipment except to require that  
10094 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
- 10095 (n) dedicated laundry facilities, except to require that linens used for the agritourism  
10096 food establishment are stored and laundered separately from household laundry and that soiled  
10097 laundry is stored to prevent contamination of food and equipment;
- 10098 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with  
10099 hot water;
- 10100 (p) the number of and path of access to toilet facilities, except to require that toilet  
10101 facilities are equipped with proper handwashing stations;
- 10102 (q) lighting, except to require that food preparation areas are well lit by natural or

- 10103 artificial light whenever food is being prepared;
- 10104 (r) designated dressing areas and storage facilities, except to require that items not  
10105 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that  
10106 dressing takes place outside of the kitchen facility, and that food items are stored in a manner  
10107 that does not allow for contamination;
- 10108 (s) the presence and handling of animals, except to require that all animals are kept  
10109 outside of food preparation and service areas during food service and food preparation;
- 10110 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces  
10111 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
- 10112 (u) kitchen facilities open to living areas, except to require that food is only prepared,  
10113 handled, or stored in kitchen and food storage areas;
- 10114 (v) submission of plans and specifications before construction or remodel of a kitchen  
10115 facility;
- 10116 (w) the number and type of ~~[time/temperature]~~ time or temperature controlled food  
10117 offered for sale;
- 10118 (x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;
- 10119 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or
- 10120 (z) food safety certification, except any individual who is involved in the preparation,  
10121 storage, or service of food in the agritourism food establishment shall hold a food handler  
10122 permit as defined in Section ~~[26-15-5]~~ 26B-7-413.
- 10123 ~~[6]~~ (9) An operator applying for an agritourism food establishment permit shall  
10124 provide to the local health department:
- 10125 (a) written consent to enter the premises where food is prepared, cooked, stored, or  
10126 harvested for the agritourism food establishment; and
- 10127 (b) written standard operating procedures that include:
- 10128 (i) all food that will be stored, handled, and prepared;
- 10129 (ii) the proposed procedures and methods of food preparation and handling;
- 10130 (iii) procedures, methods, and schedules for cleaning utensils and equipment;
- 10131 (iv) procedures and methods for the disposal of refuse; and
- 10132 (v) a plan for maintaining ~~[time/temperature]~~ time or temperature controlled food at the  
10133 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 308. 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 microenterprise home kitchen.

(c) In accordance with Section ~~26A-1-114~~, a local health department shall impose a fee for a microenterprise home kitchen permit in an amount that reimburses the local health department for the cost of regulating the microenterprise home kitchen.

(3) (a) A local health department with jurisdiction over an area in which a microenterprise home kitchen is located may grant a microenterprise home kitchen permit to



10165 the operator.

10166 (b) Nothing in this section prevents a local health department from revoking a  
10167 microenterprise home kitchen permit issued by the local health department if the operation of  
10168 the microenterprise home kitchen violates the terms of the permit or this section.

10169 ~~[(1)]~~ (4) An operator may qualify for a microenterprise home kitchen permit if:

10170 (a) food that is served at the microenterprise home kitchen is processed in compliance  
10171 with state and federal regulations;

10172 (b) a kitchen facility used to prepare food for the microenterprise home kitchen meets  
10173 the requirements established by the department;

10174 (c) the microenterprise home kitchen operates only during the hours approved in the  
10175 microenterprise home kitchen permit; and

10176 (d) the microenterprise home kitchen complies with the requirements of this section.

10177 ~~[(2)]~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah  
10178 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance  
10179 requirements for microenterprise home kitchens.

10180 ~~[(3)]~~ (6) A local health department shall:

10181 (a) ensure compliance with the rules described in Subsection ~~[(2)]~~ (5) when inspecting  
10182 a microenterprise home kitchen;

10183 (b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that  
10184 requests a microenterprise home kitchen permit only:

10185 (i) for an initial inspection, no more than one week before the microenterprise home  
10186 kitchen is scheduled to begin operation;

10187 (ii) for an unscheduled inspection, if the local health department conducts the  
10188 inspection:

10189 (A) within three days before or after the day on which the microenterprise home  
10190 kitchen is scheduled to begin operation; or

10191 (B) during operating hours of the microenterprise home kitchen; or

10192 (iii) for subsequent inspections if:

10193 (A) the local health department provides the operator with reasonable advanced notice  
10194 of the inspection; or

10195 (B) the local health department has a valid reason to suspect that the microenterprise

home kitchen is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection after the initial inspection, keep a copy of that documentation on file with the microenterprise home kitchen's permit, and provide a copy of that documentation to the operator.

~~[(4)]~~ (7) A microenterprise home kitchen shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles;

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food; and

(c) comply with the following requirements:

(i) time or temperature control food shall be prepared, cooked, and served on the same day;

(ii) food that is sold or provided to a customer may not be consumed onsite at the microenterprise home kitchen operation;

(iii) food that is sold or provided to a customer shall be picked up by the consumer or delivered within a safe time period based on holding equipment capacity;

(iv) food preparation may not involve processes that require a HACCP plan, or the production, service, or sale of raw milk or raw milk products;

(v) molluscan shellfish may not be served or sold;

(vi) the operator may only sell or provide food directly to consumers and may not sell or provide food to any wholesaler or retailer; and

(vii) the operator shall provide the consumer with a notification that, while a permit has been issued by the local health department, the kitchen may not meet all of the requirements of a commercial retail food establishment.

~~[(5)]~~ (8) When making the rules described in Subsection ~~[(2)]~~ (5), the department may

10227 not make rules regarding:

10228 (a) hand washing facilities, except to require that a hand washing station supplied with  
10229 warm water, soap, and disposable hand towels is conveniently located in food preparation, food  
10230 dispensing, and warewashing areas;

10231 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that  
10232 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes  
10233 are sanitized between each use;

10234 (c) the individuals allowed access to the food preparation areas, food storage areas, and  
10235 washing areas, except during food preparation;

10236 (d) display guards, covers, or containers for display foods, except to require that  
10237 ready-to-eat food is protected from contamination during storage, preparation, handling,  
10238 transport, and display;

10239 (e) outdoor display and sale of food, except to require that food is maintained at proper  
10240 holding temperatures;

10241 (f) utensils and equipment, except to require that utensils and equipment used in the  
10242 home kitchen:

10243 (i) retain their characteristic qualities under normal use conditions;

10244 (ii) are properly sanitized after use; and

10245 (iii) are maintained in a sanitary manner between uses;

10246 (g) food contact surfaces, except to require that food contact surfaces are smooth,  
10247 easily cleanable, in good repair, and properly sanitized between tasks;

10248 (h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in  
10249 residential settings, except to require that those surfaces are kept clean from the accumulation  
10250 of residue and debris;

10251 (i) clean-in-place equipment, except to require that the equipment is cleaned and  
10252 sanitized between uses;

10253 (j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and  
10254 smoke are able to escape the kitchen;

10255 (k) fixed temperature measuring devices or product mimicking sensors for the holding  
10256 equipment for time or temperature control food, except to require non-fixed temperature  
10257 measuring devices for hot and cold holding of food during storage, serving, and cooling;

10258 (l) fixed floor-mounted and table-mounted equipment, except to require that  
10259 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;  
10260 (m) dedicated laundry facilities, except to require that linens used for the  
10261 microenterprise home kitchen are stored and laundered separately from household laundry and  
10262 that soiled laundry is stored to prevent contamination of food and equipment;  
10263 (n) water, plumbing, drainage, and waste, except to require that:  
10264 (i) sinks be supplied with hot and cold potable water from:  
10265 (A) an approved public water system as defined in Section 19-4-102;  
10266 (B) if the local health department with jurisdiction over the microenterprise home  
10267 kitchen has regulations regarding the safety of drinking water, a source that meets the local  
10268 health department's regulations regarding the safety of drinking water; or  
10269 (C) a water source that is tested at least once per month for bacteriologic quality, and at  
10270 least once in every three year period for lead and copper; and  
10271 (ii) food preparation and service is discontinued in the event of a disruption of potable  
10272 water service;  
10273 (o) the number of and path of access to toilet facilities, except to require that toilet  
10274 facilities are equipped with proper handwashing stations;  
10275 (p) lighting, except to require that food preparations are well lit by natural or artificial  
10276 light whenever food is being prepared;  
10277 (q) designated dressing areas and storage facilities, except to require that items not  
10278 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that  
10279 dressing takes place outside of the kitchen facility, and that food items are stored in a manner  
10280 that does not allow for contamination;  
10281 (r) the presence and handling of animals, except to require that all animals are kept  
10282 outside of food preparation and service areas;  
10283 (s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces  
10284 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;  
10285 (t) kitchen facilities open to living areas, except to require that food is only prepared,  
10286 handled, or stored in kitchen and food storage areas;  
10287 (u) submission of plans and specifications before construction or remodel of a kitchen  
10288 facility;

10289 (v) the number and type of time or temperature controlled food offered for sale, except:  
10290 (i) a raw time or temperature controlled food such as raw fish, raw milk, and raw  
10291 shellfish;  
10292 (ii) any food requiring special processes that would necessitate a HACCP plan; and  
10293 (iii) fish from waters of the state;  
10294 (w) approved food sources, except to require that:  
10295 (i) food in a hermetically sealed container is obtained from a regulated food processing  
10296 plant;  
10297 (ii) liquid milk and milk products are obtained from sources that comply with Grade A  
10298 standards specified by the Department of Agriculture and Food by rule made in accordance  
10299 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;  
10300 (iii) fish for sale or service are commercially and legally caught;  
10301 (iv) mushrooms picked in the wild are not offered for sale or service; and  
10302 (v) game animals offered for sale or service are raised, slaughtered, and processed  
10303 according to rules governing meat and poultry as specified by the Department of Agriculture  
10304 and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
10305 Rulemaking Act;  
10306 (x) the use of items produced under this chapter; or  
10307 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven.  
10308 ~~[(6)]~~ (9) An operator applying for a microenterprise home kitchen permit shall provide  
10309 to the local health department:  
10310 (a) written consent to enter the premises where food is prepared, cooked, stored, or  
10311 harvested for the microenterprise home kitchen; and  
10312 (b) written standard operating procedures that include:  
10313 (i) all food that will be stored, handled, and prepared;  
10314 (ii) the proposed procedures and methods of food preparation and handling;  
10315 (iii) procedures, methods, and schedules for cleaning utensils and equipment;  
10316 (iv) procedures and methods for the disposal of refuse; and  
10317 (v) a plan for maintaining time or temperature controlled food at the appropriate  
10318 temperatures for each time or temperature controlled food.  
10319 ~~[(7)]~~ (10) In addition to a fee charged under Section ~~[26-15c-103]~~ Subsection (2), if the

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 309. 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 76-10-101.

~~[(3)]~~ (5) "Employee" means an employee of a tobacco retailer.

~~[(4)]~~ (6) "Enforcing agency" means the ~~[state Department of Health]~~ department, or

10351 any local health department enforcing the provisions of this chapter.

10352 ~~[(5)]~~ (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco  
10353 specialty business.

10354 ~~[(6)]~~ "Local health department" means the same as that term is defined in Section  
10355 26A-1-102.

10356 (8) "Manufacture" includes:

10357 (a) to cast, construct, or make electronic cigarettes; or

10358 (b) to blend, make, process, or prepare an electronic cigarette substance.

10359 (9) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette  
10360 substance that is sold in a container that:

10361 (a) is prefilled by the electronic cigarette substance manufacturer; and

10362 (b) the electronic cigarette manufacturer does not intend for a consumer to open.

10363 (10) "Manufacturer sealed electronic cigarette product" means:

10364 (a) an electronic cigarette substance or container that the electronic cigarette  
10365 manufacturer does not intend for a consumer to open or refill; or

10366 (b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.

10367 (11) "Nicotine" means the same as that term is defined in Section 76-10-101.

10368 ~~[(7)]~~ (12) "Nicotine product" means the same as that term is defined in Section  
10369 76-10-101.

10370 (13) "Non-tobacco shisha" means any product that:

10371 (a) does not contain tobacco or nicotine; and

10372 (b) is smoked or intended to be smoked in a hookah or water pipe.

10373 ~~[(8)]~~ (14) "Owner" means a person holding a 20% ownership interest in the business  
10374 that is required to obtain a permit under this chapter.

10375 ~~[(9)]~~ (15) "Permit" means a tobacco retail permit issued under [this chapter] Section  
10376 26B-7-507.

10377 (16) "Place of public access" means any enclosed indoor place of business, commerce,  
10378 banking, financial service, or other service-related activity, whether publicly or privately owned  
10379 and whether operated for profit or not, to which persons not employed at the place of public  
10380 access have general and regular access or which the public uses, including:

10381 (a) buildings, offices, shops, elevators, or restrooms;

- 10382 (b) means of transportation or common carrier waiting rooms;  
10383 (c) restaurants, cafes, or cafeterias;  
10384 (d) taverns as defined in Section [32B-1-102](#), or cabarets;  
10385 (e) shopping malls, retail stores, grocery stores, or arcades;  
10386 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical  
10387 sites, auditoriums, or arenas;  
10388 (g) barber shops, hair salons, or laundromats;  
10389 (h) sports or fitness facilities;  
10390 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and  
10391 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,  
10392 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any  
10393 of these;  
10394 (j) (i) any child care facility or program subject to licensure or certification under this  
10395 title, including those operated in private homes, when any child cared for under that license is  
10396 present; and  
10397 (ii) any child care, other than child care as defined in Section [26B-2-401](#), that is not  
10398 subject to licensure or certification under this title, when any child cared for by the provider,  
10399 other than the child of the provider, is present;  
10400 (k) public or private elementary or secondary school buildings and educational  
10401 facilities or the property on which those facilities are located;  
10402 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or  
10403 religious organization when used solely by the organization members or their guests or  
10404 families;  
10405 (m) any facility rented or leased for private functions from which the general public is  
10406 excluded and arrangements for the function are under the control of the function sponsor;  
10407 (n) any workplace that is not a place of public access or a publicly owned building or  
10408 office but has one or more employees who are not owner-operators of the business;  
10409 (o) any area where the proprietor or manager of the area has posted a conspicuous sign  
10410 stating "no smoking", "thank you for not smoking", or similar statement; and  
10411 (p) a holder of a bar establishment license, as defined in Section [32B-1-102](#).  
10412 ~~[(10)]~~ (17) (a) "Proof of age" means:



10413 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification  
10414 Card Act;

10415 (ii) a valid identification that:

10416 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,  
10417 Part 8, Identification Card Act;

10418 (B) is issued in accordance with the laws of a state other than Utah in which the  
10419 identification is issued;

10420 (C) includes date of birth; and

10421 (D) has a picture affixed;

10422 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform  
10423 Driver License Act, or in accordance with the laws of the state in which the valid driver license  
10424 is issued;

10425 (iv) a valid United States military identification card that:

10426 (A) includes date of birth; and

10427 (B) has a picture affixed; or

10428 (v) a valid passport.

10429 (b) "Proof of age" does not include a valid driving privilege card issued in accordance  
10430 with Section [53-3-207](#).

10431 (18) "Publicly owned building or office" means any enclosed indoor place or portion of  
10432 a place owned, leased, or rented by any state, county, or municipal government, or by any  
10433 agency supported by appropriation of, or by contracts or grants from, funds derived from the  
10434 collection of federal, state, county, or municipal taxes.

10435 ~~[(11)]~~ (19) "Retail tobacco specialty business" means the same as that term is defined:

10436 (a) as it relates to a municipality, in Section [10-8-41.6](#); and

10437 (b) as it relates to a county, in Section [17-50-333](#).

10438 (20) (20) "Shisha" means any product that:

10439 (a) contains tobacco or nicotine; and

10440 (b) is smoked or intended to be smoked in a hookah or water pipe.

10441 (21) "Smoking" means:

10442 (a) the possession of any lighted or heated tobacco product in any form;

10443 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe,

10444 or hookah that contains:

10445 (i) tobacco or any plant product intended for inhalation;

10446 (ii) shisha or non-tobacco shisha;

10447 (iii) nicotine;

10448 (iv) a natural or synthetic tobacco substitute; or

10449 (v) a natural or synthetic flavored tobacco product;

10450 (c) using an electronic cigarette; or

10451 (d) using an oral smoking device intended to circumvent the prohibition of smoking in

10452 this chapter.

10453 ~~[(12)]~~ (22) "Tax commission license" means a license issued by the State Tax

10454 Commission under:

10455 (a) Section [59-14-201](#) to sell a cigarette at retail;

10456 (b) Section [59-14-301](#) to sell a tobacco product at retail; or

10457 (c) Section [59-14-803](#) to sell an electronic cigarette product or a nicotine product.

10458 ~~[(13)]~~ (23) "Tobacco product" means:

10459 (a) a tobacco product as defined in Section [76-10-101](#); or

10460 (b) tobacco paraphernalia as defined in Section [76-10-101](#).

10461 ~~[(14)]~~ (24) "Tobacco retailer" means a person that is required to obtain a tax

10462 commission license.

10463 Section 310. Section **26B-7-502**, which is renumbered from Section 26-15-11 is

10464 renumbered and amended to read:

10465 **~~[26-15-11].~~ 26B-7-502. Statutes on smoking considered public health laws.**

10466 ~~[Title 26, Chapter 38, Utah Indoor Clean Air Act,]~~ Section [26B-7-503](#) is a public health

10467 law and shall be enforced by the department and local health departments.

10468 Section 311. Section **26B-7-503**, which is renumbered from Section 26-38-3 is

10469 renumbered and amended to read:

10470 **~~[26-38-3].~~ 26B-7-503. Utah Indoor Clean Air Act -- Restriction on smoking in**

10471 **public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local**

10472 **ordinances.**

10473 (1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), smoking is

10474 prohibited in all enclosed indoor places of public access and publicly owned buildings and

10475 offices.

10476 (2) Subsection (1) does not apply to:

10477 (a) areas not commonly open to the public of owner-operated businesses having no  
10478 employees other than the owner-operator;

10479 (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other  
10480 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas  
10481 of these facilities, including dining areas and lobby areas; and

10482 (c) separate enclosed smoking areas:

10483 (i) located in the passenger terminals of an international airport located in the city of  
10484 the first class;

10485 (ii) vented directly to the outdoors; and

10486 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the  
10487 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

10488 (3) (a) A person is exempt from the restrictions of Subsection (1) if the person:

10489 (i) is a member of an American Indian tribe whose members are recognized as eligible  
10490 for the special programs and services provided by the United States to American Indians who  
10491 are members of those tribes;

10492 (ii) is an American Indian who actively practices an American Indian religion, the  
10493 origin and interpretation of which is from a traditional American Indian culture;

10494 (iii) is smoking tobacco using the traditional pipe of an American Indian tribal  
10495 religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of  
10496 that ceremony; and

10497 (iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine  
10498 person recognized by the tribe of which the person is a member and the Indian community.

10499 (b) This Subsection (3) takes precedence over Subsection (1).

10500 (c) A religious ceremony using a traditional pipe under this section is subject to any  
10501 applicable state or local law, except as provided in this section.

10502 (4) (a) An owner or the agent or employee of the owner of a place where smoking is  
10503 prohibited under Subsection (1) who observes a person smoking in apparent violation of this  
10504 section shall request the person to stop smoking.

10505 (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 not less than \$100 and not more than \$500.

(6) (a) The department and local health departments shall:

(i) enforce this section and shall coordinate their efforts to promote the most effective enforcement of this section; and

(ii) impose the penalties under Subsection (5) in accordance with this Subsection (6).

(b) When enforcing this section, the department and the local health departments shall notify persons of alleged violations of this chapter, conduct hearings, and impose penalties in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) The department shall adopt rules necessary and reasonable to implement the provisions of this section.

(7) Civil penalties collected under this section by:

(a) a local health department shall be paid to the treasurer of the county in which the violation was committed; and

(b) the department shall be deposited in the General Fund.

(8) (a) This section supersedes any ordinance enacted by the governing body of a political subdivision that restricts smoking in a place of public access as defined in Section 26B-7-501 and that is not essentially identical to the provisions of this section.

(b) This Subsection (8) does not supersede an ordinance enacted by the governing body of a political subdivision that restricts smoking in outdoor places of public access which are owned or operated by:

(i) a political subdivision as defined in Section 17B-1-102;

(ii) a state institution of higher education; or

(iii) a state institution of public education.

Section 312. Section **26B-7-504**, which is renumbered from Section 26-43-102 is renumbered and amended to read:

~~[26-43-102].~~      **26B-7-504. Gathering of information related to cigarettes 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 313. 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;

10568 (b) nicotine content;  
10569 (c) packaging; and  
10570 (d) product quality.

10571 (3) (a) A person may not sell an electronic cigarette substance unless the electronic  
10572 cigarette substance complies with the requirements established by the department under  
10573 Subsection (1).

10574 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic  
10575 cigarette product unless the manufacturer sealed electronic cigarette product complies with the  
10576 requirements established by the department under Subsection (2).

10577 (4) (a) A local health department may not enact a rule or regulation regarding  
10578 electronic cigarette substance labeling, nicotine content, packaging, or product quality that is  
10579 not identical to the requirements established by the department under Subsections (1) and (2).

10580 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule  
10581 or regulation regarding electronic cigarette substance manufacturing.

10582 (c) A local health department may not enact a rule or regulation regarding a  
10583 manufacturer sealed electronic cigarette product.

10584 (5) A person may not advertise an electronic cigarette product as a tobacco cessation  
10585 device.

10586 (6) Any nicotine product shall contain the statement described in Subsection (7) if the  
10587 nicotine product:

10588 (a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal  
10589 regulations; or

10590 (ii) is not otherwise required under federal or state law to contain a nicotine warning;  
10591 and

10592 (b) contains nicotine.

10593 (7) A statement shall appear on the exterior packaging of a nicotine product described  
10594 in Subsection (6) as follows:

10595 "This product contains nicotine."

10596 Section 314. Section **26B-7-506**, which is renumbered from Section 26-62-103 is  
10597 renumbered and amended to read:

10598 **[26-62-103].**            **26B-7-506.** Regulation of tobacco retailers.

The regulation of a tobacco retailer is an exercise of the police powers of the state, and through delegation, to other governmental entities.

Section 315. Section **26B-7-507**, which is renumbered from Section 26-62-201 is renumbered and amended to read:

**[26-62-201].            26B-7-507. Permitting requirement.**

(1) (a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance with this chapter by the local health department with jurisdiction over the physical location where the tobacco retailer operates.

(b) A tobacco retailer without a valid permit may not:

(i) place a tobacco product, an electronic cigarette product, or a nicotine product in public view;

(ii) display any advertisement related to a tobacco product, an electronic cigarette product, or a nicotine product that promotes the sale, distribution, or use of those products; or

(iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, a tobacco product, an electronic cigarette product, or a nicotine product.

(2) A local health department may issue a permit under this chapter for a tobacco retailer in the classification of:

(a) a general tobacco retailer; or

(b) a retail tobacco specialty business.

(3) A permit under this chapter is:

(a) valid only for one physical location, including a vending machine;

(b) valid only at one fixed business address; and

(c) if multiple tobacco retailers are at the same address, separately required for each tobacco retailer.

Section 316. Section **26B-7-508**, which is renumbered from Section 26-62-202 is renumbered and amended to read:

**[26-62-202].            26B-7-508. Permit application.**

(1) A local health department shall issue a permit ~~[under this chapter]~~ for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

- 10630 (b) meets all requirements for a permit under this chapter.
- 10631 (2) An applicant for a permit shall:
- 10632 (a) submit an application described in Subsection (3) to the local health department
- 10633 with jurisdiction over the area where the tobacco retailer is located; and
- 10634 (b) pay all applicable fees described in Section [26-62-203](#).
- 10635 (3) The application for a permit shall include:
- 10636 (a) the name, address, and telephone number of each proprietor;
- 10637 (b) the name and mailing address of each proprietor authorized to receive
- 10638 permit-related communication and notices;
- 10639 (c) the business name, address, and telephone number of the single, fixed location for
- 10640 which a permit is sought;
- 10641 (d) evidence that the location for which a permit is sought has a valid tax commission
- 10642 license;
- 10643 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco
- 10644 retailer has been determined to have violated, or has been a proprietor at a location that has
- 10645 been determined to have violated:
- 10646 (i) a provision of this chapter;
- 10647 ~~[(ii) Chapter 38, Utah Indoor Clean Air Act;]~~
- 10648 (ii) Section [26B-7-503](#);
- 10649 (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical
- 10650 Solvents;
- 10651 (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 10652 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco
- 10653 issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or
- 10654 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or
- 10655 distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and
- 10656 (f) the dates of all violations disclosed under this Subsection (3).
- 10657 (4) (a) In addition to the information described in Subsection (3), an applicant for a
- 10658 retail tobacco specialty business permit shall include evidence showing whether the business is
- 10659 located within:
- 10660 (i) 1,000 feet of a community location;



- 10661 (ii) 600 feet of another retail tobacco specialty business; or  
10662 (iii) 600 feet of property used or zoned for agricultural or residential use.
- 10663 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in  
10664 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest  
10665 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard  
10666 to intervening structures or zoning districts.
- 10667 (5) The department or a local health department may not deny a permit to a retail  
10668 tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets  
10669 the requirements described in Subsection [10-8-41.6\(7\)](#) or [17-50-333\(7\)](#).
- 10670 (6) (a) The department shall establish by rule made in accordance with Title 63G,  
10671 Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments  
10672 in accordance with this chapter.
- 10673 (b) The permit process established by the department under Subsection (6)(a) may not  
10674 require any information in an application that is not required by this section.
- 10675 Section 317. Section **26B-7-509**, which is renumbered from Section 26-62-203 is  
10676 renumbered and amended to read:
- 10677 **[26-62-203]. 26B-7-509. Permit term and fees.**
- 10678 (1) (a) The term of a permit issued [~~under this chapter~~] to a retail tobacco specialty  
10679 business is one year.
- 10680 (b) The term of a permit issued [~~under this chapter~~] to a general tobacco retailer is two  
10681 years.
- 10682 (2) (a) A local health department may not issue a permit [~~under this chapter~~] until the  
10683 applicant has paid a permit fee to the local health department of:
- 10684 (i) \$30 for a new permit;  
10685 (ii) \$20 for a permit renewal; or  
10686 (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to  
10687 expire.
- 10688 (b) A local health department that collects fees under Subsection (2)(a) shall use the  
10689 fees to administer the permit requirements [~~under this chapter~~] described in Sections [26B-7-](#)  
10690 [506](#) through [26B-7-521](#).
- 10691 (c) In addition to the fee described in Subsection (2)(a), a local health department may

10692 establish and collect a fee to perform a plan review for a retail tobacco specialty business  
10693 permit.

10694 (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before  
10695 the day on which the permit expires.

10696 (4) A tobacco retailer that fails to renew a permit before the permit expires may apply  
10697 to reinstate the permit by submitting to the local health department:

10698 (a) the information required in Subsection [~~26-62-202~~] [26B-7-508](#)(3) and, if  
10699 applicable, Subsection [~~26-62-202~~] [26B-7-508](#)(4);

10700 (b) the fee for the reinstatement of a permit; and

10701 (c) a signed affidavit affirming that the tobacco retailer has not violated the  
10702 prohibitions in Subsection [~~26-62-201~~] [26B-7-507](#)(1)(b) after the permit expired.

10703 Section 318. Section **26B-7-510**, which is renumbered from Section 26-62-204 is  
10704 renumbered and amended to read:

10705 [~~26-62-204~~]. **26B-7-510. Permit nontransferable.**

10706 (1) A permit is nontransferable.

10707 (2) If the information described in Subsection [~~26-62-202~~] [26B-7-508](#)(3) changes, a  
10708 tobacco retailer:

10709 (a) may not renew the permit; and

10710 (b) shall apply for a new permit no later than 15 days after the information in  
10711 Subsection [~~26-62-202~~] [26B-7-508](#)(3) changes.

10712 Section 319. Section **26B-7-511**, which is renumbered from Section 26-62-205 is  
10713 renumbered and amended to read:

10714 [~~26-62-205~~]. **26B-7-511. Permit requirements for a retail tobacco**  
10715 **specialty business.**

10716 (1) A retail tobacco specialty business shall:

10717 (a) electronically verify proof of age for any individual that enters the premises of the  
10718 business in accordance with Part 4, Proof of Age Requirements;

10719 (b) except as provided in Subsection [76-10-105.1](#)(4), prohibit any individual from  
10720 entering the business if the individual is under 21 years old; and

10721 (c) prominently display at the retail tobacco specialty business a sign on the public  
10722 entrance of the business that communicates:

- 10723 (i) the prohibition on the presence of an individual under 21 years old in a retail  
10724 tobacco specialty business in Subsection 76-10-105.1(4); and
- 10725 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to  
10726 an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1,  
10727 and 76-10-114.
- 10728 (2) A retail tobacco specialty business may not:
- 10729 (a) employ an individual under 21 years old to sell a tobacco product, an electronic  
10730 cigarette product, or a nicotine product; or
- 10731 (b) permit an employee under 21 years old to sell a tobacco product, an electronic  
10732 cigarette product, or a nicotine product.
- 10733 Section 320. Section **26B-7-512**, which is renumbered from Section 26-62-206 is  
10734 renumbered and amended to read:
- 10735 **~~[26-62-206].~~ 26B-7-512. Requirements for the sale of tobacco product,**  
10736 **electronic cigarette product, or nicotine product.**
- 10737 (1) A tobacco retailer shall:
- 10738 (a) provide the customer with an itemized receipt for each sale of a tobacco product, an  
10739 electronic cigarette product, or a nicotine product that separately identifies:
- 10740 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine  
10741 product;
- 10742 (ii) the amount charged for each tobacco product, electronic cigarette product, or  
10743 nicotine product; and
- 10744 (iii) the date and time of the sale; and
- 10745 (b) maintain an itemized transaction log for each sale of a tobacco product, an  
10746 electronic cigarette product, or a nicotine product that separately identifies:
- 10747 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine  
10748 product;
- 10749 (ii) the amount charged for each tobacco product, electronic cigarette product, or  
10750 nicotine product; and
- 10751 (iii) the date and time of the sale.
- 10752 (2) The itemized transaction log described in Subsection (1)(b) shall be:
- 10753 (a) maintained for at least one year after the date of each transaction in the itemized

10754 transaction log;

10755 (b) made available to an enforcing agency or a peace officer at the request of the  
10756 enforcing agency or the peace officer; and

10757 (c) in addition to any documentation required under Section 59-1-1406 and Subsection  
10758 59-14-805(2).

10759 Section 321. Section **26B-7-513**, which is renumbered from Section 26-62-207 is  
10760 renumbered and amended to read:

10761 ~~[26-62-207]~~. **26B-7-513. Permit requirements for the sale of tobacco**  
10762 **products and electronic cigarette products.**

10763 (1) A tobacco retailer shall:

10764 (a) provide the customer with an itemized receipt for each sale of a tobacco product or  
10765 an electronic cigarette product that separately identifies:

10766 (i) the name of the tobacco product or the electronic cigarette product;

10767 (ii) the amount charged for each tobacco product or electronic cigarette product; and

10768 (iii) the time and date of the sale; and

10769 (b) maintain an itemized transaction log for each sale of a tobacco product or an  
10770 electronic cigarette product that separately identifies:

10771 (i) the name of the tobacco product or the electronic cigarette product;

10772 (ii) the amount charged for each tobacco product or electronic cigarette 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; and

10777 (b) made available to an enforcing agency or a peace officer at the request of the  
10778 enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

10779 Section 322. Section **26B-7-514**, which is renumbered from Section 26-62-301 is  
10780 renumbered and amended to read:

10781 ~~[26-62-301]~~. **26B-7-514. Permit violation.**

10782 A person is in violation of the permit issued under this chapter if the person violates:

10783 (1) a provision of this chapter;

10784 (2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;

(3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(5) a regulation 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

(6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

Section 323. Section **26B-7-515**, which is renumbered from Section 26-62-302 is renumbered and amended to read:

~~[26-62-302]~~. **26B-7-515. Enforcement by state and local health departments.**

The department and local health departments shall enforce ~~[this chapter]~~ Sections 26B-7-506 through 26B-7-521 under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

(1) notifying a tobacco retailer of alleged violations ~~[of this chapter]~~;

(2) conducting hearings;

(3) determining violations ~~[of this chapter]~~; and

(4) imposing civil administrative penalties.

Section 324. Section **26B-7-516**, which is renumbered from Section 26-62-303 is renumbered and amended to read:

~~[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;

(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

10816 (5) has violated any other provision of state law or local ordinance.

10817 Section 325. Section **26B-7-517**, which is renumbered from Section 26-62-304 is  
10818 renumbered and amended to read:

10819 ~~[26-62-304]~~. **26B-7-517. Hearing -- Evidence of criminal conviction.**

10820 (1) At a civil hearing conducted under Section ~~[26-62-302]~~ 26B-7-515, evidence of the  
10821 final criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same  
10822 location and within the same time period as the location and time period alleged in the civil  
10823 hearing for violation of this chapter for sale of a tobacco product, an electronic cigarette  
10824 product, or a nicotine product to an individual under 21 years old is prima facie evidence of a  
10825 violation of this chapter.

10826 (2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing  
10827 agency:

10828 (a) shall assess an additional monetary penalty under this chapter for the same offense  
10829 for which the conviction was obtained; and

10830 (b) shall revoke or suspend a permit in accordance with Section ~~[26-62-305]~~ 26B-7-  
10831 518.

10832 Section 326. Section **26B-7-518**, which is renumbered from Section 26-62-305 is  
10833 renumbered and amended to read:

10834 ~~[26-62-305]~~. **26B-7-518. Penalties.**

10835 (1) (a) If an enforcing agency determines that a person has violated the terms of a  
10836 permit issued under this chapter, the enforcing agency may impose the penalties described in  
10837 this section.

10838 (b) If multiple violations are found in a single inspection by an enforcing agency or a  
10839 single investigation by a law enforcement agency under Section 77-39-101, the enforcing  
10840 agency shall treat the multiple violations as one single violation under Subsections (2), (3), and  
10841 (4).

10842 (2) Except as provided in Subsections (3) and (4), if a violation is found in an  
10843 investigation by a law enforcement agency under Section 77-39-101 or an inspection by an  
10844 enforcing agency, the enforcing agency shall:

10845 (a) on a first violation at a retail location, impose a penalty of \$1,000;

10846 (b) on a second violation at the same retail location that occurs within one year of a

10847 previous violation, impose a penalty of \$1,500;

10848 (c) on a third violation at the same retail location that occurs within two years after two  
10849 previous violations, impose:

10850 (i) a suspension of the permit for 30 consecutive business days within 60 days after the  
10851 day on which the third violation occurs; or

10852 (ii) a penalty of \$2,000; and

10853 (d) on a fourth or subsequent violation within two years of three previous violations:

10854 (i) impose a penalty of \$2,000;

10855 (ii) revoke a permit of the retailer; and

10856 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty  
10857 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

10858 (3) If a violation is found in an investigation of a general tobacco retailer by a law  
10859 enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic  
10860 cigarette product, or a nicotine product to an individual under 21 years old and the violation is  
10861 committed by the owner of the general tobacco retailer, the enforcing agency shall:

10862 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and

10863 (b) on the second violation for the same general tobacco retailer within one year of the  
10864 first violation:

10865 (i) impose a fine of \$5,000; and

10866 (ii) revoke the permit for the general tobacco retailer.

10867 (4) If a violation is found in an investigation of a retail tobacco specialty business by a  
10868 law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an  
10869 electronic cigarette product, or a nicotine product to an individual under 21 years old, the  
10870 enforcing agency shall:

10871 (a) on the first violation:

10872 (i) impose a fine of \$5,000; and

10873 (ii) immediately suspend the permit for 30 consecutive days; and

10874 (b) on the second violation at the same retail location within two years of the first  
10875 violation:

10876 (i) impose a fine of \$10,000; and

10877 (ii) revoke the permit for the retail tobacco specialty business.

(5) (a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3); or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2), (3), or (4).

(b) A person whose permit:

(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, 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 327. 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, 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 328. 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.

Section 329. 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

10940 age as provided in this section.

10941 (3) To comply with Subsection (2), an employee shall:

10942 (a) request the individual present proof of age; and

10943 (b) verify the validity of the proof of age electronically in accordance with Subsection

10944 (4).

10945 (4) A retail tobacco specialty business shall use an electronic verification program to

10946 assist the business in complying with the requirements of this section.

10947 (5) (a) A retail tobacco specialty business may not disclose information obtained under

10948 this section except as provided under this part.

10949 (b) Information obtained under this section:

10950 (i) shall be kept for at least 180 days; and

10951 (ii) is subject to inspection upon request by a peace officer or the representative of an

10952 enforcing agency.

10953 (6) (a) If an employee does not verify proof of age under this section, the employee

10954 may not permit an individual to:

10955 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

10956 (ii) purchase a tobacco product or an electronic cigarette product.

10957 (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years

10958 old may be permitted to enter a retail tobacco specialty business if the individual is:

10959 (i) accompanied by a parent or legal guardian who provides proof of age; or

10960 (ii) (A) present at the retail tobacco specialty business solely for the purpose of

10961 providing a commercial service to the retail tobacco specialty business, including making a

10962 commercial delivery;

10963 (B) monitored by the proprietor of the retail tobacco specialty business or an employee

10964 of the retail tobacco specialty business; and

10965 (C) not permitted to make any purchase or conduct any commercial transaction other

10966 than the service described in Subsection (6)(b)(ii)(A).

10967 (7) To determine whether the individual described in Subsection (2) is 21 years old or

10968 older, the following may request an individual described in Subsection (2) to present proof of

10969 age:

10970 (a) an employee;

10971 (b) a peace officer; or  
10972 (c) a representative of an enforcing agency.  
10973 Section 330. **Revisor instructions.**  
10974 The Legislature intends that the Office of Legislative Research and General Counsel, in  
10975 preparing the Utah Code database for publication:  
10976 (1) not enroll this bill if any of the following bills do not pass:  
10977 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,  
10978 and Recovery Services;  
10979 (b) S.B. 39, Health and Human Services Recodification - Prevention, Supports,  
10980 Substance Use and Mental Health; or  
10981 (c) S.B. 40, Health and Human Services Recodification - Health Care Assistance and  
10982 Data; and  
10983 (2) in any new language added to the Utah Code by legislation passed during the 2023  
10984 General Session, replace any references to Titles 26 or 62A with the renumbered reference as it  
10985 is renumbered in this bill.