

SB0041S01 compared with SB0041

~~{deleted text}~~ shows text that was in SB0041 but was deleted in SB0041S01.

inserted text shows text that was not in SB0041 but was inserted into SB0041S01.

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Representative Raymond P. Ward proposes the following substitute bill:

HEALTH AND HUMAN SERVICES RECODIFICATION ~~{}~~ PREVENTION, SUPPORTS, SUBSTANCE USE AND MENTAL HEALTH

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Raymond P. Ward

LONG TITLE

~~{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;

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- long term services and supports, aging, and disabilities; and
- public health and prevention; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

[This bill provides a coordination clause.](#)

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

26B-6-501, Utah Code Annotated 1953

26B-6-601, Utah Code Annotated 1953

26B-7-324, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

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

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

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

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

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

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

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

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Chapter 71)

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

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

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

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

26B-5-113, (Renumbered from 62A-15-117, as enacted by Laws of Utah 2019, Chapter 446)

26B-5-114, (Renumbered from 62A-15-118, as enacted by Laws of Utah 2020, Chapter 303)

26B-5-115, (Renumbered from 62A-15-119, as renumbered and amended by Laws of Utah 2020, Chapter 29)

26B-5-116, (Renumbered from 62A-15-121, as enacted by Laws of Utah 2021, Chapter 277)

26B-5-117, (Renumbered from 62A-15-122, as enacted by Laws of Utah 2021, Chapter 278)

26B-5-118, (Renumbered from 62A-15-124, as enacted by Laws of Utah 2022, Chapter 149)

26B-5-119, (Renumbered from 62A-15-615, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-201, (Renumbered from 62A-15-202, as last amended by Laws of Utah 2022, Chapter 155)

26B-5-202, (Renumbered from 62A-15-203, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-203, (Renumbered from 62A-15-204, as last amended by Laws of Utah 2022, Chapter 155)

26B-5-204, (Renumbered from 62A-15-301, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

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- 26B-5-205**, (Renumbered from 62A-15-401, as last amended by Laws of Utah 2022, Chapter 447)
- 26B-5-206**, (Renumbered from 62A-15-403, as renumbered and amended by Laws of Utah 2022, Chapter 211)
- 26B-5-207**, (Renumbered from 62A-15-501, as last amended by Laws of Utah 2009, Chapter 81)
- 26B-5-208**, (Renumbered from 62A-15-502, as last amended by Laws of Utah 2005, Chapter 2)
- 26B-5-209**, (Renumbered from 62A-15-503, as last amended by Laws of Utah 2020, Chapter 230)
- 26B-5-210**, (Renumbered from 62A-15-504, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-301**, (Renumbered from 62A-15-602, as last amended by Laws of Utah 2022, Chapters 187 and 374)
- 26B-5-302**, (Renumbered from 62A-15-601, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-303**, (Renumbered from 62A-15-603, as last amended by Laws of Utah 2018, Chapter 322)
- 26B-5-304**, (Renumbered from 62A-15-613, as last amended by Laws of Utah 2021, Chapter 344)
- 26B-5-305**, (Renumbered from 62A-15-614, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-306**, (Renumbered from 62A-15-610, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-5-307**, (Renumbered from 62A-15-644, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-5-308**, (Renumbered from 62A-15-639, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-309**, (Renumbered from 62A-15-640, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-310**, (Renumbered from 62A-15-641, as last amended by Laws of Utah 2017,

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26B-5-311, (Renumbered from 62A-15-642, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-312, (Renumbered from 62A-15-643, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-313, (Renumbered from 62A-15-1002, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-314, (Renumbered from 62A-15-1003, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-315, (Renumbered from 62A-15-1004, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-316, (Renumbered from 62A-15-607, as last amended by Laws of Utah 2008, Chapter 3)

26B-5-317, (Renumbered from 62A-15-617, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-318, (Renumbered from 62A-15-619, as last amended by Laws of Utah 2011, Chapter 366)

26B-5-319, (Renumbered from 62A-15-604, as last amended by Laws of Utah 2015, Chapter 121)

26B-5-320, (Renumbered from 62A-15-621, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-321, (Renumbered from 62A-15-622, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-322, (Renumbered from 62A-15-623, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-323, (Renumbered from 62A-15-624, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-324, (Renumbered from 62A-15-608, as last amended by Laws of Utah 2011, Chapter 366)

26B-5-325, (Renumbered from 62A-15-609, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

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- 26B-5-326**, (Renumbered from 62A-15-611, as last amended by Laws of Utah 2018, Chapter 330)
- 26B-5-327**, (Renumbered from 62A-15-612, as last amended by Laws of Utah 2021, Chapter 382)
- 26B-5-330**, (Renumbered from 62A-15-628, as last amended by Laws of Utah 2018, Chapter 322)
- 26B-5-331**, (Renumbered from 62A-15-629, as last amended by Laws of Utah 2022, Chapters 341 and 374)
- 26B-5-332**, (Renumbered from 62A-15-631, as last amended by Laws of Utah 2022, Chapter 374)
- 26B-5-333**, (Renumbered from 62A-15-632, as repealed and reenacted by Laws of Utah 2021, Chapter 122)
- 26B-5-334**, (Renumbered from 62A-15-634, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-335**, (Renumbered from 62A-15-635, as last amended by Laws of Utah 2018, Chapter 322)
- 26B-5-336**, (Renumbered from 62A-15-636, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-337**, (Renumbered from 62A-15-637, as last amended by Laws of Utah 2019, Chapter 419)
- 26B-5-338**, (Renumbered from 62A-15-638, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-339**, (Renumbered from 62A-15-618, as last amended by Laws of Utah 2019, Chapters 256 and 419)
- 26B-5-340**, (Renumbered from 62A-15-630, as last amended by Laws of Utah 2008, Chapter 3)
- 26B-5-341**, (Renumbered from 62A-15-626, as last amended by Laws of Utah 2021, Chapter 262)
- 26B-5-342**, (Renumbered from 62A-15-620, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-350**, (Renumbered from 62A-15-630.4, as enacted by Laws of Utah 2019,

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Chapter 256)

26B-5-351, (Renumbered from 62A-15-630.5, as last amended by Laws of Utah 2021, Chapter 122)

26B-5-360, (Renumbered from 62A-15-625, as last amended by Laws of Utah 2021, Chapter 260)

26B-5-361, (Renumbered from 62A-15-627, as last amended by Laws of Utah 2022, Chapter 374)

26B-5-362, (Renumbered from 62A-15-646, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-363, (Renumbered from 62A-15-616, as last amended by Laws of Utah 2011, Chapter 366)

26B-5-364, (Renumbered from 62A-15-633, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-365, (Renumbered from 62A-15-801, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-366, (Renumbered from 62A-15-802, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-367, (Renumbered from 62A-15-647, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-370, (Renumbered from 62A-15-901, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-371, (Renumbered from 62A-15-902, as last amended by Laws of Utah 2011, Chapter 366)

26B-5-372, (Renumbered from 62A-15-605.5, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

26B-5-380, (Renumbered from 62A-1-108.5, as last amended by Laws of Utah 2021, Chapter 262)

26B-5-401, (Renumbered from 62A-15-701, as last amended by Laws of Utah 2003, Chapter 195)

26B-5-402, (Renumbered from 62A-15-702, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)

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- 26B-5-403**, (Renumbered from 62A-15-703, as last amended by Laws of Utah 2021, Chapter 262)
- 26B-5-404**, (Renumbered from 62A-15-704, as last amended by Laws of Utah 2008, Chapter 382)
- 26B-5-405**, (Renumbered from 62A-15-705, as last amended by Laws of Utah 2021, Chapter 261)
- 26B-5-406**, (Renumbered from 62A-15-706, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-5-407**, (Renumbered from 62A-15-707, as last amended by Laws of Utah 2008, Chapter 382)
- 26B-5-408**, (Renumbered from 62A-15-708, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-409**, (Renumbered from 62A-15-709, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-410**, (Renumbered from 62A-15-710, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-411**, (Renumbered from 62A-15-711, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8)
- 26B-5-412**, (Renumbered from 62A-15-712, as last amended by Laws of Utah 2013, Chapter 167)
- 26B-5-413**, (Renumbered from 62A-15-713, as last amended by Laws of Utah 2005, Chapter 71)
- 26B-5-501**, (Renumbered from 62A-15-1202, as last amended by Laws of Utah 2018, Chapter 77)
- 26B-5-502**, (Renumbered from 62A-15-1201, as enacted by Laws of Utah 2017, Chapter 408)
- 26B-5-503**, (Renumbered from 62A-15-1203, as last amended by Laws of Utah 2018, Chapter 77)
- 26B-5-504**, (Renumbered from 62A-15-1204, as enacted by Laws of Utah 2017, Chapter 408)
- 26B-5-505**, (Renumbered from 62A-15-1205, as last amended by Laws of Utah 2018,

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Chapter 77)

26B-5-506, (Renumbered from 62A-15-1205.5, as enacted by Laws of Utah 2018,
Chapter 77)

26B-5-507, (Renumbered from 62A-15-1206, as enacted by Laws of Utah 2017,
Chapter 408)

26B-5-508, (Renumbered from 62A-15-1207, as last amended by Laws of Utah 2018,
Chapter 77)

26B-5-509, (Renumbered from 62A-15-1207.5, as enacted by Laws of Utah 2018,
Chapter 77)

26B-5-510, (Renumbered from 62A-15-1208, as enacted by Laws of Utah 2017,
Chapter 408)

26B-5-511, (Renumbered from 62A-15-1209, as enacted by Laws of Utah 2017,
Chapter 408)

26B-5-601, (Renumbered from 62A-17-102, as enacted by Laws of Utah 2013, Chapter
24)

26B-5-602, (Renumbered from 62A-17-103, as last amended by Laws of Utah 2017,
Chapter 22)

26B-5-603, (Renumbered from 62A-17-104, as enacted by Laws of Utah 2013, Chapter
24)

26B-5-604, (Renumbered from 62A-17-105, as enacted by Laws of Utah 2013, Chapter
24)

26B-5-605, (Renumbered from 62A-17-106, as enacted by Laws of Utah 2013, Chapter
24)

26B-5-606, (Renumbered from 62A-15-1802, as enacted by Laws of Utah 2020,
Chapter 304)

26B-5-607, (Renumbered from 62A-15-1803, as enacted by Laws of Utah 2020,
Chapter 304)

26B-5-608, (Renumbered from 62A-15-1804, as enacted by Laws of Utah 2020,
Chapter 304)

26B-5-609, (Renumbered from 62A-15-1402, as enacted by Laws of Utah 2018,
Chapter 84)

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- 26B-5-610**, (Renumbered from 62A-15-1302, as last amended by Laws of Utah 2020, Chapter 303)
- 26B-5-611**, (Renumbered from 62A-15-1101, as last amended by Laws of Utah 2022, Chapter 149)
- 26B-5-612**, (Renumbered from 26-1-43, as enacted by Laws of Utah 2022, Chapter 253 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 189)
- 26B-6-102**, (Renumbered from 62A-3-102, as last amended by Laws of Utah 1990, Chapter 181)
- 26B-6-103**, (Renumbered from 62A-3-103, as last amended by Laws of Utah 1992, Chapter 104)
- 26B-6-104**, (Renumbered from 62A-3-104, as last amended by Laws of Utah 2012, Chapter 347)
- 26B-6-105**, (Renumbered from 62A-3-104.1, as last amended by Laws of Utah 2018, Chapter 256)
- 26B-6-106**, (Renumbered from 62A-3-104.2, as last amended by Laws of Utah 1998, Chapter 254)
- 26B-6-107**, (Renumbered from 62A-3-104.3, as last amended by Laws of Utah 2015, Chapter 255)
- 26B-6-108**, (Renumbered from 62A-3-105, as last amended by Laws of Utah 2013, Chapter 110)
- 26B-6-109**, (Renumbered from 62A-3-106, as enacted by Laws of Utah 1988, Chapter 1)
- 26B-6-110**, (Renumbered from 62A-3-106.5, as last amended by Laws of Utah 2008, Chapter 382)
- 26B-6-111**, (Renumbered from 62A-3-107, as last amended by Laws of Utah 2010, Chapter 286)
- 26B-6-112**, (Renumbered from 62A-3-107.5, as enacted by Laws of Utah 1996, Chapter 299)
- 26B-6-113**, (Renumbered from 62A-3-108, as last amended by Laws of Utah 1998, Chapter 254)
- 26B-6-114**, (Renumbered from 62A-3-109, as last amended by Laws of Utah 2008,

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Chapters 91 and 382)

26B-6-201, (Renumbered from 62A-3-301, as last amended by Laws of Utah 2022, Chapter 430)

26B-6-202, (Renumbered from 62A-3-302, as last amended by Laws of Utah 2017, Chapter 176)

26B-6-203, (Renumbered from 62A-3-303, as last amended by Laws of Utah 2017, Chapter 176)

26B-6-204, (Renumbered from 62A-3-304, as last amended by Laws of Utah 2008, Chapter 91)

26B-6-205, (Renumbered from 62A-3-305, as last amended by Laws of Utah 2022, Chapters 274, 335, and 415)

26B-6-206, (Renumbered from 62A-3-307, as repealed and reenacted by Laws of Utah 2008, Chapter 91)

26B-6-207, (Renumbered from 62A-3-308, as last amended by Laws of Utah 2008, Chapter 91)

26B-6-208, (Renumbered from 62A-3-309, as last amended by Laws of Utah 2013, Chapter 237)

26B-6-209, (Renumbered from 62A-3-311, as last amended by Laws of Utah 2008, Chapters 91 and 382)

26B-6-210, (Renumbered from 62A-3-311.1, as last amended by Laws of Utah 2022, Chapter 415)

26B-6-211, (Renumbered from 62A-3-311.5, as enacted by Laws of Utah 2008, Chapter 91)

26B-6-212, (Renumbered from 62A-3-312, as last amended by Laws of Utah 2022, Chapter 415)

26B-6-213, (Renumbered from 62A-3-314, as last amended by Laws of Utah 2007, Chapter 176)

26B-6-214, (Renumbered from 62A-3-315, as last amended by Laws of Utah 2017, Chapter 176)

26B-6-215, (Renumbered from 62A-3-316, as enacted by Laws of Utah 2002, Chapter 108)

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- 26B-6-216**, (Renumbered from 62A-3-317, as last amended by Laws of Utah 2017, Chapter 176)
- 26B-6-217**, (Renumbered from 62A-3-320, as last amended by Laws of Utah 2017, Chapter 176)
- 26B-6-218**, (Renumbered from 62A-3-321, as last amended by Laws of Utah 2017, Chapter 176)
- 26B-6-219**, (Renumbered from 62A-3-322, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1)
- 26B-6-301**, (Renumbered from 62A-14-102, as last amended by Laws of Utah 2013, Chapter 364)
- 26B-6-302**, (Renumbered from 62A-14-103, as enacted by Laws of Utah 1999, Chapter 69)
- 26B-6-303**, (Renumbered from 62A-14-104, as last amended by Laws of Utah 2009, Chapter 75)
- 26B-6-304**, (Renumbered from 62A-14-105, as last amended by Laws of Utah 2022, Chapter 441)
- 26B-6-305**, (Renumbered from 62A-14-107, as enacted by Laws of Utah 1999, Chapter 69)
- 26B-6-306**, (Renumbered from 62A-14-108, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-6-307**, (Renumbered from 62A-14-109, as last amended by Laws of Utah 2012, Chapter 347)
- 26B-6-308**, (Renumbered from 62A-14-110, as enacted by Laws of Utah 1999, Chapter 69)
- 26B-6-309**, (Renumbered from 62A-14-111, as enacted by Laws of Utah 1999, Chapter 69)
- 26B-6-401**, (Renumbered from 62A-5-101, as last amended by Laws of Utah 2020, Chapter 444)
- 26B-6-402**, (Renumbered from 62A-5-102, as last amended by Laws of Utah 2020, Chapter 444)
- 26B-6-403**, (Renumbered from 62A-5-103, as last amended by Laws of Utah 2011,

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Chapter 366)

26B-6-404, (Renumbered from 62A-5-104, as last amended by Laws of Utah 2012,
Chapter 369)

26B-6-405, (Renumbered from 62A-5-105, as last amended by Laws of Utah 2013,
Chapter 167)

26B-6-406, (Renumbered from 62A-5-106, as enacted by Laws of Utah 1988, Chapter
1)

26B-6-407, (Renumbered from 62A-5-103.1, as last amended by Laws of Utah 2013,
Chapter 125)

26B-6-408, (Renumbered from 62A-5-103.2, as last amended by Laws of Utah 2009,
Chapter 29)

26B-6-409, (Renumbered from 62A-5-103.3, as enacted by Laws of Utah 2011,
Chapter 169)

26B-6-410, (Renumbered from 62A-5-103.5, as last amended by Laws of Utah 2017,
Chapter 181)

26B-6-411, (Renumbered from 62A-5-109, as last amended by Laws of Utah 2008,
Chapter 3)

26B-6-412, (Renumbered from 62A-5-110, as last amended by Laws of Utah 2018,
Chapter 88)

26B-6-413, (Renumbered from 62A-5-402, as last amended by Laws of Utah 2005,
Chapter 61)

26B-6-502, (Renumbered from 62A-5-201, as last amended by Laws of Utah 2017,
Chapter 211)

26B-6-503, (Renumbered from 62A-5-202, as last amended by Laws of Utah 2009,
Chapter 75)

26B-6-504, (Renumbered from 62A-5-203, as last amended by Laws of Utah 1991,
Chapter 207)

26B-6-505, (Renumbered from 62A-5-205, as last amended by Laws of Utah 1991,
Chapter 207)

26B-6-506, (Renumbered from 62A-5-206, as last amended by Laws of Utah 2016,
Chapter 300)

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- 26B-6-507**, (Renumbered from 62A-5-206.6, as last amended by Laws of Utah 2018, Chapter 404)
- 26B-6-508**, (Renumbered from 62A-5-207, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-509**, (Renumbered from 62A-5-208, as last amended by Laws of Utah 1991, Chapter 207)
- 26B-6-510**, (Renumbered from 62A-5-211, as enacted by Laws of Utah 2017, Chapter 211)
- 26B-6-602**, (Renumbered from 62A-5-302, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-603**, (Renumbered from 62A-5-305, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-604**, (Renumbered from 62A-5-308, as last amended by Laws of Utah 2021, Chapter 261)
- 26B-6-605**, (Renumbered from 62A-5-309, as last amended by Laws of Utah 2021, Chapter 261)
- 26B-6-606**, (Renumbered from 62A-5-310, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-607**, (Renumbered from 62A-5-311, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-608**, (Renumbered from 62A-5-312, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-609**, (Renumbered from 62A-5-313, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-610**, (Renumbered from 62A-5-315, as last amended by Laws of Utah 2004, Chapter 114)
- 26B-6-611**, (Renumbered from 62A-5-316, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-612**, (Renumbered from 62A-5-317, as last amended by Laws of Utah 2011, Chapter 366)
- 26B-6-613**, (Renumbered from 62A-5-318, as last amended by Laws of Utah 2011,

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Chapter 366)

26B-6-701, (Renumbered from 62A-5-501, as enacted by Laws of Utah 2022, Chapter 220)

26B-6-702, (Renumbered from 62A-5-502, as enacted by Laws of Utah 2022, Chapter 220)

26B-6-703, (Renumbered from 62A-5-503, as enacted by Laws of Utah 2022, Chapter 220)

26B-6-704, (Renumbered from 62A-5-504, as enacted by Laws of Utah 2022, Chapter 220)

26B-6-705, (Renumbered from 62A-5-505, as enacted by Laws of Utah 2022, Chapter 220)

26B-6-801, (Renumbered from 62A-5b-102, as last amended by Laws of Utah 2019, Chapter 190)

26B-6-802, (Renumbered from 62A-5b-103, as last amended by Laws of Utah 2019, Chapter 190)

26B-6-803, (Renumbered from 62A-5b-104, as last amended by Laws of Utah 2019, Chapter 190)

26B-6-804, (Renumbered from 62A-5b-105, as last amended by Laws of Utah 2019, Chapter 190)

26B-6-805, (Renumbered from 62A-5b-106, as last amended by Laws of Utah 2019, Chapter 190)

26B-6-806, (Renumbered from 62A-6-102, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-807, (Renumbered from 62A-6-103, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-808, (Renumbered from 62A-6-104, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-809, (Renumbered from 62A-6-105, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-810, (Renumbered from 62A-6-106, as enacted by Laws of Utah 1988, Chapter 1)

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26B-6-811, (Renumbered from 62A-6-107, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-812, (Renumbered from 62A-6-108, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-813, (Renumbered from 62A-6-109, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-814, (Renumbered from 62A-6-110, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-815, (Renumbered from 62A-6-111, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-816, (Renumbered from 62A-6-112, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-817, (Renumbered from 62A-6-113, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-818, (Renumbered from 62A-6-114, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-819, (Renumbered from 62A-6-115, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-820, (Renumbered from 62A-6-116, as enacted by Laws of Utah 1988, Chapter 1)

26B-6-821, (**Renumbered from 62A-5b-107, as renumbered and amended by Laws of Utah 2007, Chapter 22**)

26B-7-102, (Renumbered from 26-10-3, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-103, (Renumbered from 26-10-4, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-104, (Renumbered from 26-10-5.5, as last amended by Laws of Utah 2016, Chapter 144)

26B-7-105, (Renumbered from 26-10-10, as last amended by Laws of Utah 2018, Chapters 58, 281, and 415)

26B-7-106, (Renumbered from 26-10-14, as enacted by Laws of Utah 2019, Chapter

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26B-7-107, (Renumbered from 26-10-15, as enacted by Laws of Utah 2021, Chapter 161)

26B-7-108, (Renumbered from 26-1-23.5, as renumbered and amended by Laws of Utah 1991, Chapter 112)

26B-7-109, (Renumbered from 26-1-26, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-110, (Renumbered from 26-1-36, as last amended by Laws of Utah 2013, Chapters 43 and 167)

26B-7-111, (Renumbered from 26-1-38, as last amended by Laws of Utah 2015, Chapter 180)

26B-7-112, (Renumbered from 26-1-42, as enacted by Laws of Utah 2020, Chapter 211)

26B-7-113, (Renumbered from 26-7-1, as last amended by Laws of Utah 2011, Chapter 297)

26B-7-114, (Renumbered from 26-7-2, as last amended by Laws of Utah 2011, Chapter 192)

26B-7-115, (Renumbered from 26-7-4, as enacted by Laws of Utah 2008, Chapter 72)

26B-7-116, (Renumbered from 26-7-7, as last amended by Laws of Utah 2015, Chapter 451)

26B-7-117, (Renumbered from 26-7-8, as last amended by Laws of Utah 2018, Chapter 281)

26B-7-118, (Renumbered from 26-7-9, as last amended by Laws of Utah 2019, Chapter 186)

26B-7-119, (Renumbered from 26-7-11, as enacted by Laws of Utah 2020, Chapter 429)

26B-7-201, (Renumbered from 26-6-2, as last amended by Laws of Utah 2021, Chapter 437)

26B-7-202, (Renumbered from 26-6-3, as last amended by Laws of Utah 2021, Chapter 437)

26B-7-203, (Renumbered from 26-6-3.5, as last amended by Laws of Utah 2006,

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Chapter 116)

26B-7-204, (Renumbered from 26-6-4, as last amended by Laws of Utah 2006, Chapter 185)

26B-7-205, (Renumbered from 26-6-5, as last amended by Laws of Utah 1993, Chapter 179)

26B-7-206, (Renumbered from 26-6-6, as last amended by Laws of Utah 2008, Chapter 3)

26B-7-207, (Renumbered from 26-6-7, as last amended by Laws of Utah 1996, Chapter 211)

26B-7-208, (Renumbered from 26-6-8, as last amended by Laws of Utah 1996, Chapter 211)

26B-7-209, (Renumbered from 26-6-9, as repealed and reenacted by Laws of Utah 1996, Chapter 211)

26B-7-210, (Renumbered from 26-6-11, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-211, (Renumbered from 26-6-15, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-212, (Renumbered from 26-6-16, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-213, (Renumbered from 26-6-17, as last amended by Laws of Utah 2019, Chapter 349)

26B-7-214, (Renumbered from 26-6-18, as last amended by Laws of Utah 2019, Chapter 349)

26B-7-215, (Renumbered from 26-6-19, as last amended by Laws of Utah 2019, Chapter 349)

26B-7-216, (Renumbered from 26-6-20, as last amended by Laws of Utah 2019, Chapter 349)

26B-7-217, (Renumbered from 26-6-27, as last amended by Laws of Utah 2022, Chapters 169, 335, 415, and 430)

26B-7-218, (Renumbered from 26-6-28, as last amended by Laws of Utah 2007, Chapter 38)

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- 26B-7-219**, (Renumbered from 26-6-29, as renumbered and amended by Laws of Utah 1996, Chapter 201)
- 26B-7-220**, (Renumbered from 26-6-30, as last amended by Laws of Utah 2003, Chapter 171)
- 26B-7-221**, (Renumbered from 26-6-31, as enacted by Laws of Utah 2012, Chapter 150)
- 26B-7-222**, (Renumbered from 26-6-32, as last amended by Laws of Utah 2022, Chapter 169)
- 26B-7-223**, (Renumbered from 26-6-42, as last amended by Laws of Utah 2022, Chapter 5 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 5)
- 26B-7-224**, (Renumbered from 26-7-14, as last amended by Laws of Utah 2022, Chapter 430)
- 26B-7-225**, (Renumbered from 26-8d-102, as enacted by Laws of Utah 2018, Chapter 104)
- 26B-7-226**, (Renumbered from 26-8d-103, as enacted by Laws of Utah 2018, Chapter 104)
- 26B-7-227**, (Renumbered from 26-5-1, as enacted by Laws of Utah 1981, Chapter 126)
- 26B-7-301**, (Renumbered from 26-23b-102, as last amended by Laws of Utah 2022, Chapter 255)
- 26B-7-302**, (Renumbered from 26-1-12, as last amended by Laws of Utah 1991, Chapter 112)
- 26B-7-303**, (Renumbered from 26-6b-1, as last amended by Laws of Utah 2008, Chapter 382)
- 26B-7-304**, (Renumbered from 26-6b-3, as last amended by Laws of Utah 2021, Chapter 437)
- 26B-7-305**, (Renumbered from 26-6b-3.1, as last amended by Laws of Utah 2011, Chapter 297)
- 26B-7-306**, (Renumbered from 26-6b-3.2, as enacted by Laws of Utah 2006, Chapter 185)
- 26B-7-307**, (Renumbered from 26-6b-3.3, as last amended by Laws of Utah 2008,

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26B-7-308, (Renumbered from 26-6b-3.4, as last amended by Laws of Utah 2008,
Chapters 3 and 115)

26B-7-309, (Renumbered from 26-6b-4, as last amended by Laws of Utah 2008,
Chapter 115)

26B-7-310, (Renumbered from 26-6b-5, as last amended by Laws of Utah 2019,
Chapter 349)

26B-7-311, (Renumbered from 26-6b-6, as last amended by Laws of Utah 2008,
Chapter 115)

26B-7-312, (Renumbered from 26-6b-7, as enacted by Laws of Utah 1996, Chapter
211)

26B-7-313, (Renumbered from 26-6b-8, as last amended by Laws of Utah 2006,
Chapter 185)

26B-7-314, (Renumbered from 26-6b-9, as last amended by Laws of Utah 2006,
Chapter 185)

26B-7-315, (Renumbered from 26-6b-10, as enacted by Laws of Utah 1996, Chapter
211)

26B-7-316, (Renumbered from 26-23b-103, as enacted by Laws of Utah 2002, Chapter
155)

26B-7-317, (Renumbered from 26-23b-104, as last amended by Laws of Utah 2021,
Chapter 437)

26B-7-318, (Renumbered from 26-23b-105, as enacted by Laws of Utah 2002, Chapter
155)

26B-7-319, (Renumbered from 26-23b-106, as enacted by Laws of Utah 2002, Chapter
155)

26B-7-320, (Renumbered from 26-23b-107, as enacted by Laws of Utah 2002, Chapter
155)

26B-7-321, (Renumbered from 26-23b-108, as last amended by Laws of Utah 2021,
Chapter 437)

26B-7-322, (Renumbered from 26-23b-109, as enacted by Laws of Utah 2002, Chapter
155)

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26B-7-323, (Renumbered from 26-23b-110, as last amended by Laws of Utah 2011, Chapter 55)

26B-7-401, (Renumbered from 26-15a-102, as last amended by Laws of Utah 2008, Chapter 382)

26B-7-402, (Renumbered from 26-15-2, as last amended by Laws of Utah 2021, Chapter 227)

26B-7-403, (Renumbered from 26-15-3, as last amended by Laws of Utah 2022, Chapter 415)

26B-7-404, (Renumbered from 26-15-4, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-405, (Renumbered from 26-15-7, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-406, (Renumbered from 26-15-8, as last amended by Laws of Utah 2011, Chapter 297)

26B-7-407, (Renumbered from 26-15-13, as last amended by Laws of Utah 2016, Chapter 303)

26B-7-408, (Renumbered from 26-31-201, as last amended by Laws of Utah 2011, Chapter 297 and renumbered and amended by Laws of Utah 2011, Chapter 90)

26B-7-409, (Renumbered from 26-51-201, as enacted by Laws of Utah 2008, Chapter 38)

26B-7-410, (Renumbered from 26-15a-104, as last amended by Laws of Utah 2008, Chapter 382)

26B-7-411, (Renumbered from 26-15a-105, as last amended by Laws of Utah 2014, Chapter 327)

26B-7-412, (Renumbered from 26-15a-106, as last amended by Laws of Utah 2020, Chapter 189)

26B-7-413, (Renumbered from 26-15-5, as last amended by Laws of Utah 2020, Chapter 189)

26B-7-414, (Renumbered from 26-15-9, as enacted by Laws of Utah 1981, Chapter 126)

26B-7-415, (Renumbered from 26-15b-105, as last amended by Laws of Utah 2020,

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Fifth Special Session, Chapter 4)

26B-7-416, (Renumbered from 26-15c-105, as enacted by Laws of Utah 2021, Chapter 417)

26B-7-501, (Renumbered from 26-62-102, as last amended by Laws of Utah 2020, Chapters 302 and 347)

26B-7-502, (Renumbered from 26-15-11, as last amended by Laws of Utah 1994, Chapter 281)

26B-7-503, (Renumbered from 26-38-3, as last amended by Laws of Utah 2009, Chapter 383)

26B-7-504, (Renumbered from 26-43-102, as enacted by Laws of Utah 1998, Chapter 73)

26B-7-505, (Renumbered from 26-57-103, as last amended by Laws of Utah 2021, First Special Session, Chapter 12)

26B-7-506, (Renumbered from 26-62-103, as enacted by Laws of Utah 2018, Chapter 231)

26B-7-507, (Renumbered from 26-62-201, as last amended by Laws of Utah 2020, Chapter 347)

26B-7-508, (Renumbered from 26-62-202, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18)

26B-7-509, (Renumbered from 26-62-203, as enacted by Laws of Utah 2018, Chapter 231)

26B-7-510, (Renumbered from 26-62-204, as enacted by Laws of Utah 2018, Chapter 231)

26B-7-511, (Renumbered from 26-62-205, as last amended by Laws of Utah 2021, Chapter 348)

26B-7-512, (Renumbered from 26-62-206, as enacted by Laws of Utah 2020, Chapter 347)

26B-7-513, (Renumbered from 26-62-207, as enacted by Laws of Utah 2020, Chapter 302)

26B-7-514, (Renumbered from 26-62-301, as last amended by Laws of Utah 2020, Chapter 347)

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26B-7-515, (Renumbered from 26-62-302, as renumbered and amended by Laws of Utah 2018, Chapter 231)

26B-7-516, (Renumbered from 26-62-303, as enacted by Laws of Utah 2018, Chapter 231)

26B-7-517, (Renumbered from 26-62-304, as last amended by Laws of Utah 2022, Chapter 274)

26B-7-518, (Renumbered from 26-62-305, as last amended by Laws of Utah 2022, Chapter 274)

26B-7-519, (Renumbered from 26-62-306, as last amended by Laws of Utah 2021, Chapter 348)

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

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

Utah Code Sections Affected by Coordination Clause:

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

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

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

CHAPTER 5. HEALTH CARE - SUBSTANCE USE AND MENTAL HEALTH

Part 1. General Provisions

26B-5-101. Chapter ~~{Definitions}~~definitions.

~~[Reserved.]~~

As used in this chapter:

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

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

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

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

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

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

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

(6) "Mental health crisis" means:

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

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

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

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

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

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

(a) direct mental health services;

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

(c) the provision of safety and care plans;

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

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

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

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

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

(12) (a) "Public funds" means federal money received from the department, and state

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money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

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

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

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

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

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

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

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

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

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

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(f) include individualized case planning;

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

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

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

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

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

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

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

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

(2) The division shall:

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

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

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

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

(v) promote integrated programs that address an individual's substance ~~[abuse]~~ use,

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mental health, and physical health;

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

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

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

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

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

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

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

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

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

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

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

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and

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research organizations, and other related groups;

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

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

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

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

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

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

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

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

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

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

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

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

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

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

(F) appropriate expenditure of public funds;

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

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

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

(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,

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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]~~ Part 1, Human

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (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

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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~~ use 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

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17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) suffers from a mental illness.

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

(a) purchase goods and services;

(b) establish self-sufficiency; and

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

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

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- (a) assessing the strengths and needs of a recipient;
 - (b) customizing strength-based approaches to obtaining employment;
 - (c) expecting, encouraging, providing, and rewarding:
 - (i) integrated employment in the workplace at competitive wages and benefits; and
 - (ii) self-employment;
 - (d) developing partnerships with potential employers;
 - (e) maximizing appropriate employment training opportunities;
 - (f) coordinating services with other government agencies and community resources;
 - (g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (2); and
 - (h) arranging sub-minimum wage work or volunteer work for an eligible recipient when employment at market rates cannot be obtained.
- (4) The division shall, on an annual basis:
- (a) set goals to implement the policy described in Subsection (2) and the plan described in Subsection (3);
 - (b) determine whether the goals for the previous year have been met; and
 - (c) modify the plan described in Subsection (3) as needed.

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

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

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

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

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

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

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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~~use and mental health services -- Provisions -- Responsibilities.

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

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

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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

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health authority or its contract provider.

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

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

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

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

- (i) one representative of the Utah Sheriffs' Association;
- (ii) one representative of the Statewide Association of Prosecutors of Utah;
- (iii) two representatives from the division; and
- (iv) two representatives from the Utah Association of Counties; and

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

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

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

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

(iv) evaluate applications; and

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

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

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

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

(1) As used in this section, "bureau" means the Bureau of Criminal Identification

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created in Section 53-10-201 within the Department of Public Safety.

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

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

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

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

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

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

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

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

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

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

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

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

(a) five mobile crisis outreach teams:

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

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

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

(2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide

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mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

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

- (a) the number of individuals the proposed mobile crisis outreach team will serve; and
- (b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

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

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

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

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

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[~~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.

(3) The purpose of a project is to:

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

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

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

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

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

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

(d) provide details regarding:

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

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

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

(iv) the cost of the proposed project;

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

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

(vii) the sustainability of the proposed project; and

(viii) the methods the proposed project will use to:

(A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (5).

(5) In evaluating an application for the grant, the division shall consider:

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

(b) the extent to which the population described in Subsection (4)(a) is likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and

(e) the viability and innovation of the proposed project.

(6) Before June 30, 2021, the division shall report to the Health and Human Services Interim Committee regarding:

(a) each county awarded a grant under this section; and

(b) the details of each project.

(7) Before June 30, 2023, the division shall report to the Health and Human Services

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Interim Committee regarding:

- (a) data gathered in relation to each project;
- (b) knowledge gained relating to the provision of mental health crisis services in a behavioral health receiving center;
- (c) recommendations for the future use of mental health crisis services in behavioral health receiving centers; and
- (d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center.

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

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

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

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

- (a) implement strategies to increase awareness and reduce risk factors in order to improve the safety and well-being of individuals in underserved communities;
- (b) coordinate with government agencies, nonprofit organizations, and interested individuals to provide open communication with individuals in underserved communities; and
- (c) coordinate efforts to give individuals in underserved communities needed access to public assistance and other government services.

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

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

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

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

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

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(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;

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

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

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

(B) collect non-identifying data; and

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

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

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

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

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

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

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

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

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

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

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

(b) knowledge gained relating to providing technical assistance;

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

(d) obstacles encountered when providing technical assistance.

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

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

(1) As used in this section:

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

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

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

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

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

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project.

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

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

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

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

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

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

(e) the cost of the proposed project; and

(f) the sustainability of the proposed project.

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

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

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

(c) the cost of the proposed project; and

(d) the viability of the proposed project.

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

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

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

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

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

(b) data gathered in relation to each project;

(c) recommendations for the future use of the education and training provided to child

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care providers; and

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) provide details regarding:

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

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

(iii) the methods the applicant will use to:

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

(B) collect non-identifying data; and

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

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

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

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

(5) Before July 1, 2023, the division shall submit a written report to the Health and Human Services Interim Committee regarding each applicant the division provided a grant to in the preceding year under this section.

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

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

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

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

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

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

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

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

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

As used in this part:

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

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

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

(4) "Teen substance [~~abuse~~] use school" means any school established by the local

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substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse offenders and their parents or legal guardians.

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

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

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

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

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

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

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

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dependence on drugs or alcohol in a manner not prescribed by a physician.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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treatment or rehabilitation.

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

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

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

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

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

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

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

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

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

(ii) a business that is:

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

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

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

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

(2) (a) This section applies to:

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

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

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

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

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

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

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

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

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

or

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

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

(ii) pay a fee:

(A) to the seminar provider; and

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

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

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

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

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

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

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

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of an instructor of the seminar provider; or

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

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

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

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

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

(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

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(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

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Services;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

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(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Services;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

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

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

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

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

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

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

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

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

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

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

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

(6) A seminar provider shall:

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

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

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

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

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guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

- (i) the curriculum established under this section; and
- (ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

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

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

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

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

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

(1) As used in this section:

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

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

(2) The advisory council shall:

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

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

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

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

(i) carefully researched;

(ii) developed for target groups; and

(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).

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(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

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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.

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

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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~~26B-5-101 and described in Section 17-43-201.

~~[(13)]~~ (16) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

~~[(14)]~~ (17) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and

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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 health authority; or

(b) undergoing essential treatment and intervention.

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

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

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

~~[(18)]~~ (22) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

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

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

- (a) suicide;
- (b) serious bodily self-injury;
- (c) serious bodily injury because the individual is incapable of providing the basic

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

- (d) causing or attempting to cause serious bodily injury to another individual;
- (e) engaging in harmful sexual conduct; or
- (f) if not treated, suffering severe and abnormal mental, emotional, or physical distress

that:

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

~~[(20)]~~ (25) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 31. Section **26B-5-302**, which is renumbered from Section 62A-15-601 is renumbered and amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Whenever the superintendent is not qualified to be the clinical director of the state hospital under this section, ~~[he]~~ the superintendent shall, with the approval of the director of the division, appoint a clinical director who is licensed to practice medicine and surgery in this state, and who has had at least three years' training in a psychiatric residency program approved by the American Board of Psychiatry and Neurology, Inc., and who is eligible for certification by that board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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disorders.

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

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

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

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

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

Section 37. Section **26B-5-308**, which is renumbered from Section 62A-15-639 is renumbered and amended to read:

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

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

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

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

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

(2) In no event shall medication be prescribed for a patient unless it is determined by a physician to be required by the patient's medical needs. Every use of a medication and the

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reasons therefor shall be made a part of the patient's clinical record.

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

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

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

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

(b) receive visitors; and

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

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

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

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

(5) Mental health facilities, local substance abuse authorities, and approved treatment

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facilities or programs shall post a statement, created by the division, describing a patient's rights under Utah law.

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

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

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

Any individual detained pursuant to this part is entitled to the writ of habeas corpus upon proper petition by ~~[himself]~~ themselves or a friend, to the ~~[district]~~ court in the county in which ~~[he]~~ the individual is detained.

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

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

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

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

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

(i) this part; or

(ii) Section 53-10-208.1; or

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

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

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

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

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

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

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

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

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

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

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

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

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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]~~ the attorney-in-fact, 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

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(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

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or to communicate my decisions is impaired to such an extent that I lack the capacity to refuse or consent to mental health treatment. "Mental health treatment" means convulsive treatment, treatment with psychoactive medication, and admission to and retention in a mental health facility for a period up to 17 days.

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

PSYCHOACTIVE MEDICATIONS

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

_____ I consent to the administration of the following medications:

_____ in the dosages:

_____ considered appropriate by my attending physician.

_____ approved by _____

_____ as I hereby direct: _____

_____ I do not consent to the administration of the following medications:

CONVULSIVE TREATMENT

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

_____ I consent to the administration of convulsive treatment of the following type:

_____, the number of treatments to be:

_____ determined by my attending physician.

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_____ approved by _____

_____ as follows: _____

_____ I do not consent to the administration of convulsive treatment.

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

—

ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY

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

_____ I consent to being admitted to the following mental health facilities:

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

_____ determined by my attending physician.

_____ approved by _____

_____ no longer than _____

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

ADDITIONAL REFERENCES OR INSTRUCTIONS

ATTORNEY-IN-FACT

I hereby appoint:

NAME _____

ADDRESS _____

TELEPHONE # _____

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

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

NAME _____

ADDRESS _____

TELEPHONE # _____

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

(Signature of Declarant/Date)

AFFIRMATION OF WITNESSES

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

Witnessed By:

(Signature of Witness/Date)

(Printed Name of Witness)

(Signature of Witness/Date)

(Printed Name of Witness)

ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

I accept this appointment and agree to serve as attorney-in-fact to make decisions about mental health treatment for the declarant. I understand that I have a duty to act consistently with the desires of the declarant as expressed in the declaration. I understand that this

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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) admission to a mental health facility;

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

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

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

(5) you have the right to revoke this document in whole or in part, or the appointment of an attorney-in-fact, at any time you have not been determined to be incapable. **YOU MAY**

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NOT REVOKE THE DECLARATION OR APPOINTMENT WHEN YOU ARE CONSIDERED INCAPABLE BY A COURT OR TWO PHYSICIANS. A revocation is effective when it is communicated to your attending physician or other provider; and

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

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

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

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

(2) In addition to the expenses described in Subsection (1), parents are responsible for the support of their child while the child is in the care of the state hospital pursuant to ~~the~~ 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

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persons any sums paid by the state in their behalf.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Each local mental health authority has responsibility for supervision and treatment of persons with a mental illness who have been committed to its custody under the provisions

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of this part, whether residing in the state hospital or elsewhere.

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

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

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

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

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

(3) Medical, residential, and other noninstructional services at the state hospital are the 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

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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.

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(2) On July 1, 1996, 72 pediatric beds shall be allocated to local mental health authorities under this section. The division shall review and adjust the number of pediatric beds as necessary every three years according to the state's population of persons under 18 years ~~of age~~ old. All population figures utilized shall reflect the most recent available population estimates from the Governor's Office of Planning and Budget.

(3) The allocation of beds shall be based on the percentage of the state's population of persons under ~~the age of~~ 18 years old located within a mental health catchment area. Each community mental health center shall be allocated at least one bed.

(4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.

(5) The division shall allocate 72 pediatric beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under that formula, the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

Section 57. Section **26B-5-330**, which is renumbered from Section 62A-15-628 is renumbered and amended to read:

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

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

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

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

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

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

Section 58. Section **26B-5-331**, which is renumbered from Section 62A-15-629 is

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renumbered and amended to read:

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

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

(a) a written application that:

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

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

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

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

(A) the adult has a mental illness; and

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

(ii) completing a temporary commitment application that:

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

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

(C) states the specific nature of the danger;

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

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

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

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

(i) as described in Section [~~62A-15-631~~] 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection [~~62A-15-631~~] 26B-5-332(4);

(ii) the patient makes a voluntary application for admission; or

(iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:

(A) the patient, due to mental illness, poses a substantial danger to self or others;

(B) additional time is necessary for evaluation and treatment of the patient's mental illness; and

(C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.

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

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

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

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

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

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

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner,

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designated examiner, or mental health officer;

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

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

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

(5) Notwithstanding Subsection (4):

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

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

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

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

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

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

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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 mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

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

(B) is sworn to under oath; and

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

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

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

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

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

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

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immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section ~~[62A-15-634]~~ 26B-5-334, to be detained for the purpose of examination if:

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

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

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

(b) 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

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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.

(10) (a) The designated examiners shall:

(i) conduct the examinations separately;

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

(iii) inform the proposed patient, if not represented by an attorney:

(A) that the proposed patient does not have to say anything;

(B) of the nature and reasons for the examination;

(C) that the examination was ordered by the court;

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

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

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

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(iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section [~~62A-15-625~~] 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

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

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

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

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

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

(b) has agreed to voluntary commitment, as described in Section [~~62A-15-625~~] ~~26B-5-350~~ 26B-5-360;

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

(d) meets the criteria for assisted outpatient treatment described in Section [~~62A-15-630.5~~] 26B-5-351.

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

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

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

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

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

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

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

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

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

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

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

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

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

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request.

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

(i) the proposed patient has a mental illness;

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

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

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

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

(b) (i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section ~~[62A-15-630.5]~~ 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section ~~[62A-15-630.5]~~ 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section ~~[62A-15-630.5]~~ 26B-5-351.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section ~~[62A-15-630.5]~~ 26B-5-351 are met, the court shall dismiss the proceedings after the hearing.

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

(ii) If the patient is not under an order of commitment at the time of the hearing, the 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

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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 immediately report the discharge to the court.

(v) 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 continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

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

(ii) If the local mental health authority or 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 the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or the local mental health authority's designee

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determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.

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

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

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

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

(c) 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

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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:

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~~[62A-15-635].~~ 26B-5-335. Notice of commitment.

Whenever a patient has been temporarily, involuntarily committed to a local mental health authority under Section ~~[62A-15-629]~~ 26B-5-331 on the application of an individual other than the patient's legal guardian, spouse, or next of kin, the local mental health authority or a designee of the local mental health authority shall immediately notify the patient's legal guardian, spouse, or next of kin, if known.

Section 63. Section **26B-5-336**, which is renumbered from Section 62A-15-636 is renumbered and amended to read:

~~[62A-15-636].~~ 26B-5-336. Periodic review -- Discharge.

Each local mental health authority or its designee shall, as frequently as practicable, examine or cause to be examined every person who has been committed to it. Whenever the local mental health authority or its designee determines that the conditions justifying involuntary commitment no longer exist, it shall discharge the patient. If the patient has been committed through judicial proceedings, a report describing that determination shall be sent to the clerk of the court where the proceedings were held.

Section 64. Section **26B-5-337**, which is renumbered from Section 62A-15-637 is renumbered and amended to read:

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

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

- (a) the authority specifies the less restrictive treatment; and
- (b) the patient agrees in writing to the less restrictive treatment.

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

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

(3) (a) A local mental health authority or a designee of a local mental health authority is authorized to issue an order for the immediate placement of a current patient into a more

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restrictive environment, if:

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

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

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

(i) state the reasons for the order;

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

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

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

(A) the patient;

(B) the person in whose care the patient is placed;

(C) the patient's counsel of record; and

(D) the court that entered the original order of commitment.

(c) If the patient was in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the patient or the patient's representative may request a hearing within 30 days of the change. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed pursuant to Section [~~62A-15-631~~] 26B-5-332, with the exception of Subsection [~~62A-15-631~~] 26B-5-332(16), unless, by the time set for the hearing, the patient is returned to the less restrictive environment or the patient withdraws the request for a hearing, in writing.

(d) The court shall:

(i) make findings regarding whether the conditions described in Subsections (3)(a) and (b) were met and whether the patient is in the least restrictive environment that is appropriate for the patient's needs; and

(ii) designate, by order, the environment for the patient's care and the period for which

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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.

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(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

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process, the local mental health authority shall follow the procedures described in Sections ~~[62A-15-636 and 62A-15-637]~~ 26B-5-336 and 26B-5-337.

Section 69. Section **26B-5-342**, which is renumbered from Section 62A-15-620 is renumbered and amended to read:

~~[62A-15-620].~~ **26B-5-342. Attempt to commit person contrary to requirements -- Penalty.**

Any person who attempts to place another person in the custody of a local mental health authority contrary to the provisions of this part is guilty of a class B misdemeanor, in addition to liability in an action for damages, or subject to other criminal charges.

Section 70. Section **26B-5-350**, which is renumbered from Section 62A-15-630.4 is renumbered and amended to read:

~~[62A-15-630.4].~~ **26B-5-350. Assisted outpatient treatment services.**

(1) The local mental health authority or ~~[its]~~ the local mental health authority's designee shall provide assisted outpatient treatment, which shall include:

(a) case management; and
(b) an individualized treatment plan, created with input from the proposed patient when possible.

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

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

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

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need for assisted outpatient treatment may file, 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; and

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

(ii) a written statement by the applicant that:

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

(B) is sworn to under oath; and

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

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

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

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

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

(3) If the 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

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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.

(8) The designated examiners shall:

(a) conduct their examinations separately;

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

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient to be ordered to receive assisted outpatient treatment; and

(v) that findings resulting from the examination will be made available to the court;

and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill. If the designated examiner reports orally,

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the designated examiner shall immediately send a written report to the clerk of the court.

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

(10) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to an assisted outpatient treatment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(11) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient does not meet the criteria in Subsection (14).

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

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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

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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.

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(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:

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~~[62A-15-646].~~ 26B-5-362. Commitment and care of criminally insane.

Nothing contained in this part may be construed to alter or change the method presently employed for the commitment and care of the criminally insane as provided in Title 77, Chapter 15, Inquiry into Sanity of Defendant.

Section 75. Section **26B-5-363**, which is renumbered from Section 62A-15-616 is renumbered and amended to read:

~~[62A-15-616].~~ 26B-5-363. Persons entering state mentally ill.

(1) A person who enters this state while mentally ill may be returned by a local mental health authority to the home of relatives or friends of that person with a mental illness, if known, or to a hospital in the state where that person with a mental illness is domiciled, in accordance with [~~Title 62A, Chapter 15, Part 8,~~] the Interstate Compact on Mental Health in Section 26B-5-365.

(2) This section does not prevent commitment of persons who are traveling through or temporarily residing in this state.

Section 76. Section **26B-5-364**, which is renumbered from Section 62A-15-633 is renumbered and amended to read:

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

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

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

(3) The chief officer of any facility or institution operated by a United States agency and in which the individual is hospitalized, shall, with respect to that individual, be vested with the same powers as the superintendent or director of a mental health facility, regarding detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is retained in appropriate courts of this state at any time to inquire into the mental condition of an

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individual so hospitalized, and to determine the necessity for continuance of hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

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

~~[62A-15-801].~~ **26B-5-365. Interstate ~~{compact}~~Compact on ~~{mental health}~~Mental Health -- Compact provisions.**

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

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The proper and expeditious treatment of the mentally ill can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability of furnishing that care and treatment bears no primary relation to the residence or citizenship of the patient but that the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal and constitutional basis for commitment or other appropriate care and treatment of the mentally ill under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states.

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

Article II

As used in this compact:

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

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

(3) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic and Statistical Manual of Mental Disorders, that substantially impairs a person's mental, emotional, behavioral, or related functioning to such an extent that he requires care and

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treatment for his own welfare, the welfare of others, or the community.

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

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

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

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

Article III

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

(2) Notwithstanding the provisions of Subsection (1) of this article, any patient may be transferred to an institution in another state whenever there are factors, based upon clinical determinations, indicating that the care and treatment of that patient would be facilitated or improved by that action. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors to be considered include the patient's full record with due regard for the location of the patient's family, the character of his illness and its probable duration, and other factors considered appropriate by authorities in the party state and the director of the division, or his designee.

(3) No state is obliged to receive any patient pursuant to the provisions of Subsection (2) of this article unless the sending state has:

- (a) given advance notice of its intent to send the patient;
- (b) furnished all available medical and other pertinent records concerning the patient;
- (c) given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient; and

- (d) determined that the receiving state agrees to accept the patient.

(4) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same

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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

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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.

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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,

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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.

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This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact are severable, and if any phrase, clause, sentence or provision is declared to be contrary to the constitution of the United States or the applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held to be contrary to the constitution of any party state the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 78. Section **26B-5-366**, which is renumbered from Section 62A-15-802 is renumbered and amended to read:

~~[62A-15-802].~~ 26B-5-366. Interstate compact on mental health -- Requirement of conformity with this chapter.

All actions and proceedings taken under authority of this compact shall be in accordance with the procedures and constitutional requirements described in [~~Part 6, Utah State Hospital and Other Mental Health Facilities~~] this part.

Section 79. Section **26B-5-367**, which is renumbered from Section 62A-15-647 is renumbered and amended to read:

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

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

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

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

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

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

~~[62A-15-902].~~ **26B-5-371. Utah Forensic Mental ~~Health~~ Health Facility --**

Design and operation -- Security.

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

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

(i) prison inmates displaying mental illness~~[, as defined in Section 62A-15-602,]~~
necessitating treatment in a secure mental health facility;

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

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

(iv) persons undergoing evaluation for competency or found by a court to be incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry into Sanity of Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

(v) persons who are civilly committed to the custody of a local mental health authority in accordance with ~~[Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities]~~ this part, and who may not be properly supervised by the Utah State Hospital because of a lack of necessary security, as determined by the superintendent or the superintendent's designee; and

(vi) persons ordered to commit themselves to the custody of the ~~[Division of Substance Abuse and Mental Health]~~ division for treatment at the Utah State Hospital as a condition of probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

(b) Placement of an offender in the forensic mental health facility under any category described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's status as established by the court at the time of adjudication.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for the allocation of beds to the categories described in

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Subsection (2)(a).

(3) The department shall:

- (a) own and operate the forensic mental health facility;
- (b) provide and supervise administrative and clinical staff; and
- (c) provide security staff who are trained as psychiatric technicians.

(4) Pursuant to Subsection [~~62A-15-603~~] 26B-5-303(3) the executive director shall designate individuals to perform security functions for the state hospital.

Section 82. Section **26B-5-372**, which is renumbered from Section 62A-15-605.5 is renumbered and amended to read:

[~~62A-15-605.5~~]. 26B-5-372. Admission of person in custody of Department of Corrections to state hospital -- Retransfer of person to Department of Corrections.

(1) The executive director of the Department of Corrections may request the director to admit a person who is in the custody of the Department of Corrections to the state hospital, if the clinical director within the Department of Corrections finds that the inmate has mentally deteriorated to the point that admission to the state hospital is necessary to ensure adequate mental health treatment. In determining whether that inmate should be placed in the state hospital, the director of the division shall consider:

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

26B-5-306(2).

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

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

26B-5-306(2).

(3) The state hospital shall receive any person in the custody of the Department of Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to

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Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody of the Department of Corrections, and the state hospital shall act solely as the agent of the Department of Corrections.

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

- (a) the mental health treatment needs of the inmate;
- (b) the treatment programs available at the state hospital;
- (c) whether the person continues to meet the requirements of Subsection [~~62A-15-610~~]
26B-5-306(2);
- (d) the ability of the state hospital to provide adequate treatment to the person, as well as safety and security to the public; and
- (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;

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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]~~ old.
- (2) "Commit" and "commitment" mean the transfer of physical custody in accordance with the requirements of this part.
- (3) "Legal custody" means:
 - (a) the right to determine where and with whom the child shall live;
 - (b) the right to participate in all treatment decisions and to consent or withhold consent for treatment in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery; and
 - (c) the right to authorize surgery or other extraordinary medical care.
- (4) "Physical custody" means:
 - (a) placement of a child in any residential or inpatient setting;
 - (b) the right to physical custody of a child;

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(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

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mental health authority, and the child may be placed in an inpatient or residential setting.

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

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

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

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

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

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

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

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

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

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

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

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

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

(i) the petition for commitment;

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- (ii) the admission notes;
- (iii) the child's diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

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

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

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section ~~[62A-15-629]~~ 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

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(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

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

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

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

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

- (i) the original petition for commitment;
- (ii) admission notes;

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- (iii) diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

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

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

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(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

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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

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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}~~ 26B-5-332.

(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

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(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]~~ old;
- (b) the child's parent or legal guardian consents;
- (c) disclosure is necessary to carry out any of the provisions of this part; or
- (d) a court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it, and that failure to make the disclosure would be contrary to the public interest.

(2) A person who violates any provision of this section is guilty of a class B misdemeanor.

Section 91. Section **26B-5-408**, which is renumbered from Section 62A-15-708 is

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renumbered and amended to read:

~~[62A-15-708].~~ 26B-5-408. Mechanical restraints -- Clinical record.

Mechanical restraints may not be applied to a child unless it is determined, by the local mental health authority or its designee in conjunction with the child's current treating mental health professional, that they are required by the needs of that child. Every use of a mechanical restraint and the reasons for that use shall be made a part of the child's clinical record, under the signature of the local mental health authority, its designee, and the child's current treating mental health professional.

Section 92. Section **26B-5-409**, which is renumbered from Section 62A-15-709 is renumbered and amended to read:

~~[62A-15-709].~~ 26B-5-409. Habeas corpus.

Any child committed in accordance with Section ~~[62A-15-703]~~ 26B-5-403 is entitled to a writ of habeas corpus upon proper petition by himself or next of friend to the ~~[district]~~ court in the district in which he is detained.

Section 93. Section **26B-5-410**, which is renumbered from Section 62A-15-710 is renumbered and amended to read:

~~[62A-15-710].~~ 26B-5-410. Restrictions and limitations -- Civil rights and privileges.

(1) Subject to the specific rules of the division, and except to the extent that the local mental health authority or its designee, in conjunction with the child's current treating mental health professional, determines that it is necessary for the welfare of the person to impose restrictions, every child committed to the physical custody of a local mental health authority under Section ~~[62A-15-703]~~ 26B-5-403 is entitled to:

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

(b) receive visitors; and

(c) exercise his civil rights.

(2) When any right of a child is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the child's treatment record. Any continuing denial or limitation shall be reviewed every 30 days and shall also be entered in that treatment record. Notice of that continuing denial in excess of 30 days shall be sent to the division.

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(3) Notwithstanding any limitations authorized under this section on the right of communication, each child committed to the physical custody of a local mental health authority is entitled to communicate by sealed mail with his attorney, the local mental health authority, its designee, his current treating mental health professional, and the court, if commitment was court ordered. In no case may the child be denied a visit with the legal counsel or clergy of his choice.

(4) Each local mental health authority shall provide appropriate and reasonable means and arrangements for informing children and their parents or legal guardians of their rights as provided in this part, and for assisting them in making and presenting requests for release.

(5) All local mental health facilities shall post a statement, promulgated by the division, describing patient's rights under Utah law.

Section 94. Section **26B-5-411**, which is renumbered from Section 62A-15-711 is renumbered and amended to read:

~~[62A-15-711].~~ 26B-5-411. Standards for care and treatment.

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

Section 95. Section **26B-5-412**, which is renumbered from Section 62A-15-712 is renumbered and amended to read:

~~[62A-15-712].~~ 26B-5-412. Responsibilities of the division.

(1) The division shall ensure that the requirements of this part are met and applied uniformly by local mental health authorities across the state.

(2) Because the division must, under Section [~~62A-15-103~~] 26B-5-102, contract with, review, approve, and oversee local mental health authority plans, and withhold funds from local mental health authorities and public and private providers for contract noncompliance or misuse of public funds, the division shall:

(a) require each local mental health authority to submit its plan to the division by May 1 of each year; and

(b) conduct an annual program audit and review of each local mental health authority in the state, and its contract provider.

(3) The annual audit and review described in Subsection (2)(b) shall, in addition to

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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

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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.

[As] In addition to the definitions in Section 26B-5-301, as used in this part:

(1) "Emergency, life saving treatment" means treatment that is:

(a) provided at a licensed health care facility or licensed human services program;

(b) provided by a licensed health care professional;

(c) necessary to save the life of the patient; and

(d) required due to the patient's:

(i) use of an illegal substance; or

(ii) excessive use or misuse of a prescribed medication.

(2) "Essential treatment examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specifically qualified by training or experience in the diagnosis of substance use disorder; or

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

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(3) "Relative" means an adult who is a spouse, parent, stepparent, grandparent, child, or sibling of an individual.

(4) "Serious harm" means the individual, due to substance use disorder, is at serious risk of:

- (a) drug overdose;
- (b) suicide;
- (c) serious bodily self-injury;
- (d) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter; or
- (e) causing or attempting to cause serious bodily injury to another individual.

(5) "Substance use disorder" means the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Section 98. Section **26B-5-502**, which is renumbered from Section 62A-15-1201 is renumbered and amended to read:

~~[62A-15-1201].~~ 26B-5-502. Statement of legislative intent.

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;

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- (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 treatment for the respondent; and
 - (c) may be accompanied by documentation of emergency, life saving treatment provided to the respondent.
- (4) Nothing in this section alters the contractual relationship between a health insurer and an insured individual.

Section 100. Section **26B-5-504**, which is renumbered from Section 62A-15-1204 is renumbered and amended to read:

~~[62A-15-1204].~~ 26B-5-504. Criteria for essential treatment and intervention.

A [~~district~~] court shall order an individual to undergo essential treatment for a substance use disorder when the [~~district~~] court determines by clear and convincing evidence that the individual:

- (1) suffers from a substance use disorder;
- (2) can reasonably benefit from the essential treatment;
- (3) is unlikely to substantially benefit from a less-restrictive alternative treatment; and

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(4) presents a serious harm to self or others.

Section 101. Section **26B-5-505**, which is renumbered from Section 62A-15-1205 is renumbered and amended to read:

~~[62A-15-1205].~~ 26B-5-505. Proceeding for essential treatment -- Duties of court -- Disposition.

(1) A [~~district~~] court shall review the assertions contained in the verified petition described in Section [~~62A-15-1203~~] 26B-5-503.

(2) If the court determines that the assertions, if true, are sufficient to order the respondent to undergo essential treatment, the court shall:

(a) set an expedited date for a time-sensitive hearing to determine whether the court should order the respondent to undergo essential treatment for a substance use disorder;

(b) provide notice of:

(i) the contents of the petition, including all assertions made;

(ii) a copy of any order for detention or examination;

(iii) the date of the hearing;

(iv) the purpose of the hearing;

(v) the right of the respondent to be represented by legal counsel; and

(vi) the right of the respondent to request a preliminary hearing before submitting to an order for examination;

(c) provide notice to:

(i) the respondent;

(ii) the respondent's guardian, if any; and

(iii) the petitioner; and

(d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be examined before the hearing date:

(i) by two essential treatment examiners; or

(ii) by one essential treatment examiner, if documentation before the court demonstrates that the respondent received emergency, life saving treatment:

(A) within 30 days before the day on which the petition for essential treatment and intervention was filed; or

(B) during the pendency of the petition for essential treatment and intervention.

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(3) An essential treatment examiner shall examine the respondent to determine:

(a) whether the respondent meets each of the criteria described in Section

~~[62A-15-1204]~~ 26B-5-504;

(b) the severity of the respondent's substance use disorder, if any;

(c) what forms of treatment would substantially benefit the respondent, if the examiner determines that the respondent has a substance use disorder; and

(d) the appropriate duration for essential treatment, if essential treatment is recommended.

(4) An essential treatment examiner shall certify the examiner's findings to the court within 24 hours after completion of the examination.

(5) The court may, based upon the findings of an essential treatment examiner, terminate the proceedings and dismiss the petition.

(6) The parties may, at any time, make a binding stipulation to an essential treatment plan and submit that plan to the court for court order.

(7) At the hearing, the petitioner and the respondent may testify and may cross-examine witnesses.

(8) If, upon completion of the hearing, the court finds that the criteria in Section ~~[62A-15-1204]~~ 26B-5-504 are met, the court shall order essential treatment for an initial period that:

(a) does not exceed 360 days, subject to periodic review as provided in Section ~~[62A-15-1206]~~ 26B-5-507; and

(b) (i) is recommended by an essential treatment examiner; or

(ii) is otherwise agreed to at the hearing.

(9) The court shall designate the facility for the essential treatment, as:

(a) described in the petition;

(b) recommended by an essential treatment examiner; or

(c) agreed to at the hearing.

(10) The court shall issue an order that includes the court's findings and the reasons for the court's determination.

(11) The court may order the petitioner to be the respondent's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

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Section 102. Section **26B-5-506**, which is renumbered from Section 62A-15-1205.5 is renumbered and amended to read:

~~[62A-15-1205.5].~~ **26B-5-506.** **Failure to comply with court order.**

(1) The provisions of this section apply after a respondent has been afforded full due process rights, as provided in this Essential Treatment and Intervention Act, including notice, an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that the evidence meets the clear and convincing standard, as described in Section ~~[62A-15-1204]~~ **26B-5-504**, for a court to order essential treatment and intervention.

(2) When a respondent fails to comply with a court order issued under Subsection ~~[62A-15-1205]~~ **26B-5-505**(2)(d) or (10), the court may:

- (a) find the respondent in contempt under Subsection 78B-6-301(5); and
- (b) issue a warrant of commitment under Section 78B-6-312.

(3) When a peace officer executes a warrant issued under this section, the officer shall take the respondent into protective custody and transport the respondent to the location specified by the court.

(4) Notwithstanding Subsection (3), if a peace officer determines through the peace 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;

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(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,

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life saving treatment is provided, may ask the individual who, if anyone, may be contacted and informed regarding the individual's treatment;

(b) a treating physician may hold the individual in the health care facility for up to 48 hours, if the treating physician determines that the individual poses a serious harm to self or others; and

(c) a relative of the individual may petition a court to be designated as the individual's personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the individual's medical and mental health care related to a substance use disorder.

(2) The petition described in Subsection (1)(c) shall include:

(a) the respondent's:

(i) legal name;

(ii) date of birth, if known;

(iii) social security number, if known; and

(iv) residence and current location, if known;

(b) the petitioner's relationship to the respondent;

(c) the name and residence of the respondent's legal guardian, if any and if known;

(d) a statement that the respondent:

(i) is suffering from a substance use disorder; and

(ii) has received, within the last 72 hours, emergency, life saving treatment;

(e) the factual basis for the statement described in Subsection (2)(d); and

(f) the name of any other individual, if any, who may be designated as the respondent's personal representative.

(3) A court shall grant a petition for designation as a personal representative, ex parte, if it appears from the petition for designation as a court-designated personal representative that:

(a) the respondent is suffering from a substance use disorder;

(b) the respondent received emergency, life saving treatment within 10 days before the day on which the petition for designation as a personal representative is filed;

(c) the petitioner is a relative of the respondent; and

(d) no other individual is otherwise designated as the respondent's personal representative.

(4) When a court grants, ex parte, a petition for designation as a personal

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representative, the court:

(a) shall provide notice to the respondent;

(b) shall order the petitioner to be the respondent's personal representative for 10 days after the day on which the court designates the petitioner as the respondent's personal representative; and

(c) may extend the duration of the order:

(i) for good cause shown, after the respondent has been notified and given a proper and sufficient opportunity to respond; or

(ii) if the respondent consents to an extension.

Section 106. Section **26B-5-510**, which is renumbered from Section 62A-15-1208 is renumbered and amended to read:

~~[62A-15-1208].~~ 26B-5-510. Confidentiality.

(1) The purpose of [~~Part 12, Essential Treatment and Intervention Act,~~] this part is to provide a process for essential treatment and intervention to save lives, preserve families, and reduce substance use disorder, including opioid addiction.

(2) An essential treatment petition and any other document filed in connection with the petition for essential treatment is confidential and protected.

(3) A hearing on an essential treatment petition is closed to the public, and only the following individuals and their legal counsel may be admitted to the hearing:

(a) parties to the petition;

(b) the essential treatment examiners who completed the court-ordered examination under Subsection [~~62A-15-1205~~] 26B-5-505(3);

(c) individuals who have been asked to give testimony; and

(d) individuals to whom notice of the hearing is required to be given under Subsection [~~62A-15-1205~~] 26B-5-505(2)(c).

(4) Testimony, medical evaluations, the petition, and other documents directly related to the adjudication of the petition and presented to the court in the interest of the respondent may not be construed or applied as an admission of guilt to a criminal offense.

(5) A court may, if applicable, enforce a previously existing warrant for a respondent or a warrant for a charge that is unrelated to the essential treatment petition filed under this part.

Section 107. Section **26B-5-511**, which is renumbered from Section 62A-15-1209 is

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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)~~ (4) (a) "Assertive community treatment" means mental health services and on-site
intervention that a person renders to an individual with a mental illness.

(b) "Assertive community treatment" includes the provision of assessment and
treatment plans, rehabilitation, support services, and referrals to other community resources.

~~— }~~
(5) "Assertive community treatment team" or "ACT team" means a mobile team of
medical and mental health professionals that provides assertive community outreach treatment
and, based on the individual circumstances of each case, coordinates with other medical
providers and appropriate community resources.

(6) "Mental health therapist" means the same as that term is defined in Section

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58-60-102.

(7) "Mental illness" means the same as that term is defined in Section 26B-5-301.

(8) "Psychiatrist" means the same as that term is defined in Section 26B-1-328.

~~[(3)]~~ (9) (a) "Utah 211" means an information and referral system that:

(i) maintains a database of:

(A) providers of health and human services; and

(B) volunteer opportunities and coordinators throughout the state;

(ii) assists individuals, families, and communities at no cost in identifying, understanding, and accessing the providers of health and human services; and
(iii) works collaboratively with state agencies, local governments, community-based organizations, not-for-profit organizations, organizations active in disaster relief, and faith-based organizations.

(b) "Utah 211" does not mean service provided by 911 and first responders.

Section 109. Section **26B-5-602**, which is renumbered from Section 62A-17-103 is renumbered and amended to read:

~~[62A-17-103].~~ **26B-5-602. Designated approved 211 service provider --**

Department responsibilities.

(1) The department shall designate an approved 211 service provider to provide information to Utah citizens about health and human services available in the citizen's community.

(2) Only a service provider approved by the department may provide 211 telephone services in this state.

(3) The department shall approve a 211 service provider after considering the following:

(a) the ability of the proposed 211 service provider to meet the national 211 standards recommended by the Alliance of Information and Referral Systems;

(b) the financial stability of the proposed 211 service provider;

(c) the community support for the proposed 211 service provider;

(d) the relationship between the proposed 211 service provider and other information and referral services; and

(e) other criteria as the department considers appropriate.

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(4) The department shall coordinate with the approved 211 service provider and other state and local agencies to ensure the joint development and maintenance of a statewide information database for use by the approved 211 service provider.

Section 110. Section **26B-5-603**, which is renumbered from Section 62A-17-104 is renumbered and amended to read:

~~[62A-17-104].~~ 26B-5-603. Utah 211 created -- Responsibilities.

(1) The designated 211 service provider described in Section ~~[62A-17-102]~~ 26B-5-601 shall be known as Utah 211.

(2) Utah 211 shall, as appropriations allow:

(a) by 2014:

(i) provide the services described in this Subsection (2) 24 hours a day, seven days a week;

(ii) abide by the key standards for 211 programs, as specified in the Standards for Professional Information and Referral Requirements for Alliance of Information Systems Accreditation and Operating 211 systems; and

(iii) be a point of entry for disaster-related information and referral;

(b) track types of calls received and referrals made;

(c) develop, coordinate, and implement a statewide information and referral system that integrates existing community-based structures with state and local agencies;

(d) provide information relating to:

(i) health and human services; and

(ii) volunteer opportunities;

(e) create an online, searchable database to provide information to the public about the health and human services provided by public or private entities throughout the state, and ensure that:

(i) the material on the searchable database is indexed:

(A) geographically to inform an individual about the health and human services provided in the area where the individual lives; and

(B) by type of service provided; and

(ii) the searchable database contains links to the Internet sites of any local provider of health and human services, if possible, and include:

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(A) the name, address, and phone number of organizations providing health and human services in a county; and

(B) a description of the type of services provided;

(f) be responsible, in collaboration with state agencies, for raising community awareness about available health and human services; and

(g) host meetings on a quarterly basis until calendar year 2014, and on a biannual basis beginning in 2014, to seek input and guidance from state agencies, local governments, community-based organizations, not-for-profit organizations, and faith-based organizations.

Section 111. Section **26B-5-604**, which is renumbered from Section 62A-17-105 is renumbered and amended to read:

~~[62A-17-105].~~ 26B-5-604. Other state agencies and local governments.

(1) A state agency or local government institution that provides health and human services, or a public or private entity receiving state-appropriated funds to provide health and human services, shall provide Utah 211 with information, in a form determined by Utah 211, about the services the agency or entity provides for inclusion in the statewide information and referral system.

(2) A state agency or local government institution that provides health and human services may not establish a new public telephone line or hotline, other than an emergency first responder hotline, to provide information or referrals unless the agency or institution first:

(a) consults with Utah 211 about using the existing 211 to provide access to the information or referrals; and

(b) assesses whether a new line or the existing 211 program would be more cost effective.

(3) Nothing in this section prohibits a state agency or local government institution from starting a public telephone line or hotline in an emergency situation.

(4) State agencies, local governments, community-based organizations, not-for-profit organizations, faith-based organizations, and businesses that engage in providing human services may contract with Utah 211 to provide specialized projects, including:

(a) public health campaigns;

(b) seasonal community services; and

(c) expanded point of entry services.

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Section 112. Section **26B-5-605**, which is renumbered from Section 62A-17-106 is renumbered and amended to read:

~~[62A-17-106].~~ 26B-5-605. Immunity from liability.

(1) Except as provided in Subsection (2), Utah 211, its employees, directors, officers, and information specialists are not liable to any person in a civil action for injury or loss as a result of an act or omission of Utah 211, its employees, directors, officers, or information specialists, in connection with:

(a) developing, adopting, implementing, maintaining, or operating the Utah 211 system;

(b) making Utah 211 available for use by the public; or

(c) providing 211 services.

(2) Utah 211, its employees, directors, officers, and information specialists shall be liable to any person in a civil action for an injury or loss resulting from willful or wanton misconduct.

Section 113. Section **26B-5-606**, which is renumbered from Section 62A-15-1802 is renumbered and amended to read:

~~[62A-15-1802].~~ 26B-5-606. Division duties -- ACT team license creation.

(1) To promote the availability of assertive community treatment, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for ACT team personnel and ACT teams, that includes:

(a) the standards the division establishes under Subsection (2); and

(b) guidelines for:

(i) required training and experience of ACT team personnel; and

(ii) the coordination of assertive community treatment and other community resources.

(2) (a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the certifications described in Subsection (1); and

(ii) create a statewide ACT team plan that:

(A) identifies statewide assertive community treatment needs, objectives, and priorities; and

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(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide assertive community treatment.

(b) The division may delegate the ACT team plan requirement described in Subsection (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community outreach treatment.

Section 114. Section **26B-5-607**, which is renumbered from Section 62A-15-1803 is renumbered and amended to read:

~~[62A-15-1803].~~ 26B-5-607. Grants for development of an ACT team.

(1) The division shall award grants for the development of one ACT team to provide assertive community treatment to individuals in the state.

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

(a) the number of individuals the proposed ACT team will serve; and

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

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

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 115. Section **26B-5-608**, which is renumbered from Section 62A-15-1804 is renumbered and amended to read:

~~[62A-15-1804].~~ 26B-5-608. Housing assistance program for individuals discharged from the Utah State Hospital and receiving assertive community treatment.

(1) (a) The division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a housing assistance program in consultation with the Utah State Hospital, established in Section ~~[62A-15-601]~~ 26B-5-302, and one or more housing authorities, associations of governments, or nonprofit entities.

(b) The housing assistance program shall provide the housing assistance described in Subsection (1)(c) to individuals:

(i) who are discharged from the Utah State Hospital; and

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(ii) who the division determines would benefit from assertive community treatment.

(c) The housing assistance provided under the housing assistance program may include:

(i) subsidizing rent payments for housing;

(ii) subsidizing the provision of temporary or transitional housing; or

(iii) providing money for one-time housing barrier assistance, including rental housing application fees, utility hookup fees, or rental housing security deposits.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for the operation of the housing assistance program described in Subsection (1).

(3) The division shall report to the Health and Human Services Interim Committee each year before November 30 regarding:

(a) the entities the division consulted with under Subsection (1)(a);

(b) the number of individuals who are benefitting from the housing assistance program described in Subsection (1);

(c) the type of housing assistance provided under the housing assistance program described in Subsection (1);

(d) the average monthly dollar amount provided to individuals under the housing assistance program described in Subsection (1); and

(e) recommendations regarding improvements or changes to the housing assistance program described in Subsection (1).

Section 116. Section **26B-5-609**, which is renumbered from Section 62A-15-1402 is renumbered and amended to read:

~~[62A-15-1402].~~ 26B-5-609. Department and division duties -- MCOT license creation.

(1) As used in this section:

(a) "Commission" means the Behavioral Health Crisis Response Commission created in Section 63C-18-202.

(b) "Emergency medical service personnel" means the same as that term is defined in Section 26B-4-101.

(c) "Emergency medical services" means the same as that term is defined in Section

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26B-4-101.

(d) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

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

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

(ii) a danger to others.

(g) (i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(h) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

[(+)] (2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection [(2)] (3); and

(b) guidelines for:

(i) credit for training and experience; and

(ii) the coordination of:

(A) emergency medical services and mental health crisis services;

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(B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and

(C) temporary commitment in accordance with Section ~~[62A-15-629]~~ 26B-5-331.

~~[(2)]~~ (3) (a) With recommendations from the commission, the division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection ~~[(+)]~~ (2); and

(ii) create a statewide MCOT plan that:

(A) identifies statewide mental health crisis services needs, objectives, and priorities;

and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.

(b) The division may delegate the MCOT plan requirement described in Subsection ~~[(2)(a)(ii)]~~ (3)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Section 117. Section **26B-5-610**, which is renumbered from Section 62A-15-1302 is renumbered and amended to read:

~~[62A-15-1302]~~. **26B-5-610. Contracts for statewide mental health crisis line and statewide warm line -- Crisis worker and certified peer support specialist qualification or certification -- Operational standards.**

(1) As used in this section:

(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

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(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~~ 26B-5-609.

(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.

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(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection ~~[(2)(a)]~~ (3)(a).

(4) In consultation with the commission, the division shall ensure that:

(a) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:

(i) mental health therapists; or

(ii) crisis workers;

(b) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health crisis line, an individual described in Subsection (4)(a) answers the call without the caller first:

(i) waiting on hold; or

(ii) being screened by an individual other than a mental health therapist or crisis worker;

(c) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line;

(d) the following individuals are available to staff and answer calls to the statewide 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;

(e) when an individual calls the statewide mental health crisis line, the individual's call may be transferred to the statewide warm line if the individual is not experiencing a mental health crisis; and

(f) when an individual calls the statewide warm line, the individual's call may be transferred to the statewide mental health crisis line if the individual is experiencing a mental health crisis.

(5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the hours and days of operation for the statewide warm line.

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Section 118. Section **26B-5-611**, which is renumbered from Section 62A-15-1101 is renumbered and amended to read:

~~[62A-15-1101]~~. **26B-5-611. Suicide prevention -- Reporting requirements.**

(1) As used in this section:

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

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(c) "Coalition" means the Statewide Suicide Prevention Coalition created under Subsection (3).

(d) "Coordinator" means the state suicide prevention coordinator appointed under Subsection (2).

(e) "Fund" means the Governor's Suicide Prevention Fund created in Section 26B-1-325.

(f) "Intervention" means an effort to prevent a person from attempting suicide.

(g) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.

(h) "Postvention" means intervention after a suicide attempt or a suicide death to reduce risk and promote healing.

(i) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.

~~[(1)]~~ (2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

~~[(2)]~~ (3) The coordinator shall:

(a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and

(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

~~[(3)]~~ (4) The state suicide prevention program may include the following components:

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- (a) delivery of resources, tools, and training to community-based coalitions;
- (b) evidence-based suicide risk assessment tools and training;
- (c) town hall meetings for building community-based suicide prevention strategies;
- (d) suicide prevention gatekeeper training;
- (e) training to identify warning signs and to manage an at-risk individual's crisis;
- (f) evidence-based intervention training;
- (g) intervention skills training;
- (h) postvention training; or
- (i) a public education campaign to improve public awareness about warning signs of suicide and suicide prevention resources.

~~[(4)]~~ (5) The coordinator shall coordinate with the following to gather statistics, among other duties:

- (a) local mental health and substance abuse authorities;
- (b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;

~~[(c) the Department of Health;]~~

(c) applicable divisions and offices within the department;

- (d) health care providers, including emergency rooms;
- (e) federal agencies, including the Federal Bureau of Investigation;
- (f) other unbiased sources; and
- (g) other public health suicide prevention efforts.

~~[(5)]~~ (6) The coordinator shall provide a written report to the Health and Human Services Interim Committee, at or before the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections ~~[(1) and (3)]~~ (2) and (4);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

~~[(6)]~~ (7) The coordinator shall, in consultation with the bureau, implement and manage

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the operation of the firearm safety program described in Subsection ~~[62A-15-103]~~
26B-5-102(3).

~~[(7)]~~ (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program described in Section ~~[62A-15-103.1]~~
26B-5-110, which shall include:

(i) attendance at the suicide prevention education course described in Subsection ~~[62A-15-103]~~ 26B-5-102(3); and

(ii) distribution of the firearm safety brochures or packets created in Subsection ~~[62A-15-103]~~ 26B-5-102(3), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

~~[(8)]~~ (9) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice and Youth Services.

~~[(9)]~~ (10) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Section 119. Section **26B-5-612**, which is renumbered from Section 26-1-43 is renumbered and amended to read:

~~[26-1-43].~~ **26B-5-612. Integrated behavioral health care grant program.**

(1) As used in this section:

(a) "Integrated behavioral health care services" means coordinated physical and behavioral health care services for one patient.

(b) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(c) "Project" means a project described in Subsection (2).

(2) Before July 1 of each year, the department shall issue a request for proposals in

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accordance with this section to award a grant to a local mental health authority for development or expansion of a project to provide effective delivery of integrated behavioral health care services.

(3) To be considered for a grant award under Subsection (2), a local mental health authority shall submit an application to the department that:

(a) explains the benefits of integrated behavioral health care services to a patient who is receiving mental health or substance use disorder treatment;

(b) describes the local mental health authority's operational plan for delivery of integrated behavioral health care services under the proposed project and any data or evidence-based practices supporting the likely success of the operational plan;

(c) includes:

(i) the number of patients to be served by the local mental health authority's proposed project; and

(ii) the cost of the local mental health authority's proposed project; and

(d) provides details regarding:

(i) any plan to use funding sources in addition to the grant award under this section for the local mental health authority's proposed project;

(ii) any existing or planned contracts or partnerships between the local mental health authority and other individuals or entities to develop or implement the local mental health authority's proposed project; and

(iii) the sustainability and reliability of the local mental health authority's proposed project.

(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

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project.

(5) Before July 1, 2025, the department shall report to the Health and Human Services Interim Committee regarding:

(a) any knowledge gained or obstacles encountered in providing integrated behavioral health care services under each project;

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

(c) recommendations for expanding a project statewide.

Section 120. Section **26B-6-101** is amended to read:

CHAPTER 6. LONG TERM SERVICES AND SUPPORTS, AGING, AND DISABILITIES

Part 1. Aging and Adult Services

26B-6-101. Chapter definitions.

~~Reserved~~ As used in this chapter:

(1) "Adult" or "high risk adult" means a person 18 years ~~of age~~ old or older who experiences a condition:

(a) that places the person at a high risk of being unable to care for
~~himself~~ themselves:

(i) as determined by assessment; and

(ii) due to the onset of a physical or cognitive impairment or frailty; and

(b) for which the person is not eligible to receive services under:

(i) Part 4, Division of Services for People with Disabilities; or

(ii) Chapter 5, Health Care -- Substance Use and Mental Health.

(2) "Aging" and "aged" means a person 60 years ~~of age~~ old or older.

(3) "Area agency" means an area agency that provides services to the aged, high risk adults, or both within a planning and service area.

(4) "Area agency on aging" means a public or private nonprofit agency or office designated by the division to:

(a) operate within a planning and service area of the state; and

(b) develop and implement a broad range of services for the aged in the area described in Subsection (4)(a).

(5) "Area agency on high risk adults" means a public or private nonprofit agency or

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office designated by the division to:

- (a) operate within a planning and service area of the state; and
- (b) develop and implement services for high risk adults in the area described in

Subsection (5)(a).

(6) "Board" means the Board of Aging and Adult Services created in ~~f26B-1-~~
~~426~~Section 26B-1-426.

(7) "Director" means the director of the division.

(8) "Division" means the Division of Aging and Adult Services within the department.

(9) "Personal care attendant" means a person who:

(a) is selected by:

(i) an aged person;

(ii) an agent of an aged person;

(iii) a high risk adult; or

(iv) an agent of a high risk adult; and

(b) provides personal services to the:

(i) aged person described in Subsection (9)(a)(i); or

(ii) high risk adult described in Subsection (9)(a)(iii).

(10) "Personal services" means nonmedical care and support, including assisting a
person with:

(a) meal preparation;

(b) eating;

(c) bathing;

(d) dressing;

(e) personal hygiene; or

(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;

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- (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:
 - (a) serve as an effective and visible advocate for the aging and adult population of this state;
 - (b) develop and administer a state plan under the policy direction of the board; and
 - (c) take primary responsibility for state activities relating to provisions of the Older Americans Act of 1965, as amended.
- (2) (a) The division has authority to designate:

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(i) planning and service areas for the state; and
(ii) an area agency on aging within each planning and service area to design and implement a comprehensive and coordinated system of services and programs for the aged within appropriations from the Legislature.

(b) Designation as an area agency on aging may be withdrawn:

(i) upon request of the area agency on aging; or

(ii) upon noncompliance with the provisions of the:

(A) Older Americans Act of 1965, 42 U.S.C. Sec. 3001 et seq.;

(B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C. Sec. 3001 et seq.;

(C) provisions of this chapter; or

(D) rules, policies, or procedures established by the division.

(3) (a) The division has the authority to designate:

(i) planning and service areas for the state; and

(ii) subject to Subsection (3)(b), an area agency on high risk adults within each planning and service area to design and implement a comprehensive and coordinated system of case management and programs for high risk adults within appropriations from the Legislature.

(b) For purposes of Subsection (3)(a)(ii), before October 1, 1998, the division shall designate as the area agency on high risk adults in a planning and service area:

(i) the area agency on aging that operates within the same geographic area if that agency requests, before July 1, 1998, to expand that agency's current contract with the division to include the responsibility of:

(A) being the area agency on high risk adults; or

(B) operating the area agency on high risk adults:

(I) through joint cooperation with one or more existing area agencies on aging; and

(II) without reducing geographical coverage in any service area; or

(ii) a public or private nonprofit agency or office if the area agency on aging that operates within the same geographic area has not made a request in accordance with Subsection (3)(b)(i).

(c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.

(ii) The division's efforts to establish area agencies on high risk adults shall start with

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counties with a population of more than 150,000 people.

(d) Designation as an area agency on high risk adults may be withdrawn:

(i) upon request by the area agency; or

(ii) upon noncompliance with:

(A) state law;

(B) federal law; or

(C) rules, policies, or procedures established by the division.

(4) (a) The division may, by following the procedures and requirements of Title 63J,

Chapter 5, Federal Funds Procedures Act:

(i) seek federal grants, loans, or participation in federal programs; and

(ii) receive and distribute state and federal funds for the division's programs and services to the aging and adult populations of the state.

(b) The division may not disburse public funds to a personal care attendant as payment for personal services rendered to an aged person or high risk adult, except as provided in Section ~~[62A-3-104.3]~~ ~~[{26B-6-107}](#)~~ [26B-6-107](#).

(5) The division has authority to establish, either directly or by contract, programs of advocacy, monitoring, evaluation, technical assistance, and public education to enhance the quality of life for aging and adult citizens of the state.

(6) In accordance with the rules of the division and Title 63G, Chapter 6a, Utah Procurement Code, the division may contract with:

(a) the governing body of an area agency to provide a comprehensive program of services; or

(b) public and private entities for special services.

(7) The division has authority to provide for collection, compilation, and dissemination of information, statistics, and reports relating to issues facing aging and adult citizens.

(8) The division has authority to prepare and submit reports regarding the operation and administration of the division to the department, the Legislature, and the governor, as requested.

(9) The division shall:

(a) implement and enforce policies established by the board governing all aspects of the division's programs for aging and adult persons in the state;

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(b) in order to ensure compliance with all applicable state and federal statutes, policies, and procedures, monitor and evaluate programs provided by or under contract with:

- (i) the division;
- (ii) area agencies; and
- (iii) an entity that receives funds from an area agency;
- (c) examine expenditures of public funds;
- (d) withhold funds from programs based on contract noncompliance;
- (e) review and approve plans of area agencies in order to ensure:
 - (i) compliance with division policies; and
 - (ii) a statewide comprehensive program;

(f) in order to further programs for aging and adult persons and prevent duplication of services, promote and establish cooperative relationships with:

- (i) state and federal agencies;
- (ii) social and health agencies;
- (iii) education and research organizations; and
- (iv) other related groups;
- (g) advocate for the aging and adult populations;
- (h) promote and conduct research on the problems and needs of aging and adult

persons;

- (i) submit recommendations for changes in policies, programs, and funding to the:
 - (i) governor; and
 - (ii) Legislature; and

(j) (i) accept contributions to and administer the funds contained in the ~~Out and About~~ Homebound Transportation Assistance Fund created in Section ~~62A-3-110~~ 26B-1-323; and

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate the administration of the ~~Out and About~~ Homebound Transportation Assistance Fund in accordance with Section ~~62A-3-110~~ 26B-1-323.

Section 124. Section **26B-6-105**, which is renumbered from Section 62A-3-104.1 is renumbered and amended to read:

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~~[62A-3-104.1].~~ 26B-6-105. Powers and duties of area agencies --

Registration as a limited purpose entity.

(1) An area agency that provides services to an aged person, or a high risk adult shall within the area agency's respective jurisdiction:

(a) advocate by monitoring, evaluating, and providing input on all policies, programs, hearings, and levies that affect a person described in this Subsection (1);

(b) design and implement a comprehensive and coordinated system of services within a designated planning and service area;

(c) conduct periodic reviews and evaluations of needs and services;

(d) prepare and submit to the division plans for funding and service delivery for services within the designated planning and service area;

(e) establish, either directly or by contract, programs licensed under Chapter 2, ~~[Licensure of]~~ Part 1, Human Services Programs and Facilities;

(f) (i) appoint an area director;

(ii) prescribe the area director's duties; and

(iii) provide adequate and qualified staff to carry out the area plan described in Subsection (1)(d);

(g) establish rules not contrary to policies of the board and rules of the division, regulating local services and facilities;

(h) operate other services and programs funded by sources other than those administered by the division;

(i) establish mechanisms to provide direct citizen input, including an area agency advisory council with a majority of members who are eligible for services from the area agency;

(j) establish fee schedules; and

(k) comply with the requirements and procedures of:

(i) Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) Before disbursing any public funds, an area agency shall require that all entities receiving any public funds agree in writing that:

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(a) the division may examine the entity's program and financial records; and

(b) the auditor of the local area agency may examine and audit the entity's program and financial records, if requested by the local area agency.

(3) An area agency on aging may not disburse public funds to a personal care attendant as payment for personal services rendered to an aged person or high risk adult, except as provided in Section [~~62A-3-104.3~~] ~~+26B-6-107~~; 26B-6-107.

(4) (a) For the purpose of providing services pursuant to this part, a local area agency may receive:

(i) property;

(ii) grants;

(iii) gifts;

(iv) supplies;

(v) materials;

(vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);

and

(vii) contributions.

(b) If a gift is conditioned upon the gift's use for a specified service or program, the gift shall be used for the specific service or program.

(5) (a) Area agencies shall award all public funds in compliance with:

(i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

(ii) a county procurement ordinance that requires procurement procedures similar to those described in Subsection (5)(a)(i).

(b) (i) If all initial bids on a project are rejected, the area agency shall publish a new invitation to bid.

(ii) If no satisfactory bid is received by the area agency described in Subsection (5)(b)(i), when the bids received from the second invitation are opened the area agency may execute a contract without requiring competitive bidding.

(c) (i) An area agency need not comply with the procurement provisions of this section when it disburses public funds to another governmental entity.

(ii) For purposes of this Subsection (5)(c), "governmental entity" means any political subdivision or institution of higher education of the state.

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(d) (i) Contracts awarded by an area agency shall be for a:

(A) fixed amount; and

(B) limited period.

(ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in available funding for the same contract purpose without competition.

(6) Local area agencies shall comply with:

(a) applicable state and federal:

(i) statutes;

(ii) policies; and

(iii) audit requirements; and

(b) directives resulting from an audit described in Subsection (6)(a)(iii).

(7) (a) Each area agency shall register and maintain the area agency's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) An area agency that fails to comply with Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 125. Section **26B-6-106**, which is renumbered from Section 62A-3-104.2 is renumbered and amended to read:

~~[62A-3-104.2].~~ 26B-6-106. Contracts for services.

When an area agency has established a plan to provide services authorized by this chapter, and those services meet standards fixed by rules of the board, the area agency may enter into a contract with the division for services to be furnished by that area agency for an agreed compensation to be paid by the division.

Section 126. Section **26B-6-107**, which is renumbered from Section 62A-3-104.3 is renumbered and amended to read:

~~[62A-3-104.3].~~ 26B-6-107. Disbursal of public funds -- Background check of a personal care attendant.

(1) ~~[For purposes of]~~ As used in this section, "office" means [the same as that term is defined in Section 62A-2-101] Office of Licensing ~~and Background Checks~~ within the department.

(2) Public funds may not be disbursed to a personal care attendant as payment for personal services rendered to an aged person or high risk adult unless the office approves the

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personal care attendant to have direct access and provide services to children or vulnerable adults pursuant to Section ~~[62A-2-120]~~ ~~+26B-2-120+~~ 26B-2-120.

(3) For purposes of Subsection (2), the office shall conduct a background check of a personal care attendant:

(a) who desires to receive public funds as payment for the personal services described in Subsection (2); and

(b) using the same procedures established for a background check of an applicant for a license under Section ~~[62A-2-120]~~ ~~+26B-2-120+~~ 26B-2-120.

Section 127. Section **26B-6-108**, which is renumbered from Section 62A-3-105 is renumbered and amended to read:

~~[62A-3-105].~~ **26B-6-108. Matching requirements for state and federal Older American funds.**

(1) Except as provided in Subsection (2), a local area agency on aging that receives state or federal Older Americans Act Supportive Services, Older Americans Act Congregate Meals, or Older Americans Act Home Delivered Meals related funds from the division to provide programs and services under this chapter shall match those funds in an amount at least equal to:

- (a) 15% of service dollars; and
- (b) 25% of administrative dollars.

(2) A local area agency on aging is not required to match cash-in-lieu funds related to the Home Delivered Meals program or congregate meals.

(3) A local area agency on aging may include services, property, or other in-kind contributions to meet the administrative dollars match but may only use cash to meet the service dollars match.

Section 128. Section **26B-6-109**, which is renumbered from Section 62A-3-106 is renumbered and amended to read:

~~[62A-3-106].~~ **26B-6-109. Eligibility criteria.**

Eligibility for services provided by the division directly or through contractual arrangements shall be determined by criteria established by the division and approved by the board.

Section 129. Section **26B-6-110**, which is renumbered from Section 62A-3-106.5 is

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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]~~ 26B-6-205.

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~~ 26B-6-105 and ~~26B-6-106~~ 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

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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

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(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~~ 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

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(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:

(i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

(ii) when informed consent, as defined in Section 76-5-111, has been obtained.

(3) "Adult" means an individual who is 18 years old or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a

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case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity to consent" means the ability of an individual to understand and communicate regarding the nature and consequences of decisions relating to the individual, and relating to the individual's property and lifestyle, including a decision to accept or refuse services.

(7) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(8) "Counsel" means an attorney licensed to practice law in this state.

(9) "Database" means the statewide database maintained by the division under Section ~~[62A-3-311.1]~~ ~~[26B-6-210](#)~~ [26B-6-210](#).

(10) (a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

(12) "Elder adult" means an individual 65 years old or older.

(13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate 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

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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;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

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(b) "Isolation" does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(21) "Lacks capacity to consent" is as defined in Section 76-5-111.4.

(22) (a) "Neglect" means:

(i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or

(B) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or is likely to cause harm to the vulnerable adult;

(v) self-neglect by the vulnerable adult; or

(vi) abandonment by a caretaker.

(b) "Neglect" does not include conduct, or failure to take action, that is permitted or excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

(23) "Physical injury" includes the damage and conditions described in Section 76-5-111.

(24) "Protected person" means a vulnerable adult for whom the court has ordered protective services.

(25) "Protective services" means services to protect a vulnerable adult from abuse, neglect, or exploitation.

(26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food,

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water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's well being when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

(27) "Serious physical injury" is as defined in Section 76-5-111.

(28) "Supported" means a finding by the division that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(29) "Undue influence" occurs when a person:

(a) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or

(b) uses the person's role, relationship, or power:

(i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or

(ii) to gain control deceptively over the decision making of the vulnerable adult.

(30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

Section 135. Section **26B-6-202**, which is renumbered from Section 62A-3-302 is renumbered and amended to read:

~~[62A-3-302].~~ 26B-6-202. Purpose of Adult Protective Services Program.

Subject to the rules made by the division under Section ~~[62A-3-106.5]~~ [26B-6-110](#), Adult Protective Services:

(1) shall investigate or cause to be investigated reports of alleged abuse, neglect, or exploitation of vulnerable adults;

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(2) shall, where appropriate, provide short-term, limited protective services with the permission of the affected vulnerable adult or the guardian or conservator of the vulnerable adult;

(3) shall, subject to Section [62A-3-320] ~~(26B-6-217)~~ 26B-6-217, provide emergency protective services; and

(4) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and develop procedures and policies relating to:

(a) reporting and investigating incidents of abuse, neglect, or exploitation; and

(b) providing protective services to the extent that funds are appropriated by the Legislature for this purpose.

Section 136. Section **26B-6-203**, which is renumbered from Section 62A-3-303 is renumbered and amended to read:

~~[62A-3-303].~~ **26B-6-203. Powers and duties of Adult Protective Services.**

In addition to all other powers and duties that Adult Protective Services is given under this part, Adult Protective Services:

(1) shall maintain an intake system for receiving and screening reports;

(2) shall investigate referrals that meet the intake criteria;

(3) shall conduct assessments of vulnerability and functional capacity as it relates to an allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;

(4) shall perform assessments based on protective needs and risks for a vulnerable adult who is the subject of a report;

(5) may address any protective needs by making recommendations to and coordinating with the vulnerable adult or by making referrals to community resources;

(6) may provide short-term, limited services to a vulnerable adult when family or community resources are not available to provide for the protective needs of the vulnerable adult;

(7) shall have access to facilities licensed by, or contracted with, the department ~~[or the Department of Health]~~ for the purpose of conducting investigations;

(8) shall be given access to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including private, controlled, or protected medical or financial records of a vulnerable adult who is the subject of an investigation if:

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(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~~)~~ 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

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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

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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~~ 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 to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity

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Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Professional Licensing if the individual is a health care provider, as defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully 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).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or

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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 order.

(2) A peace officer described in Subsection (1) shall, within four hours after a vulnerable adult is transported to an appropriate medical or shelter facility:

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(a) notify Adult Protective Services intake; and

(b) request that Adult Protective Services or the division file a petition with the court for an emergency protective order.

Section 141. Section **26B-6-208**, which is renumbered from Section 62A-3-309 is renumbered and amended to read:

~~[62A-3-309].~~ 26B-6-208. Enforcement by division -- Duty of county or district attorney.

(1) It is the duty of the county or district attorney, as appropriate under Sections 17-18a-202 and 17-18a-203, to:

(a) assist and represent the division;

(b) initiate legal proceedings to protect vulnerable adults; and

(c) take appropriate action to prosecute the alleged offenders.

(2) If the county or district attorney fails to act upon the request of the division to provide legal assistance within five business days after the day on which the request is made:

(a) the division may request the attorney general to act; and

(b) the attorney general may, in the attorney general's discretion, assume the responsibilities and carry the action forward in place of the county or district attorney.

Section 142. Section **26B-6-209**, which is renumbered from Section 62A-3-311 is renumbered and amended to read:

~~[62A-3-311].~~ 26B-6-209. Requests for records.

(1) Requests for records maintained by Adult Protective Services shall be made in writing to Adult Protective Services.

(2) Classification and disclosure of records shall be made in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 143. Section **26B-6-210**, which is renumbered from Section 62A-3-311.1 is renumbered and amended to read:

~~[62A-3-311.1].~~ 26B-6-210. Statewide database -- Restricted use and access.

(1) The division shall maintain a database for reports of vulnerable adult abuse, neglect, or exploitation made pursuant to this part.

(2) The database shall include:

(a) the names and identifying data of the alleged abused, neglected, or exploited

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vulnerable adult and the alleged perpetrator;

(b) information regarding whether or not the allegation of abuse, neglect, or exploitation was found to be:

(i) supported;

(ii) inconclusive;

(iii) without merit; or

(iv) for reports for which the finding is made before May 5, 2008:

(A) substantiated; or

(B) unsubstantiated; and

(c) any other information that may be helpful in furthering the purposes of this part, as determined by the division.

(3) Information obtained from the database may be used only:

(a) for statistical summaries compiled by the department that do not include names or other identifying data;

(b) where identification of an individual as a perpetrator may be relevant in a determination regarding whether to grant or deny a license, privilege, or approval made by:

(i) the department;

(ii) the Division of Professional Licensing;

~~[(iii) the Bureau of Licensing, within the Department of Health;]~~

(iii) the Division of Licensing and Background Checks within the department;

(iv) the Bureau of Emergency Medical Services and Preparedness, within the ~~[Department of Health]~~ department, or a designee of the Bureau of Emergency Medical Services and Preparedness;

(v) any government agency specifically authorized by statute to access or use the information in the database; or

(vi) an agency of another state that performs a similar function to an agency described in Subsections (3)(b)(i) through (iv); or

(c) as otherwise specifically provided by law.

Section 144. Section **26B-6-211**, which is renumbered from Section 62A-3-311.5 is renumbered and amended to read:

~~[62A-3-311.5].~~ 26B-6-211. Notice of supported finding -- Procedure for

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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:

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(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

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(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.

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(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}~~ 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 established by the division, and that payment is provided for as part of the written agreement for services described in Section ~~[62A-3-315]~~ ~~{26B-6-214}~~ 26B-6-214;

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(2) the vulnerable adult to be protected is eligible for those services from another governmental agency; or

(3) the court appoints a guardian or conservator and orders that the costs be paid from the vulnerable adult's estate.

Section 149. Section **26B-6-216**, which is renumbered from Section 62A-3-317 is renumbered and amended to read:

~~[62A-3-317].~~ 26B-6-216. Venue for protective services proceedings.

Venue for all proceedings related to protective services and emergency protective services under this ~~[chapter]~~ part is in the county where the vulnerable adult resides or is present.

Section 150. Section **26B-6-217**, which is renumbered from Section 62A-3-320 is renumbered and amended to read:

~~[62A-3-320].~~ 26B-6-217. Emergency protective services -- Forcible entry.

(1) Adult Protective Services shall, immediately upon court order, provide emergency protective services to a court-designated vulnerable adult.

(2) A court may, without notice, order emergency protective services immediately upon receipt of a petition for emergency protective services when a court finds that:

(a) the subject of the petition is a vulnerable adult;

(b) (i) the vulnerable adult does not have a court-appointed guardian or conservator; or

(ii) the guardian or conservator is not effectively performing the guardian's or conservator's duties;

(c) an emergency exists; and

(d) the welfare, safety, or best interests of the vulnerable adult requires emergency protective services.

(3) An emergency protective services order shall specifically designate the services that are approved and the facts that support the provision of those services.

(4) Services authorized in an emergency protective services order may include hospitalization, nursing, custodial care, or a change in residence.

(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

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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~~ 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;~~

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~~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~~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 director.

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Section 155. Section **26B-6-303**, which is renumbered from Section 62A-14-104 is renumbered and amended to read:

~~[62A-14-104].~~ 26B-6-303. Director of the office -- Appointment -- Qualifications.

- (1) The director of the office shall be appointed by the executive director.
- (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 guardianship and conservatorship.
- (3) The director is the administrative head of the office.

Section 156. Section **26B-6-304**, which is renumbered from Section 62A-14-105 is renumbered and amended to read:

~~[62A-14-105].~~ 26B-6-304. Powers and duties of the office.

- (1) The office shall:
 - (a) develop and operate a statewide program to:
 - (i) educate the public about the role and function of guardians and conservators;
 - (ii) educate guardians and conservators on:
 - (A) the duties of a guardian and a conservator; and
 - (B) standards set by the National Guardianship Association for guardians and conservators; and
 - (iii) serve as a guardian, conservator, or both for a ward upon appointment by a court when no other person is able and willing to do so and the office petitioned for or agreed in advance to the appointment;
 - (b) possess and exercise all the powers and duties specifically given to the office by virtue of being appointed as guardian or conservator of a ward, including the power to access a ward's records;
 - (c) review and monitor the personal and, if appropriate, financial status of each ward for whom the office has been appointed to serve as guardian or conservator;
 - (d) train and monitor each employee and volunteer, and monitor each contract provider to whom the office has delegated a responsibility for a ward;
 - (e) retain all court-delegated powers and duties for a ward;
 - (f) report on the personal and financial status of a ward as required by a court in

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accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property;

(g) handle a ward's funds in accordance with the department's trust account system;

(h) request that the department's audit plan, established pursuant to Section 63I-5-401, include the requirement of an annual audit of all funds and property held by the office on behalf of wards;

(i) maintain accurate records concerning each ward, the ward's property, and office services provided to the ward;

(j) make reasonable and continuous efforts to find a family member, friend, or other person to serve as a ward's guardian or conservator;

(k) after termination as guardian or conservator, distribute a ward's property in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property; and

(l) submit recommendations for changes in state law and funding to the governor and the Legislature and report to the governor and Legislature, upon request.

(2) The office may:

(a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, to be appointed an incapacitated person's guardian, conservator, or both after conducting a prepetition assessment under Section ~~[62A-14-107]~~ ~~[§26B-6-305](#)~~ [26B-6-305](#);

(b) develop and operate a statewide program to recruit, train, supervise, and monitor volunteers to assist the office in providing guardian and conservator services;

(c) delegate one or more responsibilities for a ward to an employee, volunteer, or contract provider, except as provided in Subsection ~~[62A-14-107]~~ ~~[§26B-6-305](#)~~ [26B-6-305](#)(1);

(d) solicit and receive private donations to provide guardian and conservator services under this ~~[chapter]~~ part; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) effectuate policy; and

(ii) carry out the office's role as guardian and conservator of wards as provided in this chapter.

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Section 157. Section **26B-6-305**, which is renumbered from Section 62A-14-107 is renumbered and amended to read:

~~[62A-14-107].~~ 26B-6-305. Prepetition assessment and plan.

(1) Before the office may file a petition in court to be appointed guardian or conservator of a person, the office shall:

(a) conduct a face-to-face needs assessment, by someone other than a volunteer, to determine whether the person suffers from a mental or physical impairment that renders the person substantially incapable of:

(i) caring for his personal safety;

(ii) managing his financial affairs; or

(iii) attending to and providing for such necessities as food, shelter, clothing, and medical care, to the extent that physical injury or illness may result;

(b) assess the financial resources of the person based on information supplied to the office at the time of assessment;

(c) inquire and, if appropriate, search to determine whether any other person may be willing and able to serve as the person's guardian or conservator; and

(d) determine the form of guardianship or conservatorship to request of a court, if any, giving preference to the least intensive form of guardianship or conservatorship, consistent with the best interests of the person.

(2) The office shall prepare an individualized guardianship or conservator plan for each ward within 60 days of appointment.

Section 158. Section **26B-6-306**, which is renumbered from Section 62A-14-108 is renumbered and amended to read:

~~[62A-14-108].~~ 26B-6-306. Office volunteers.

(1) A person who desires to be an office volunteer shall:

(a) possess demonstrated personal characteristics of honesty, integrity, compassion, and concern for incapacitated persons; and

(b) upon request, submit information for a background check pursuant to Section 26B-1-211.

(2) An office volunteer may not receive compensation or benefits, but may be reimbursed by the office for expenses actually and reasonably incurred, consistent with Title

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67, Chapter 20, Volunteer Government Workers Act.

(3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services Act.

Section 159. Section **26B-6-307**, which is renumbered from Section 62A-14-109 is renumbered and amended to read:

~~[62A-14-109].~~ 26B-6-307. Contract for services.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the office may contract with one or more providers to perform guardian and conservator duties.

(2) The office shall review and monitor the services provided by a contract provider to a ward for whom the office has been appointed guardian or conservator.

Section 160. Section **26B-6-308**, which is renumbered from Section 62A-14-110 is renumbered and amended to read:

~~[62A-14-110].~~ 26B-6-308. Court, legal, and other costs.

(1) The office may not be appointed as the guardian or conservator of a person unless the office petitioned for or agreed in advance to the appointment.

(2) Except as provided in Subsection (4), the court shall order the ward or the ward's estate to pay for the cost of services rendered under this chapter, including court costs and reasonable ~~[attorneys']~~ attorney fees.

(3) If the office recovers ~~[attorneys']~~ attorney fees under Subsection (2), the office shall transmit those fees to the attorneys who represented the ward or the office in connection with the ward's case.

(4) If a ward is indigent, the office shall provide guardian and conservator services free of charge and shall make reasonable efforts to secure pro bono legal services for the ward.

(5) Under no circumstances may court costs or ~~[attorneys']~~ attorney fees be assessed to the office.

Section 161. Section **26B-6-309**, which is renumbered from Section 62A-14-111 is renumbered and amended to read:

~~[62A-14-111].~~ 26B-6-309. Duty of the county attorney or district attorney.

(1) The attorney general shall advise the office on legal matters and represent the office in legal proceedings.

(2) Upon the request of the attorney general, a county attorney may represent the office

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in connection with the filing of a petition for appointment as guardian or conservator of an incapacitated person and with routine, subsequent appearances.

Section 162. Section **26B-6-401**, which is renumbered from Section 62A-5-101 is renumbered and amended to read:

Part 4. Division of Services for People with Disabilities

~~[62A-5-101].~~ 26B-6-401. Definitions.

As used in this ~~[chapter]~~ part:

- (1) "Approved provider" means a person approved by the division to provide home-based services.
- (2) "Board" means the Utah State Developmental Center Board created under Section ~~[62A-5-202.5]~~ ~~(26B-1-429)~~ 26B-1-429.
- (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.
 - (b) "Brain injury" does not include a deteriorating disease.
- (4) "Designated intellectual disability professional" means:
 - (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:
 - (i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or
 - (B) has at least one year of clinical experience with persons with an intellectual disability; and
 - (ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or
 - (b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:
 - (i) has at least two years of clinical experience with persons with an intellectual disability; and
 - (ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.
- (5) "Deteriorating disease" includes:

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- (a) multiple sclerosis;
- (b) muscular dystrophy;
- (c) Huntington's chorea;
- (d) Alzheimer's disease;
- (e) ataxia; or
- (f) cancer.

(6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part [2] 5, Utah State Developmental Center.

(7) "Director" means the director of the Division of Services for People with Disabilities.

(8) "Direct service worker" means a person who provides services to a person with a disability:

- (a) when the services are rendered in:
 - (i) the physical presence of the person with a disability; or
 - (ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and
- (b) (i) under a contract with the division;
- (ii) under a grant agreement with the division; or
- (iii) as an employee of the division.

(9) (a) "Disability" means a severe, chronic disability that:

(i) is attributable to:

(A) an intellectual disability;

(B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. Sec. 435.1010;

(C) a physical disability; or

(D) a brain injury;

(ii) is likely to continue indefinitely;

(iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:

(I) self-care;

(II) receptive and expressive language;

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- (III) learning;
- (IV) mobility;
- (V) self-direction;
- (VI) capacity for independent living; or
- (VII) economic self-sufficiency; or

(B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:

- (I) memory or cognition;
- (II) activities of daily life;
- (III) judgment and self-protection;
- (IV) control of emotions;
- (V) communication;
- (VI) physical health; or
- (VII) employment; and

(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:

- (A) may continue throughout life; and
- (B) must be individually planned and coordinated.

(b) "Disability" does not include a condition due solely to:

- (i) mental illness;
- (ii) personality disorder;
- (iii) deafness or being hard of hearing;
- (iv) visual impairment;
- (v) learning disability;
- (vi) behavior disorder;
- (vii) substance abuse; or
- (viii) the aging process.

(10) "Division" means the Division of Services for People with Disabilities.

(11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division, to receive services that are administered by the division.

(12) "Endorsed program" means a facility or program that:

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(a) is operated:

(i) by the division; or

(ii) under contract with the division; or

(b) provides services to a person committed to the division under Part [3] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(13) "Licensed physician" means:

(a) an individual licensed to practice medicine under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) a medical officer of the United States Government while in this state in the performance of official duties.

(14) "Limited support services" means services that are administered by the division to individuals with a disability:

(a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for Medicare and Medicaid Services that permits the division to limit services to an individual who is eligible to receive division services; and

(b) through a program that:

(i) was not operated by the division on or before January 1, 2020; and

(ii) (A) limits the kinds of services that an individual may receive; or

(B) sets a maximum total dollar amount for program services provided to each individual.

(15) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.

(16) "Public funds" means state or federal funds that are disbursed by the division.

(17) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

(18) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section [62A-5-206.7] ~~{26B-1-331}~~ 26B-1-331.

Section 163. Section **26B-6-402**, which is renumbered from Section 62A-5-102 is renumbered and amended to read:

[62A-5-102]. 26B-6-402. Division of Services for People with Disabilities --

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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~~ 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

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(c) enable reasonable personal choice in selecting services and support that:

(i) best meet individual needs; and

(ii) promote:

(A) independence;

(B) productivity; and

(C) integration in community life.

(7) (a) Appropriations to the division are nonlapsing.

(b) After an individual stops receiving services under this section, the division shall use the funds that paid for the individual's services to provide services under this section to another eligible individual in an intermediate care facility transitioning to division services, if the funds were allocated under a program established under Section [26-18-3] ~~{26B-3-108}~~ 26B-3-108 to transition individuals with intellectual disabilities from an intermediate care facility.

(c) Except as provided in Subsection (7)(b), if an individual receiving services under Subsection (4)(a) ceases to receive those services, the division shall use the funds that were allocated to that individual to provide services to another eligible individual waiting for services as described in Subsection (4)(a).

(d) Funds unexpended by the division at the end of the fiscal year may be used only for one-time expenditures unless otherwise authorized by the Legislature.

(e) A one-time expenditure under this section:

(i) is not an entitlement;

(ii) may be withdrawn at any time; and

(iii) may provide short-term, limited services, including:

(A) respite care;

(B) service brokering;

(C) family skill building and preservation classes;

(D) after school group services; and

(E) other professional services.

Section 164. Section **26B-6-403**, which is renumbered from Section 62A-5-103 is renumbered and amended to read:

~~[62A-5-103].~~ **26B-6-403. Responsibility and authority of division.**

(1) For purposes of this section "administer" means to:

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- (a) plan;
- (b) develop;
- (c) manage;
- (d) monitor; and
- (e) conduct certification reviews.

(2) The division has the authority and responsibility to:

(a) administer an array of services and supports for persons with disabilities and their families throughout the state;

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish eligibility criteria for the services and supports described in Subsection (2)(a);

(c) consistent with Section [62A-5-206] ~~{26B-6-508}~~ 26B-6-506, supervise the programs and facilities of the Developmental Center;

(d) in order to enhance the quality of life for a person with a disability, establish either directly, or by contract with private, nonprofit organizations, programs of:

- (i) outreach;
- (ii) information and referral;
- (iii) prevention;
- (iv) technical assistance; and
- (v) public awareness;

(e) supervise the programs and facilities operated by, or under contract with, the division;

(f) cooperate with other state, governmental, and private agencies that provide services to a person with a disability;

(g) subject to Subsection (3), ensure that a person with a disability is not deprived of that person's constitutionally protected rights without due process procedures designed to minimize the risk of error when a person with a disability is admitted to an intermediate care facility for people with an intellectual disability, including:

- (i) the developmental center; and
- (ii) facilities within the community;
- (h) determine whether to approve providers;

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- (i) monitor and sanction approved providers, as specified in the providers' contract;
- (j) subject to Section ~~[62A-5-103.5]~~ ~~{26B-6-410}~~ 26B-6-410, receive and disburse public funds;
- (k) review financial actions of a provider who is a representative payee appointed by the Social Security Administration;
- (l) establish standards and rules for the administration and operation of programs conducted by, or under contract with, the division;
- (m) approve and monitor division programs to insure compliance with the board's rules and standards;
- (n) establish standards and rules necessary to fulfill the division's responsibilities under Part [2] 5, Utah State Developmental Center, and Part [3] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, with regard to an intermediate care facility for people with an intellectual disability;
- (o) assess and collect equitable fees for a person who receives services provided under this chapter;
- (p) maintain records of, and account for, the funds described in Subsection (2)(o);
- (q) establish and apply rules to determine whether to approve, deny, or defer the division's services to a person who is:
 - (i) applying to receive the services; or
 - (ii) currently receiving the services;
 - (r) in accordance with state law, establish rules:
 - (i) relating to an intermediate care facility for people with an intellectual disability that is an endorsed program; and
 - (ii) governing the admission, transfer, and discharge of a person with a disability;
 - (s) manage funds for a person residing in a facility operated by the division:
 - (i) upon request of a parent or guardian of the person; or
 - (ii) under administrative or court order; and
 - (t) fulfill the responsibilities described in ~~[Chapter 5a, Coordinating Council for Persons with Disabilities]~~ Section ~~{26B-1-430}~~ 26B-1-430.
- (3) The due process procedures described in Subsection (2)(g):
 - (a) shall include initial and periodic reviews to determine the constitutional

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appropriateness of the placement; and

(b) with regard to facilities in the community, do not require commitment to the division.

Section 165. Section **26B-6-404**, which is renumbered from Section 62A-5-104 is renumbered and amended to read:

~~[62A-5-104].~~ 26B-6-404. Director -- Qualifications -- Responsibilities.

(1) The director of the division shall be appointed by the executive director.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in developmental disabilities, intellectual disabilities, and other disabilities.

(3) The director is the administrative head of the division.

(4) The director shall appoint the superintendent of the developmental center and the necessary and appropriate administrators for other facilities operated by the division with the concurrence of the executive director.

Section 166. Section **26B-6-405**, which is renumbered from Section 62A-5-105 is renumbered and amended to read:

~~[62A-5-105].~~ 26B-6-405. Division responsibilities -- Policy mediation.

(1) The division shall establish its rules in accordance with:

(a) the policy of the Legislature as set forth by this ~~[chapter]~~ part; and

(b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division shall:

(a) establish program policy for the division, the developmental center, and programs and facilities operated by or under contract with the division;

(b) establish rules for the assessment and collection of fees for programs within the division;

(c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay and implement the schedule with respect to service recipients and their families where not otherwise prohibited by federal law or regulation or not otherwise provided for in Section ~~[62A-5-109]~~ ~~[26B-6-411](#)~~ [26B-6-411](#);

(d) establish procedures to ensure that private citizens, consumers, private contract providers, allied state and local agencies, and others are provided with an opportunity to

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comment and provide input regarding any new policy or proposed revision to an existing 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

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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

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ending on July 1, 2009.

(2) The family preservation services described in Subsection (1) may include:

- (a) family skill building classes;
- (b) respite hours for class attendance; or
- (c) professional intervention.

(3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the implementation and administration of this section.

(4) In accordance with Subsection (5), within funds appropriated by the Legislature for the pilot program described in this section, the division shall provide family preservation services to a person with a disability, and that person's family, if that person:

- (a) is eligible to receive services from the division;
- (b) has applied for, and is willing to receive, services from the division;
- (c) is not receiving other ongoing services from the division;
- (d) is not able to receive sufficient family preservation services from other sources;
- (e) is determined by the division to be a person who would substantially benefit from the provision of family preservation services; and
- (f) does not require the provision of other ongoing services from the division in order to substantially benefit from the provision of family preservation services.

(5) (a) The division shall provide family preservation 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.

(6) It is the intent of the Legislature that the services provided under the pilot 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

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(e) may be withdrawn from a person at any time.

Section 170. Section **26B-6-409**, which is renumbered from Section 62A-5-103.3 is renumbered and amended to read:

~~[62A-5-103.3].~~ 26B-6-409. Employment first emphasis on the provision of services.

(1) When providing services to a person with a disability under this chapter, the division shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law, give priority to providing services that assist the person in obtaining and retaining meaningful and gainful employment that enables the person to:

- (a) purchase goods and services;
- (b) establish self-sufficiency; and
- (c) exercise economic control of the person's life.

(2) The division shall develop a written plan to implement the policy described in Subsection (1) that includes:

- (a) assessing the strengths and needs of a person with a disability;
- (b) customizing strength-based approaches to obtaining employment;
- (c) expecting, encouraging, providing, and rewarding:
 - (i) integrated employment in the workplace at competitive wages and benefits; and
 - (ii) self-employment;
- (d) developing partnerships with potential employers;
- (e) maximizing appropriate employment training opportunities;
- (f) coordinating services with other government agencies and community resources;
- (g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (1); and
- (h) arranging sub-minimum wage work or volunteer work when employment at market rates cannot be obtained.

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

- (a) set goals to implement the policy described in Subsection (1) and the plan described in Subsection (2);
- (b) determine whether the goals for the previous year have been met; and
- (c) modify the plan described in Subsection (2) as needed.

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Section 171. Section **26B-6-410**, which is renumbered from Section 62A-5-103.5 is renumbered and amended to read:

~~[62A-5-103.5].~~ **26B-6-410. Disbursal of public funds -- Background check of a direct service worker.**

(1) For purposes of this section, "office" means the same as that term is defined in Section ~~[62A-2-101]~~ ~~{26B-2-101}~~ 26B-2-101.

(2) Public funds may not be disbursed to pay a direct service worker for personal services rendered to a person unless the office approves the direct service worker to have direct access and provide services to a child or a vulnerable adult pursuant to Section ~~[62A-2-120]~~ ~~{26B-2-120}~~ 26B-2-120.

(3) For purposes of Subsection (2), the office shall conduct a background check of a direct service worker:

(a) before public funds are disbursed to pay the direct service worker for the personal services described in Subsection (2); and

(b) using the same procedures established for a background check of an applicant for a license under Section ~~[62A-2-120]~~ ~~{26B-2-120}~~ 26B-2-120.

(4) A child who is in the legal custody of the department or any of the department's divisions may not be placed with a direct service worker unless, before the child is placed with the direct service worker, the direct service worker passes a background check, pursuant to the requirements of Subsection ~~[62A-2-120]~~ ~~{26B-2-120}~~ 26B-2-120(14).

(5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, contracts with the division to provide services:

(a) the provisions of this section are not applicable to a direct service worker employed by the public transit district; and

(b) the division may not reimburse the public transit district for services provided unless a direct service worker hired or transferred internally after July 1, 2013, by the public transit district to drive a paratransit route:

(i) is approved by the office to have direct access to children and vulnerable adults in accordance with Section ~~[62A-2-120]~~ ~~{26B-2-120}~~ 26B-2-120; and

(ii) is subject to a background check established in a statute or rule governing a public transit district or other public transit district policy.

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Section 172. Section **26B-6-411**, which is renumbered from Section 62A-5-109 is renumbered and amended to read:

~~[62A-5-109].~~ 26B-6-411. Parent liable for cost and support of minor -- Guardian liable for costs.

(1) Parents of a person who receives services or support from the division, who are financially responsible, are liable for the cost of the actual care and maintenance of that person and for the support of the child in accordance with Title 78B, Chapter 12, Utah Child Support Act, and ~~[Title 62A, Chapter 11,]~~ Chapter 9, Part 1, Office of Recovery Services, until the person reaches 18 years ~~[of age]~~ old.

(2) A guardian of a person who receives services or support from the division is liable for the cost of actual care and maintenance of that person, regardless of his age, where funds are available in the guardianship estate established on his behalf for that purpose. However, if the person who receives services is a beneficiary of a trust created in accordance with Section ~~[62A-5-110]~~ ~~{26B-6-412}~~ 26B-6-412, or if the guardianship estate meets the requirements of a trust described in that section, the trust income prior to distribution to the beneficiary, and the trust principal are not subject to payment for services or support for that person.

(3) If, at the time a person who receives services or support from the division is discharged from a facility or program owned or operated by or under contract with the division, or after the death and burial of a resident of the developmental center, there remains in the custody of the division or the superintendent any money paid by a parent or guardian for the support or maintenance of that person, it shall be repaid upon demand.

Section 173. Section **26B-6-412**, which is renumbered from Section 62A-5-110 is renumbered and amended to read:

~~[62A-5-110].~~ 26B-6-412. Discretionary trust for an individual with a disability -- Impact on state services.

- (1) For purposes of this section:
 - (a) "Discretionary trust for an individual with a disability" means a trust:
 - (i) that is established for the benefit of an individual who, at the time the trust is created, is under ~~[age]~~ 65 years old and has a disability, as defined in 42 U.S.C. Sec. 1382c;
 - (ii) under which the trustee has discretionary power to determine distributions;
 - (iii) under which the individual may not control or demand payments unless an abuse

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of the trustee's duties or discretion is shown;

(iv) that contains the assets of the individual and is established for the benefit of the individual by the individual, a court, or a parent, grandparent, or legal guardian of the individual;

(v) that is irrevocable, except that the trust document may provide that the trust be terminated if the individual no longer has a disability, as defined in 42 U.S.C. Sec. 1382c;

(vi) that is invalid as to any portion funded by property that is or may be subject to a lien by the state; and

(vii) that provides that, upon the death of the individual, the state will receive all amounts remaining in the trust, up to an amount equal to the total medical assistance paid on behalf of the individual.

(b) "Medical assistance" means the same as that term is defined in Section [26-18-2] ~~{26B-3-101}~~ 26B-3-101.

(2) A state agency providing services or support to an individual with a disability may:

(a) waive application of Subsection (1)(a)(v) with respect to that individual if the state agency determines that application of the criteria would place an undue hardship upon that individual; and

(b) define, by rule, what constitutes "undue hardship" for purposes of this section.

(3) A discretionary trust for an individual with a disability is not liable for reimbursement or payment to the state or any state agency, for financial aid or services provided to that individual except:

(a) to the extent that the trust property has been distributed directly to or is otherwise under the control of the beneficiary with a disability; or

(b) as provided in Subsection (1)(a)(vi).

(4) Property, goods, and services that are purchased or owned by a discretionary trust for an individual with a disability and that are used or consumed by a beneficiary with a disability shall not be considered trust property that is distributed to or under the control of the beneficiary.

(5) The benefits that an individual with a disability is otherwise legally entitled to may not be reduced, impaired, or diminished in any way because of contribution to a discretionary trust for that individual.

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(6) All state agencies shall disregard a discretionary trust for an individual with a 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

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unless the person with a disability or the person's parent or guardian uses the direct financial assistance to purchase such services.

~~[(2)]~~ (3) The following principles shall be used as the basis for supporting families who care for family members with disabilities:

- (a) all children, regardless of disability, should reside in a family-like environment;
- (b) families should receive the support they need to care for their children at home;
- (c) services should:
 - (i) focus on the person with a disability;
 - (ii) take into consideration the family of the person described in Subsection ~~[(2)]~~

~~(3)~~(c)(i);

(iii) be sensitive to the unique needs, preferences, and strengths of individual families; and

(iv) complement and reinforce existing sources of help and support that are available to each family.

(4) Except as provided in Subsection (5), after June 30, 1996, the division may not provide residential services to persons with disabilities who are under 11 years ~~of age~~ old.

(5) The prohibition of Subsection (4) does not include residential services that are provided:

- (a) for persons in the custody of the Division of Child and Family Services;
- (b) under a plan for home-based services, including respite and temporary residential care or services provided by a professional parent under contract with the division; or
- (c) after a written finding by the director that out-of-home residential placement is the most appropriate way to meet the needs of the person with disabilities and his family.

Section 175. Section **26B-6-501** is enacted to read:

Part 5. Utah State Developmental Center

26B-6-501. Definitions.

The definitions in Section 26B-6-401 apply to this part.

Section 176. Section **26B-6-502**, which is renumbered from Section 62A-5-201 is renumbered and amended to read:

~~[62A-5-201].~~ **26B-6-502. Utah State Developmental Center.**

- (1) The intermediate care facility for people with an intellectual disability located in

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American Fork City, Utah County, shall be known as the "Utah State Developmental Center."

(2) Within appropriations authorized by the Legislature, the role and function of the developmental center is to:

- (a) provide care, services, and treatment to persons described in Subsection (3); and
- (b) provide the following services and support to persons with disabilities who do not reside at the developmental center:
 - (i) psychiatric testing;
 - (ii) specialized medical treatment and evaluation;
 - (iii) specialized dental treatment and evaluation;
 - (iv) family and client special intervention;
 - (v) crisis management;
 - (vi) occupational, physical, speech, and audiology services; and
 - (vii) professional services, such as education, evaluation, and consultation, for families, public organizations, providers of community and family support services, and courts.

(3) Except as provided in Subsection (6), within appropriations authorized by the Legislature, and notwithstanding the provisions of Part [3] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, only the following persons may be residents of, be admitted to, or receive care, services, or treatment at the developmental center:

- (a) persons with an intellectual disability;
- (b) persons who receive services and supports under Subsection (2)(b); and
- (c) persons who require at least one of the following services from the developmental center:
 - (i) continuous medical care;
 - (ii) intervention for conduct that is dangerous to self or others; or
 - (iii) temporary residential assessment and evaluation.

(4) (a) Except as provided in Subsection (6), the division shall, in the division's discretion:

- (i) place residents from the developmental center into appropriate less restrictive placements; and
- (ii) determine each year the number to be placed based upon the individual assessed needs of the residents.

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(b) The division shall confer with parents and guardians to ensure the most appropriate placement for each resident.

(5) Except as provided in Subsection (7), within appropriations authorized by the Legislature, and notwithstanding the provisions of Subsection (3) and Part [3] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, a person who is under 18 years ~~[of age]~~ old may be a resident of, admitted to, or receive care, services, or treatment at the developmental center only if the director certifies in writing that the developmental center is the most appropriate placement for that person.

(6) (a) If the division determines, pursuant to Utah's Community Supports Waiver for Individuals with Intellectual Disabilities and Other Related Conditions, that a person who otherwise qualifies for placement in an intermediate care facility for people with an intellectual disability should receive services in a home or community-based setting, the division shall:

(i) if the person does not have a legal representative or legal guardian:

(A) inform the person of any feasible alternatives under the waiver; and

(B) give the person the choice of being placed in an intermediate care facility for people with an intellectual disability or receiving services in a home or community-based setting; or

(ii) if the person has a legal representative or legal guardian:

(A) inform the legal representative or legal guardian of any feasible alternatives under the waiver; and

(B) give the legal representative or legal guardian the choice of having the person placed in an intermediate care facility for people with an intellectual disability or receiving services in a home or community-based setting.

(b) If a person chooses, under Subsection (6)(a)(i), to be 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 person whether the person prefers to be placed in the developmental center rather than a private intermediate care facility for people with an intellectual disability; and

(ii) if the person expresses a preference to be 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

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intermediate care facility for people with an intellectual disability; or

(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

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renumbered and amended to read:

~~[62A-5-203].~~ 26B-6-504. Operation, maintenance, and repair of developmental center buildings and grounds.

(1) The division shall operate, maintain, and repair the buildings, grounds, and physical properties of the developmental center. However, the roads and driveways on the grounds of the developmental center shall be maintained by the Department of Transportation.

(2) The division has authority to make improvements to the buildings, grounds, and physical properties of the developmental center, as it deems necessary for the care and safety of the residents.

Section 179. Section **26B-6-505**, which is renumbered from Section 62A-5-205 is renumbered and amended to read:

~~[62A-5-205].~~ 26B-6-505. State Board of Education -- Education of children at developmental center.

(1) The State Board of Education is responsible for the education of school-aged children at the developmental center.

(2) In order to fulfill its responsibility under Subsection (1), the State Board of Education shall, where feasible, contract with local school districts or other appropriate agencies to provide educational and related administrative services.

(3) Medical, residential, and other services that are not the responsibility of the State Board of Education or other state agencies are the responsibility of the division.

Section 180. Section **26B-6-506**, which is renumbered from Section 62A-5-206 is renumbered and amended to read:

~~[62A-5-206].~~ 26B-6-506. Powers and duties of division.

The powers and duties of the division, with respect to the developmental center are as follows:

(1) to establish rules, not inconsistent with law, for the government of the developmental center;

(2) to establish rules governing the admission and discharge of persons with an intellectual disability in accordance with state law;

(3) to employ necessary medical and other professional personnel to assist in establishing rules relating to the developmental center and to the treatment and training of

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persons with an intellectual disability at the center;

(4) to transfer a person who has been committed to the developmental center under Part [3] 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability, to any other facility or program operated by or under contract with the division, after careful evaluation of the treatment needs of that person, if the facilities or programs available meet the needs indicated, and if transfer would be in the best interest of that person. A person transferred shall remain under the jurisdiction of the division;

(5) the developmental center may receive a person who meets the requirements of Subsection [~~62A-5-201~~] ~~(26B-6-502)~~ 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.

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(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 conducted as provided in this Subsection (2).

(b) The board shall:

(i) approve the sale, long-term lease, or other disposition of real property, water rights, or water shares associated with the developmental center;

(ii) secure the approval of the Legislature before offering the real property, water rights, or water shares for sale, long-term lease, or other disposition; and

(iii) if the Legislature's approval is secured, as described in Subsection (2)(b)(ii), direct the Division of Facilities Construction and Management to convey, lease, or dispose of the real property, water rights, or water shares associated with the developmental center according to the board's determination.

Section 182. Section **26B-6-508**, which is renumbered from Section 62A-5-207 is renumbered and amended to read:

~~[62A-5-207].~~ 26B-6-508. Superintendent -- Qualifications.

The superintendent of the developmental center, appointed in accordance with Subsection ~~[62A-5-104]~~ ~~{26B-6-404}~~ 26B-6-404(4), shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in developmental disabilities and intellectual disability.

Section 183. Section **26B-6-509**, which is renumbered from Section 62A-5-208 is renumbered and amended to read:

~~[62A-5-208].~~ 26B-6-509. Powers and duties of superintendent.

The chief administrative officer of the developmental center is the superintendent, and has the following powers and duties:

(1) to manage the developmental center and administer the division's rules governing the developmental center;

(2) to hire, control, and remove all employees, and to fix their compensation according to state law; and

(3) with the approval of the division, to make any expenditures necessary in the performance of his duties.

Section 184. Section **26B-6-510**, which is renumbered from Section 62A-5-211 is

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renumbered and amended to read:

~~[62A-5-211].~~ 26B-6-510. Dental services reporting.

The superintendent of the developmental center shall provide to the Health and Human Services Interim Committee an annual report that contains:

- (1) a statewide assessment of resources that provide dental services for individuals with intellectual disabilities;
- (2) an accounting of the funds appropriated to provide specialized dental treatment and evaluation under Subsection ~~[62A-5-201]~~ ~~(26B-6-502)~~ 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:

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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

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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

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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:

~~[62A-5-309].~~ **26B-6-605. Commitment -- Individual who is 18 years old or older.**

(1) The director, or the director's designee may commit to the division an individual 18 years old or older who has an intellectual disability, for observation, diagnosis, care, and treatment if that commitment is based on:

(a) involuntary commitment in accordance with Section ~~[62A-5-312]~~ ~~{26B-6-608}~~; 26B-6-608; or

(b) temporary emergency commitment in accordance with Section ~~[62A-5-311]~~ ~~{26B-6-607}~~; 26B-6-607.

(2) If an individual who is 18 years old or older 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 190. Section **26B-6-606**, which is renumbered from Section 62A-5-310 is renumbered and amended to read:

~~[62A-5-310].~~ **26B-6-606. Involuntary commitment.**

An individual may not be involuntarily committed to an intermediate care facility for people with an intellectual disability except in accordance with Sections ~~[62A-5-311 and 62A-5-312]~~ ~~{26B-6-607}~~; 26B-6-607 and ~~{26B-6-608}~~; 26B-6-608.

Section 191. Section **26B-6-607**, which is renumbered from Section 62A-5-311 is renumbered and amended to read:

~~[62A-5-311].~~ **26B-6-607. Temporary emergency commitment -- Observation and evaluation.**

(1) The director of the division or his designee may temporarily commit an individual to the division and therefore, as a matter of course, to an intermediate care facility for people with an intellectual disability for observation and evaluation upon:

(a) written application by a responsible person who has reason to know that the

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individual is in need of commitment, stating:

(i) a belief that the individual has an intellectual disability and is likely to cause serious injury to self or others if not immediately committed;

(ii) personal knowledge of the individual's condition; and

(iii) the circumstances supporting that belief; or

(b) certification by a licensed physician or designated intellectual disability professional stating that the physician or designated intellectual disability professional:

(i) has examined the individual within a three-day period immediately preceding the certification; and

(ii) is of the opinion that the individual has an intellectual disability, and that because of the individual's intellectual disability is likely to injure self or others if not immediately committed.

(2) If the individual in need of commitment is not placed in the custody of the director or the director's designee by the person submitting the application, the director's or the director's designee may certify, either in writing or orally that the individual is in need of immediate commitment to prevent injury to self or others.

(3) Upon receipt of the application required by Subsection (1)(a) and the certifications required by Subsections (1)(b) and (2), a peace officer may take the individual named in the application and certificates into custody, and may transport the individual to a designated intermediate care facility for people with an intellectual disability.

(4) (a) An individual committed under this section may be held for a maximum of 24 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time, the individual shall be released unless proceedings for involuntary commitment have been commenced under Section [62A-5-312] ~~26B-6-608~~ 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~~ 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.

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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]~~ **old** 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

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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)~~ 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;

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- (iv) adult members of the individual's immediate family;
- (v) legal counsel of the individual to be committed, if any;
- (vi) the division; and
- (vii) any other person to whom the individual requests, or the court designates, notice to be given.

(b) If an individual cannot or refuses to disclose the identity of persons to be notified, the extent of notice shall be determined by the court.

(7) That notice shall:

- (a) set forth the allegations of the petition and all supporting facts;
- (b) be accompanied by a copy of any detention order issued under Subsection (3); and
- (c) state that a hearing will be held within the time provided by law, and give the time and place for that hearing.

(8) The court may transfer the case and the custody of the individual to be committed to any other district court within the state, if:

- (a) there are no appropriate facilities for persons with an intellectual disability within the judicial district; and

- (b) the transfer will not be adverse to the interests of the individual.

(9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any order or commitment under a detention order, the court shall appoint two designated intellectual disability professionals to examine the individual. If requested by the individual's counsel, the court shall appoint a reasonably available, qualified person designated by counsel to be one of the examining designated intellectual disability professionals. The examinations shall be conducted:

- (i) separately;

- (ii) at the home of the individual to be committed, a hospital, an intermediate care facility for people with an intellectual disability, or any other suitable place not likely to have a harmful effect on the individual; and

- (iii) within a reasonable period of time after appointment of the examiners by the court.

(b) The court shall set a time for a hearing to be held within 10 court days of the appointment of the examiners. However, the court may immediately terminate the proceedings and dismiss the application if, prior to the hearing date, the examiners, the director, or his

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designee informs the court that:

- (i) the individual does not have an intellectual disability; or
- (ii) treatment programs are available and will be used by the individual without court

proceedings.

(10) (a) Each individual has the right to be represented by counsel at the commitment hearing and in all preliminary proceedings. If neither the individual nor others provide counsel, the court shall appoint counsel and allow sufficient time for counsel to consult with the individual prior to any hearing.

(b) If the individual is indigent, the county in which the individual was physically located when taken into custody shall pay reasonable attorney fees as determined by the court.

(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;

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(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

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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.

(c) The staff of the division shall immediately:

(i) reexamine the reasons upon which the order of commitment was based and report the results of the examination to the court;

(ii) discharge the resident from involuntary commitment if the conditions justifying commitment no longer exist; and

(iii) immediately inform the court of any discharge.

(d) If the director of the division reports to the court that the conditions justifying commitment no longer exist, and the administrator of the intermediate care facility for people with an intellectual disability does not discharge the individual at the end of the designated period, the court shall order the immediate discharge of the individual, unless involuntary commitment proceedings are again commenced in accordance with this section.

(e) If the director of the division, or the director's designee reports to the court that the conditions designated in Subsection (13) still exist, the court may extend the commitment order for up to one year. At the end of any extension, the individual must be reexamined in accordance with this section, or discharged.

(18) When a resident is discharged under this subsection, the division shall provide any further support services available and required to meet the resident's needs.

Section 193. Section **26B-6-609**, which is renumbered from Section 62A-5-313 is renumbered and amended to read:

[62A-5-313]. 26B-6-609. Transfer -- Procedures.

(1) The director of the division, or the director's designee, may place an involuntarily committed resident in appropriate care or treatment outside the intermediate care facility for people with an intellectual disability. During that placement, the order of commitment shall remain in effect, until the resident is discharged or the order is terminated.

(2) If the resident, or the resident's parent or guardian, objects to a proposed placement under this section, the resident may appeal the decision to the executive director or the

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executive director's designee. Those appeals shall be conducted in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. If an objection is made, the proposed placement may not take effect until the committee holds that hearing and the executive director makes a final decision on the placement.

Section 194. Section **26B-6-610**, which is renumbered from Section 62A-5-315 is renumbered and amended to read:

~~[62A-5-315].~~ 26B-6-610. Petition for reexamination.

(1) A resident committed under Section ~~[62A-5-312]~~ ~~[26B-6-608](#)~~ [26B-6-608](#), or his parent, spouse, legal guardian, relative, or attorney, may file a petition for reexamination with the district court of the county in which the resident is domiciled or detained.

(2) Upon receipt of that petition, the court shall conduct proceedings under Section ~~[62A-5-312]~~ ~~[26B-6-608](#)~~ [26B-6-608](#).

Section 195. Section **26B-6-611**, which is renumbered from Section 62A-5-316 is renumbered and amended to read:

~~[62A-5-316].~~ 26B-6-611. Temporary detention.

(1) Pending removal to an intermediate care facility for people with an intellectual disability, an individual taken into custody or ordered to be committed under this part may be detained in the individual's home, or in some other suitable facility.

(2) The individual shall not, however, be detained in a nonmedical facility used for detention of individuals charged with or convicted of penal offenses, except in a situation of extreme emergency.

(3) The division shall take reasonable measures, as may be necessary, to assure proper care of an individual temporarily detained under this part.

Section 196. Section **26B-6-612**, which is renumbered from Section 62A-5-317 is renumbered and amended to read:

~~[62A-5-317].~~ 26B-6-612. Authority to transfer resident.

(1) The administrator of an intermediate care facility for people with an intellectual disability, or the administrator's designee, may transfer or authorize the transfer of a resident to another intermediate care facility for people with an intellectual disability if, before the transfer, the administrator conducts a careful evaluation of the resident and the resident's treatment needs, and determines that a transfer would be in the best interest of that resident. If

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a resident is transferred, the administrator shall give immediate notice of the transfer to the resident's spouse, guardian, parent, or advocate or, if none of those persons are known, to the resident's nearest known relative.

(2) If a resident, or the resident's parent or guardian, objects to a proposed transfer 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~~ 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

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(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](#)~~ [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](#)~~ [26B-6-802](#)(1) through (3).

Section 199. Section **26B-6-702**, which is renumbered from Section 62A-5-502 is renumbered and amended to read:

~~[62A-5-502].~~ **26B-6-702. Disability ombudsman -- Purpose -- Appointment -- Qualifications -- Staff.**

(1) There is created within the ~~[division]~~ department the position of disability ombudsman for the purpose of promoting, advocating, and ensuring the rights and privileges of an individual with a disability are upheld.

(2) The director shall appoint an ombudsman who has:

(a) recognized executive and administrative capacity; and

(b) experience in laws and policies regarding individuals with a disability.

(3) The ombudsman may hire staff as necessary to carry out the duties of the

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ombudsman under this part.

Section 200. Section **26B-6-703**, which is renumbered from Section 62A-5-503 is renumbered and amended to read:

~~[62A-5-503].~~ **26B-6-703. Powers and duties of ombudsman.**

The ombudsman shall:

- (1) develop and maintain expertise in laws and policies governing the rights and privileges of an individual with a disability;
- (2) provide training and information to private citizens, civic groups, governmental entities, and other interested parties across the state regarding:
 - (a) the role and duties of the ombudsman;
 - (b) the rights and privileges of an individual with a disability; and
 - (c) services available in the state to an individual with a disability;
- (3) develop a website to provide the information described in Subsection (2) in a form that is easily accessible;
- (4) receive, process, and investigate complaints in accordance with this part;
- (5) review periodically the procedures of state entities that serve individuals with a disability;
- (6) cooperate and coordinate with governmental entities and other organizations in the community in exercising the duties under this section, including the long-term care ombudsman program, created in Section ~~[62A-3-203]~~ ~~{26B-2-303}~~ 26B-2-303, and the child protection ombudsman, appointed under Section ~~[62A-4a-208]~~ ~~{80-2-1104}~~ 80-2-1104, when there is overlap between the responsibilities of the ombudsman and the long-term care ombudsman program or the child protection ombudsman;
- (7) as appropriate, make recommendations to the division regarding rules to be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the ombudsman considers necessary to carry out the ombudsman's duties under this part;
- (8) submit annually, by July 1, to the Health and Human Services Interim Committee, a report describing:
 - (a) the work of the ombudsman; and
 - (b) any recommendations for statutory changes to improve the effectiveness of the ombudsman in performing the duties under this section; and

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(9) perform other duties required by law.

Section 201. Section **26B-6-704**, which is renumbered from Section 62A-5-504 is renumbered and amended to read:

~~[62A-5-504].~~ **26B-6-704. Investigation of complaints -- Procedures -- 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

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(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)~~ (4) (a) "Service animal" includes any dog that:

(i) is trained, or is in training, to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability; and

(ii) performs work or tasks, or is in training to perform work or tasks, that are directly related to the individual's disability, including:

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(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.

(~~14~~5) "Sterilization" means any medical procedure, treatment, or operation rendering an individual permanently incapable of procreation.

~~(3)~~ (~~15~~6) "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.

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(2) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by common carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this state.

(3) An individual with a disability has equal rights to accommodations, advantages, and facilities offered by hotels, motels, lodges, and all other places of public accommodation in this state, and to places of amusement or resort to which the public is invited.

(4) (a) An individual with a disability has equal rights and access to public and private housing accommodations offered for rent, lease, or other compensation in this state.

(b) This chapter does not require a person renting, leasing, or selling private housing or real property to modify the housing or property in order to accommodate an individual with a disability or to provide a higher degree of care for that individual than for someone who is not an individual with a disability.

(c) A person renting, leasing, or selling private housing or real property to an individual with a disability shall comply with the provisions of Section [62A-5b-104] ~~(26B-6-803)~~ 26B-6-803.

Section 205. Section **26B-6-803**, which is renumbered from Section 62A-5b-104 is renumbered and amended to read:

~~[62A-5b-104]~~. **26B-6-803. Right to be accompanied by service animal or support animal -- Security deposits -- Discrimination -- Liability.**

(1) (a) An individual with a disability has the right to be accompanied by a service animal, unless the service animal is a danger or nuisance to others as interpreted under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

- (i) in any of the places specified in Section [62A-5b-103] ~~(26B-6-802)~~ 26B-6-802; and
- (ii) without additional charge for the service animal.

(b) An owner or lessor of private housing accommodations:

- (i) may not, in any manner, discriminate against an individual with a disability on the basis of the individual's possession of a service animal or a support animal, including by charging an extra fee or deposit for a service animal or a support animal; and
- (ii) may recover a reasonable cost to repair damage caused by a service animal or a support animal.

(2) An individual who is not an individual with a disability has the right to be

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accompanied by an animal that is in training to become a service animal or a police service canine, as defined in Section 53-16-102:

- (a) in any of the places specified in Section ~~[62A-5b-103]~~ ~~[26B-6-802](#)~~ [26B-6-802](#); and
- (b) without additional charge for the animal.

(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](#)~~ [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](#)~~ [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

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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~~old or older.

(1) It is lawful for a physician to sterilize a person who is 18 years ~~of age~~old 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~~old 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)~~26B-6-811, and an order authorizing the sterilization has been entered by a court of competent jurisdiction.

(3) It is unlawful for a physician to sterilize a person who is 18 years ~~of age~~old or older and who is not capable of giving informed consent unless a petition has been filed in accordance with Section [~~62A-6-107~~] ~~(26B-6-811)~~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~~old.

It is unlawful for a physician to sterilize a person who is under 18 years ~~of age~~old

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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~~ [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~~ [26B-6-806](#) or ~~26B-6-807~~ [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.**

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(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~~ 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;

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(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:

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~~[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.

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(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,

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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.

~~{62A-5b-107. Annual}~~ Section 223. Section 26B-6-821, which is renumbered from Section 62A-5b-107 is renumbered and amended to read:

~~62A-5b-107].~~ **26B-6-821. Annual "White Cane Safety Day" proclaimed.**

Each year the governor shall take notice of October 15 as White Cane Safety Day.

Section ~~{223}~~ 224. 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}~~ **18 years old.**

(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

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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}~~225. 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 shall be a board certified pediatrician or obstetrician with at least two years experience in public health programs.

Section ~~{225}~~226. Section **26B-7-103**, which is renumbered from Section 26-10-4 is renumbered and amended to read:

~~[26-10-4]. 26B-7-103. State plan for maternal and child health services.~~

The department shall prepare and submit a state plan for maternal and child health services as required by Title II of the Public Health Services Act. The plan shall be the official state plan for the state and shall be used as the basis for administration of Title V programs within the state.

Section ~~{226}~~227. Section **26B-7-104**, which is renumbered from Section 26-10-5.5 is renumbered and amended to read:

~~[26-10-5.5]. 26B-7-104. Child literacy -- Distribution of information kits.~~

(1) The Legislature recognizes that effective child literacy programs can have a dramatic long-term impact on each child's ability to:

- (a) succeed in school;
- (b) successfully compete in a global society; and

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(c) become a productive, responsible citizen.

(2) (a) To help further this end, the department may make available to parents of new-born infants, as a resource, an information kit regarding child development, the development of emerging literacy skills, and activities which promote and enhance emerging literacy skills, including reading aloud to the child on a regular basis.

(b) The department shall seek private funding to help support this program.

(3) (a) The department may seek assistance from the State Board of Education and local hospitals in making the information kit available to parents on a voluntary basis.

(b) The department may also seek assistance from private entities in making the kits available to parents.

Section ~~{227}~~228. Section **26B-7-105**, which is renumbered from Section 26-10-10 is renumbered and amended to read:

~~[26-10-10]~~. **26B-7-105. Cytomegalovirus (CMV) public education and testing.**

(1) As used in this section "CMV" means cytomegalovirus.

(2) The department shall establish and conduct a public education program to inform pregnant women and women who may become pregnant regarding:

(a) the incidence of CMV;

(b) the transmission of CMV to pregnant women and women who may become pregnant;

(c) birth defects caused by congenital CMV;

(d) methods of diagnosing congenital CMV; and

(e) available preventative measures.

(3) The department shall provide the information described in Subsection (2) to:

(a) child care programs licensed under ~~[Title 26, Chapter 39, Utah Child Care Licensing Act]~~ Chapter 2, Part 4, Child Care Licensing, and their employees;

(b) a person described in Subsection ~~[26-39-403]~~ ~~{26B-2-405}~~26B-2-405(1)(a)(iii) and Subsections ~~[26-39-403]~~ ~~{26B-2-405}~~26B-2-405(2)(a), (b), (c), (e), and (f);

(c) a person serving as a school nurse under Section 53G-9-204;

(d) a person offering health education in a school district;

(e) health care providers offering care to pregnant women and infants; and

(f) religious, ecclesiastical, or denominational organizations offering children's

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programs as a part of worship services.

(4) If a newborn infant fails the newborn hearing screening test(s) under Subsection ~~[26-10-6]~~ ~~26B-4-319~~ 26B-4-319(1), a medical practitioner shall:

(a) test the newborn infant for CMV before the newborn is 21 days ~~of age~~ old, unless a parent of the newborn infant objects; and

(b) provide to the parents of the newborn infant information regarding:

(i) birth defects caused by congenital CMV; and

(ii) available methods of treatment.

(5) The department shall provide to the family and the medical practitioner, if known, information regarding the testing requirements under Subsection (4) when providing results indicating that an infant has failed the newborn hearing screening test(s) under Subsection ~~[26-10-6]~~ ~~26B-4-319~~ 26B-4-319(1).

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Section ~~228~~ 229. Section **26B-7-106**, which is renumbered from Section 26-10-14 is renumbered and amended to read:

~~[26-10-14].~~ 26B-7-106. Down syndrome diagnosis -- Information and support.

(1) The department shall provide contact information for state and national Down syndrome organizations that are nonprofit and that provide information and support services for parents, including first-call programs and information hotlines specific to Down syndrome, resource centers or clearinghouses, and other education and support programs for Down syndrome.

(2) The department shall:

(a) post the information described in Subsection (1) on the department's website; and

(b) create an informational support sheet with the information described in Subsection (1) and the web address described in Subsection (2)(a).

(3) A Down syndrome organization may request that the department include the organization's informational material and contact information on the website. The department may add the information to the website, if the information meets the description under Subsection (1).

(4) Upon request, the department shall provide a health care facility or health care

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provider a copy of the informational support sheet described in Subsection (2)(b) to give to a pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn child has or may have Down syndrome.

Section ~~{229}~~230. Section **26B-7-107**, which is renumbered from Section 26-10-15 is renumbered and amended to read:

~~[26-10-15].~~ 26B-7-107. Lead exposure public education and testing.

(1) The department shall establish a child blood lead epidemiology and surveillance program to:

(a) encourage pediatric health care providers to include a lead test in accordance with the department's recommendations under Subsection (2); and

(b) conduct a public education program to inform parents of children who are two years old or younger regarding:

- (i) the effects of lead exposure in children;
- (ii) the availability of free screening and testing for lead exposure; and
- (iii) other available preventative measures.

(2) The department may recommend consideration of screening and testing during the first year or second year well child clinical visit.

(3) (a) The department shall provide the information described in Subsection (1) to organizations that regularly provide care or services for children who are 5 years old or younger.

(b) The department may work with the following organizations to share the information described in Subsection (1):

(i) a child care program licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Chapter 2, Part 4, Child Care Licensing, and the employees of the child care program;

(ii) a health care facility licensed under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and Inspection [~~Act~~];

(iii) a person providing child care under a program that is described in Subsection ~~[26-39-403]~~ ~~{26B-2-405}~~26B-2-405(2);

(iv) an individual offering health education in a school district, including a school nurse under Section 53G-9-204;

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- (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}~~231. Section **26B-7-108**, which is renumbered from Section 26-1-23.5 is renumbered and amended to read:

~~[26-1-23.5]. 26B-7-108. Rules for sale of drugs, cosmetics, and medical devices.~~

The department shall establish and enforce rules for the sale or distribution of human drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more stringent than those established by federal law.

Section ~~{231}~~232. Section **26B-7-109**, which is renumbered from Section 26-1-26 is renumbered and amended to read:

~~[26-1-26]. 26B-7-109. Director of community health nursing appointed by executive director.~~

~~[There shall be within the department]~~ The executive director shall appoint a director of community health nursing ~~[appointed by the executive director]~~ who shall develop, implement, monitor, and evaluate community health nursing standards and services and participate in the formulation of policies for administration of health services.

Section ~~{232}~~233. Section **26B-7-110**, which is renumbered from Section 26-1-36 is renumbered and amended to read:

~~[26-1-36]. 26B-7-110. Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain.~~

(1) As used in this section, "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(2) In addition to the duties listed in Section ~~[26-1-30]~~ ~~{26B-1-202}~~26B-1-202, the

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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~~234. 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.

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(2) The department shall establish, to the extent of funds appropriated by the Legislature or otherwise made available to the program fund, a local health emergency assistance program.

(3) Under the program, the department shall:

(a) provide a method for a local health department to seek reimbursement from the program fund for local health department expenses incurred in responding to a local health emergency;

(b) require matching funds from any local health department seeking reimbursement from the program fund;

(c) establish a method for apportioning money in the program fund to multiple local health departments when the total amount of concurrent requests for reimbursement by multiple local health departments exceeds the balance in the program fund; and

(d) establish by rule other provisions that the department considers necessary or advisable to implement the program.

(4) (a) (i) Subject to Subsection (4)(a)(ii), the department shall use money in the program fund exclusively for purposes of the program.

(ii) The department may use money in the program fund to cover its costs of administering the program.

(b) Money that the Legislature appropriates to the program fund is nonlapsing in accordance with Section 63J-1-602.1.

(c) Any interest earned on money in the program fund shall be deposited to the General Fund.

Section ~~{234}~~235. Section **26B-7-112**, which is renumbered from Section 26-1-42 is renumbered and amended to read:

~~[26-1-42].~~ 26B-7-112. Health care grant requests and funding.

(1) Any time the United States Department of Health and Human Services accepts grant applications, the department shall apply for a grant under Title X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.

(2) (a) As part of the application described in Subsection (1), the department shall request that the United States Department of Health and Human Services waive the requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4)

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pertaining to providing certain services to a minor without parental consent.

(b) If the department's application described in Subsection (1) is denied, and at such time the United States Department of Health and Human Services creates a waiver application process, the department shall apply for a waiver from compliance with the requirements found in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental consent in order to be eligible for a grant under Title X of the Public Health Service Act, 42 U.S.C. Sec. 300 et seq.

(3) If the department receives a grant under Subsection (1), the department shall prioritize disbursement of grant funds in the prioritization order described in Subsection (4).

(4) (a) (i) When disbursing grant funds, the department shall give first priority to nonpublic entities that provide family planning services as well as other comprehensive services to enable women to give birth and parent or place for adoption.

(ii) The department shall give preference to entities described in Subsection (4)(a)(i) that:

(A) expand availability of prenatal and postnatal care in low-income and under-served areas of the state;

(B) provide support for a woman to carry a baby to term;

(C) emphasize the health and viability of the fetus; and

(D) provide education and maternity support.

(iii) If the department receives applications from qualifying nonpublic entities as described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying nonpublic entities described in Subsection (4)(a).

(b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), the department shall give second priority for grant funds to nonpublic entities that provide:

(i) family planning services; and

(ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

(c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the department shall give third priority for grant funds to public entities that provide family planning services, including state, county, or local community health clinics, and community

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action organizations.

(d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c), the department shall give fourth priority for grant funds to nonpublic entities that provide family planning services but do not provide required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

Section ~~{235}~~236. Section **26B-7-113**, which is renumbered from Section 26-7-1 is renumbered and amended to read:

[26-7-1]. 26B-7-113. Identification of major risk factors by department -- Education of public -- Establishment of programs.

The department shall identify the major risk factors contributing to injury, sickness, death, and disability within the state and where it determines that a need exists, educate the public regarding these risk factors, and the department may establish programs to reduce or eliminate these factors except that such programs may not be established if adequate programs exist in the private sector.

Section ~~{236}~~237. Section **26B-7-114**, which is renumbered from Section 26-7-2 is renumbered and amended to read:

[26-7-2]. 26B-7-114. Office of Health ~~{Disparities Reduction}~~Equity -- Duties.

(1) As used in this section:

(a) "Multicultural or minority health issue" means a health issue, including a mental and oral health issue, of particular interest to cultural, ethnic, racial, or other subpopulations, including:

(i) disparities in:

(A) disease incidence, prevalence, morbidity, mortality, treatment, and treatment response; and

(B) access to care; and

(ii) cultural competency in the delivery of health care.

(b) "Office" means the Office of Health ~~[Disparities Reduction]~~Equity created in this section.

(2) There is created within the department the Office of Health ~~[Disparities Reduction]~~

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Equity.

(3) The office shall:

(a) promote and coordinate the research, data production, dissemination, education, and health promotion activities of the following that relate to a multicultural or minority health issue:

(i) the department;

(ii) local health departments;

(iii) local mental health authorities;

(iv) public schools;

(v) community-based organizations; and

(vi) other organizations within the state;

(b) assist in the development and implementation of one or more programs to address a 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;

(f) develop and increase the capacity of the office to:

(i) ensure the delivery of qualified timely culturally appropriate translation services across department programs; and

(ii) provide, when appropriate, linguistically competent translation and communication services for limited English proficiency individuals;

(g) provide staff assistance to any advisory committee created by the department to study a multicultural or minority health issue; and

(h) annually report to the Legislature on its activities and accomplishments.

Section ~~{237}~~238. Section **26B-7-115**, which is renumbered from Section 26-7-4 is renumbered and amended to read:

~~[26-7-4]~~. **26B-7-115. Utah Registry of Autism and Developmental Disabilities.**

(1) As used in this section, "URADD" means the Utah Registry of Autism and Developmental Disabilities.

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- (2) The department may enter into an agreement with:
 - (a) the University of Utah or another person for the operation of URADD; and
 - (b) a person to conduct a public education campaign to:
 - (i) improve public awareness of the early warning signs of autism spectrum disorders and developmental disabilities; and
 - (ii) promote the early identification of autism spectrum disorders and developmental disabilities.
- (3) URADD shall consist of a database that collects information on people in the state who have an autism spectrum disorder or a developmental disability.
- (4) The purpose of URADD is to assist health care providers to:
 - (a) determine the risk factors and causes of autism spectrum disorders and developmental disabilities;
 - (b) plan for and develop resources, therapies, methods of diagnoses, and other services for people with an autism spectrum disorder or a developmental disability;
 - (c) facilitate measuring and tracking of treatment outcomes;
 - (d) gather statistics relating to autism spectrum disorders and developmental disabilities; and
 - (e) improve coordination and cooperation between agencies and other programs that provide services to people with an autism spectrum disorder or a developmental disability.

Section ~~{238}~~239. Section **26B-7-116**, which is renumbered from Section 26-7-7 is renumbered and amended to read:

~~[26-7-7].~~ 26B-7-116. Radon awareness campaign.

The department shall, in consultation with the Division of Waste Management and Radiation Control, develop a statewide electronic awareness campaign to educate the public regarding:

- (1) the existence and prevalence of radon gas in buildings and structures;
- (2) the health risks associated with radon gas;
- (3) options for radon gas testing; and
- (4) options for radon gas remediation.

Section ~~{239}~~240. Section **26B-7-117**, which is renumbered from Section 26-7-8 is renumbered and amended to read:

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~~[26-7-8].~~ **26B-7-117. Syringe exchange and education.**

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

(a) a government entity, including:

(i) the department;

(ii) a local health department~~[, as defined in Section 26A-1-102 (3)]; or~~

~~[(iii) the Division of (3) Substance Abuse and Mental Health within the Department of Human Services (3) Integrated Healthcare within the department]; or~~

~~[(iv)] (iii)~~ a local substance abuse authority, as defined in Section [62A-15-102] ~~(26B-5-101)~~ 26B-5-101;

(b) a nongovernment entity, including:

(i) a nonprofit organization; or

(ii) a for-profit organization; or

(c) any other entity that complies with Subsections (2) and (4).

(2) An entity operating a syringe exchange program in the state shall:

(a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

(b) ensure that a recipient of a new syringe is given verbal and written instruction on:

(i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and

(ii) options for obtaining:

(A) services for the treatment of a substance use disorder;

(B) testing for a blood-borne disease; and

(C) an opiate antagonist ~~[under Chapter 55, Opiate Overdose Response Act]~~; and

(c) report annually to the department the following information about the program's activities:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes; and

(iii) the number of new syringes provided in exchange for used syringes.

(3) No later than October 1, 2017, and every two years thereafter, the department shall

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report to the Legislature's Health and Human Services Interim Committee on:

(a) the activities and outcomes of syringe programs operating in the state, including:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes;

(iii) the number of new syringes provided in exchange for used syringes;

(iv) the impact of the programs on blood-borne infection rates; and

(v) the impact of the programs on the number of individuals receiving treatment for a substance use disorder;

(b) the potential for additional reductions in the number of syringes contaminated with blood-borne disease if the programs receive additional funding;

(c) the potential for additional reductions in state and local government spending if the programs receive additional funding;

(d) whether the programs promote illicit use of drugs; and

(e) whether the programs should be continued, continued with modifications, or terminated.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

Section ~~{240}~~241. Section **26B-7-118**, which is renumbered from Section 26-7-9 is renumbered and amended to read:

~~[26-7-9]~~. **26B-7-118. Online public health education module for vaccine-preventable diseases.**

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(b) "Nonimmune" means that a child or an individual:

(i) has not received each vaccine required in Section 53G-9-305 and has not developed a natural immunity through previous illness to a vaccine-preventable disease, as documented by a health care provider;

(ii) cannot receive each vaccine required in Section 53G-9-305; or

(iii) is otherwise known to not be immune to a vaccine-preventable disease.

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(c) "Vaccine-preventable disease" means an infectious disease that can be prevented by a vaccination required in Section 53G-9-305.

(2) The department shall develop an online education module regarding vaccine-preventable diseases:

(a) to assist a parent of a nonimmune child to:

- (i) recognize the symptoms of vaccine-preventable diseases;
- (ii) respond in the case of an outbreak of a vaccine-preventable disease;
- (iii) protect children who contract a vaccine-preventable disease; and
- (iv) prevent the spread of vaccine-preventable diseases;

(b) that contains only the following:

(i) information about vaccine-preventable diseases necessary to achieve the goals stated in Subsection (2)(a), including the best practices to prevent the spread of vaccine-preventable diseases;

(ii) recommendations to reduce the likelihood of a nonimmune individual contracting or transmitting a vaccine-preventable disease; and

(iii) information about additional available resources related to vaccine-preventable diseases and the availability of low-cost vaccines;

(c) that includes interactive questions or activities; and

(d) that is expected to take an average user 20 minutes or less to complete, based on user testing.

(3) In developing the online education module described in Subsection (2), the department shall consult with individuals interested in vaccination or vaccine-preventable diseases, including:

(a) representatives from organizations of health care professionals; and

(b) parents of nonimmune children.

(4) The department shall make the online education module described in Subsection (2) publicly available to parents through:

(a) a link on the department's website;

(b) county health departments, as that term is defined in Section 26A-1-102;

(c) local health departments, as that term is defined in Section 26A-1-102;

(d) local education agencies, as that term is defined in Section 53E-1-102; and

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(e) other public health programs or organizations.

Section ~~{241}~~242. Section **26B-7-119**, which is renumbered from Section 26-7-11 is renumbered and amended to read:

[26-7-11]. 26B-7-119. Hepatitis C Outreach Pilot Program.

(1) As used in this section, "Hepatitis C outreach organization" means a private nonprofit organization that:

(a) has an established relationship with individuals who are at risk of acquiring acute Hepatitis C;

(b) helps individuals who need Hepatitis C treatment, but who do not qualify for payment of the treatment by the Medicaid program or another health insurer, to obtain treatment;

(c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and diagnosis, including clinical staff with the training and ability to provide:

(i) specimen collection for Hepatitis C testing;

(ii) clinical assessments;

(iii) consultation regarding blood-borne diseases; and

(iv) case management services for patient support during Hepatitis C treatment; or

(d) has a partnership with a health care facility that can provide clinical follow-up and 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.

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(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}~~243. Section **26B-7-201**, which is renumbered from Section 26-6-2 is renumbered and amended to read:

Part 2. Detection and Management of Chronic and 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 carrier, or long duration, as a chronic carrier.

(3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.

(4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to ~~[man]~~ a human, or from an infected ~~[man]~~ human to an animal, including arthropods.

(5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.

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(6) "End stage renal disease facility" is as defined in Section [~~26-21-2~~] 26B-2-201.

(7) (a) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(b) The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence.

(c) Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.

(8) "General acute hospital" is as defined in Section [~~26-21-2~~] 26B-2-201.

(9) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(10) "Infected individual" means an individual who harbors an infectious agent and who has manifest disease or inapparent infection. An infected individual is one from whom the infectious agent can be naturally acquired.

(11) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior 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

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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]~~ Head Start 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}~~ 244. 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 infertility and sterility if left untreated, including descriptions of:

(A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;

(B) medically accepted treatment for sexually transmitted diseases;

(C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and

(D) suggested screening by a private physician or physician assistant; and

(ii) information about:

(A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;

(B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and

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(C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.

(b) The information required by Subsection (2)(a):

(i) shall be distributed by the department and by local health departments free of charge;

(ii) shall be relevant to the geographic location in which the information is distributed by:

(A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and

(B) providing the information in English as well as other languages that may be appropriate for the geographic area.

(c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written material that includes the information required by this Subsection (2).

(ii) In addition to the written materials required by Subsection (2)(c)(i), the department may distribute the information required by this Subsection (2) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.

(iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the 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}~~245. 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.

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(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~~ Sections 26B-7-201 through 26B-7-223, 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~~ 246. Section **26B-7-204**, which is renumbered from Section 26-6-4 is renumbered and amended to read:

~~[26-6-4]~~. **26B-7-204. Involuntary examination, treatment, isolation, and**

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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}~~247. 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}~~248. Section **26B-7-206**, which is renumbered from Section 26-6-6 is renumbered and amended to read:

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[~~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](#)~~ [26B-2-401](#).

Section ~~[248](#)~~ [249](#). Section **26B-7-207**, which is renumbered from Section 26-6-7 is renumbered and amended to read:

[~~26-6-7~~]. 26B-7-207. Designation of communicable diseases by department -- Establishment of rules for detection, reporting, investigation, prevention, and control.

The department may designate those diseases which are communicable, of concern to the public health, and reportable; and establish rules for the detection, reporting, investigation, prevention, and control of communicable diseases, epidemic infections, and other health hazards that affect the public health.

Section ~~[249](#)~~ [250](#). Section **26B-7-208**, which is renumbered from Section 26-6-8 is renumbered and amended to read:

[~~26-6-8~~]. 26B-7-208. Tuberculosis -- Duty of department to investigate, control, and monitor.

- (1) The department shall conduct or oversee the investigation, control, and monitoring

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of suspected or confirmed tuberculosis infection and disease within the state. Local health departments shall investigate, control, and monitor suspected or confirmed tuberculosis infection and disease within their respective jurisdictions.

(2) A health care provider who treats an individual with suspected or confirmed tuberculosis shall treat the individual according to guidelines established by the department.

Section ~~{250}~~251. Section **26B-7-209**, which is renumbered from Section 26-6-9 is renumbered and amended to read:

~~[26-6-9].~~ 26B-7-209. Tuberculosis -- Testing of high risk individuals.

Individuals at high risk for tuberculosis shall be tested as required by department rule~~[-~~
~~The department rule]~~, which:

(1) shall establish criteria to identify individuals who are at high risk for tuberculosis;
and

(2) may establish who is responsible for the costs of the testing.

Section ~~{251}~~252. Section **26B-7-210**, which is renumbered from Section 26-6-11 is renumbered and amended to read:

~~[26-6-11].~~ 26B-7-210. Rabies or other animal disease -- Investigation and order of quarantine.

(1) As used in this section, "quarantine" means strict confinement upon the private premises of the owners, under restraint by leash, closed cage or paddock of all animals specified by the order.

(2) (a) Whenever rabies or any other animal disease dangerous to the health of human beings is reported, the department shall investigate to determine whether such disease exists, and the probable area of the state in which man or beast is thereby endangered.

(b) If the department finds that such disease exists, a quarantine may be declared against all animals designated in the quarantine order and within the area specified in the order.

(c) If the quarantine is for the purpose of preventing the spread of rabies or hydrophobia, the order shall contain a warning to the owners of dogs within the quarantined area to confine or muzzle all dogs to prevent biting.

(d) Any dog not muzzled found running at large in a quarantined area or any dog known to have been removed from or escaped from such area, may be killed by any person without liability therefor.

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(3) Following the order of quarantine the department shall make a thorough investigation as to the extent of the disease, the probable number of persons and beasts exposed, and the area involved.

(4) During the period any quarantine order is in force all peace officers may kill or capture and hold for further action by the department all animals in a quarantined area not held in restraint on private premises.

Section ~~{252}~~253. Section **26B-7-211**, which is renumbered from Section 26-6-15 is renumbered and amended to read:

[26-6-15]. 26B-7-211. Rabies or other animal disease -- Possession of animal in violation of part a misdemeanor.

Any person in possession of any animal being held in violation of ~~[this {} chapter]~~ ~~{part}~~Sections 26B-7-201 through 26B-7-223 is guilty of a class C misdemeanor.

Section ~~{253}~~254. Section **26B-7-212**, which is renumbered from Section 26-6-16 is renumbered and amended to read:

[26-6-16]. 26B-7-212. Sexually transmitted infections declared dangerous to public health.

Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby declared to be contagious, infectious, communicable and dangerous to the public health.

Section ~~{254}~~255. Section **26B-7-213**, which is renumbered from Section 26-6-17 is renumbered and amended to read:

[26-6-17]. 26B-7-213. Sexually transmitted infections -- Examinations by authorities -- Treatment of infected persons.

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with venereal disease. Persons infected with venereal disease shall be required to report for treatment to either a reputable physician or physician assistant and continue treatment until cured or to submit to treatment provided at public expense until cured.

Section ~~{255}~~256. Section **26B-7-214**, which is renumbered from Section 26-6-18 is renumbered and amended to read:

[26-6-18]. 26B-7-214. Sexually transmitted infections -- Consent of minor to treatment.

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(1) A consent to medical care or services by a hospital or public clinic or the performance of medical care or services by a licensed physician or physician assistant executed by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as a consent given by a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding.

(2) The consent of the minor is not subject to later disaffirmance by reason of minority at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician or physician assistant.

(3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician or physician assistant for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.

Section ~~{256}~~257. Section **26B-7-215**, which is renumbered from Section 26-6-19 is renumbered and amended to read:

~~[26-6-19].~~ 26B-7-215. Sexually transmitted infections -- Examination and treatment of persons in prison or jail.

(1) (a) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for venereal diseases by the health authorities.

(b) The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with venereal disease at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.

(2) (a) The department may require persons suffering with venereal disease at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation.

(b) Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Section ~~{257}~~258. Section **26B-7-216**, which is renumbered from Section 26-6-20 is

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renumbered and amended to read:

~~[26-6-20].~~ **26B-7-216.** **Serological testing of pregnant or recently delivered women.**

(1) As used in this section, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.

~~[(1)]~~ (2) (a) Every licensed physician and surgeon attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter.

(b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

(c) The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.

~~[(2)]~~ (3) (a) Every other person attending a pregnant or recently delivered woman, who is not permitted by law to take blood samples, shall within 10 days from the time of first attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

(b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

~~[(3)]~~ (4) (a) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title.

(b) In submitting the sample to the laboratory the physician or physician assistant shall designate whether it is a prenatal test or a test following recent delivery.

~~[(4) For the purpose of this chapter, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.]~~

(5) The laboratory shall transmit a detailed report of the standard serological test, showing the result thereof to the physician or physician assistant.

Section ~~{258}~~259. Section **26B-7-217**, which is renumbered from Section 26-6-27 is renumbered and amended to read:

~~[26-6-27].~~ **26B-7-217.** **Information regarding communicable or reportable diseases confidentiality -- Exceptions.**

(1) (a) Information collected [~~pursuant to this chapter~~] under ~~{this part}~~Sections

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26B-7-201 through 26B-7-223 in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223 shall be held by the department and local health departments as strictly confidential.

(b) The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of ~~[this chapter]~~ part Sections 26B-7-201 through 26B-7-223 and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, ~~[his]~~ the individual's next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention, or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the ~~[age of]~~ 18 years old, the information may be released to the Division of Child and Family Services within the ~~[Department of Human Services]~~ department in accordance with Section 80-2-602~~[- If]~~, 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

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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 ["]health care provider["] 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}~~ 26B-7-221 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section 67-27-102, to perform the analysis described in Subsection [26-6-32] 26B-7-222(4) if the state agency agrees to act in accordance with the requirements in this [chapter] part.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section ~~{259}~~ 260. Section **26B-7-218**, which is renumbered from Section 26-6-28 is renumbered and amended to read:

[26-6-28]. 26B-7-218. Protection from examination in legal proceedings -- Exceptions.

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(1) Except as provided in Subsection (2), an officer or employee of the department or of a local health department may not be examined in a legal proceeding of any kind or character as to the existence or content of information retained pursuant to ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223 or obtained as a result of an investigation conducted pursuant to ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, without the written consent of the individual who is identified in the information or, if that individual is deceased, the consent of ~~his~~ the individual's next-of-kin.

(2) This section does not restrict testimony and evidence provided by an employee or officer of the department or a local health department about:

(a) persons who are under restrictive actions taken by the department in accordance with Subsection ~~[26-6-27]~~ 26B-7-217(2)(e); or

(b) individuals or groups of individuals subject to examination, treatment, isolation, and quarantine actions under ~~[Chapter 6b, Communicable Diseases=]~~ Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases.

Section ~~{260}~~ 261. Section **26B-7-219**, which is renumbered from Section 26-6-29 is renumbered and amended to read:

~~[26-6-29].~~ **26B-7-219. Violation -- Penalty.**

(1) Any individual or entity entitled to receive confidential information from the ~~[Department of Health]~~ department or a local health department under ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, other than the individual identified in that information, who violates ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223 by releasing or making public confidential information, or by otherwise breaching the confidentiality requirements of ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, is guilty of a class B misdemeanor.

(2) ~~[This chapter]~~ Sections 26B-7-201 through 26B-7-223 do not apply to any individual or entity that holds or receives information relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, if that individual or entity has obtained the information from a source other than the department or a local health department.

Section ~~{261}~~ 262. Section **26B-7-220**, which is renumbered from Section 26-6-30 is

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renumbered and amended to read:

[~~26-6-30~~]. 26B-7-220. Exclusions from confidentiality requirements.

(1) The provisions of [~~this chapter~~] ~~part~~ Sections 26B-7-201 through 26B-7-223 do not apply to:

(a) information that relates to an individual who is in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the [~~Department of Human Services~~] department;

(b) information that relates to an individual who has been in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the [~~Department of Human Services~~] department, if liability of either of those departments, a county, or a division, or of an employee of a department, division, or county, is alleged by that individual in a lawsuit concerning transmission of an infectious or communicable disease; or

(c) any information relating to an individual who willfully or maliciously or with reckless disregard for the welfare of others transmits a communicable or infectious disease.

(2) Nothing in [~~this chapter~~] ~~part~~ Sections 26B-7-201 through 26B-7-223 limits the right of the individual identified in the information described in Subsection [~~26-6-27~~] 26B-7-217(1) to disclose that information.

Section ~~262~~ 263. Section **26B-7-221**, which is renumbered from Section 26-6-31 is renumbered and amended to read:

[~~26-6-31~~]. 26B-7-221. Public reporting of health care associated infections.

(1) (a) An ambulatory surgical facility, a general acute hospital, a specialty hospital, an end stage renal disease facility, and other facilities as required by rules of the Center for Medicare and Medicaid Services shall give the department access to the facility's data on the incidence and rate of health care associated infections that the facility submits to the National Healthcare Safety Network in the [~~Center~~] United States Centers for Disease Control and Prevention pursuant to the [~~Center~~] Centers for Medicare and Medicaid Services rules for infection reporting.

(b) Access to data under this Subsection (1) may include data sharing through the National Healthcare Safety Network.

(2) (a) The department shall, beginning May 1, 2013, use the data submitted by the

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facilities in accordance with Subsection (1) to compile an annual report on health care associated infections in ambulatory surgical facilities, general acute hospitals, and specialty hospitals for public distribution in accordance with the requirements of this subsection. The department shall publish the report on the department's website and the Utah Health Exchange.

(b) The department's report under this section shall:

(i) include the following health care associated infections as required by the Center for Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety Network in the [~~Center~~] Centers for Disease Control and Prevention:

(A) central line associated bloodstream infections;

(B) catheter associated urinary tract infections;

(C) surgical site infections from procedures on the colon or an abdominal hysterectomy;

(D) methicillin-resistant staphylococcus aureus bacteremia;

(E) clostridium difficile of the colon; and

(F) other health care associated infections when reporting is required by the Center for Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety Network in the [~~Center~~] Centers for Disease Control and Prevention;

(ii) include data on the rate of health care associated infections:

(A) for the infection types described in Subsection (2)(b)(i); and

(B) by health care facility or hospital;

(iii) include data on how the rate of health care associated infections in ambulatory surgical facilities, general acute hospitals, and specialty hospitals compares with the rates in other states;

(iv) in compiling the report described in Subsection (2)(a), use analytical methodologies that meet accepted standards of validity and reliability;

(v) clearly identify and acknowledge, in the report, the limitations of the data sources and analytic methodologies used to develop comparative facility or hospital information;

(vi) decide whether information supplied by a facility or hospital under Subsection (1) is appropriate to include in the report;

(vii) adjust comparisons among facilities and hospitals for patient case mix and other relevant factors, when appropriate; and

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(viii) control for provider peer groups, when appropriate.

(3) Before posting or releasing the report described in Subsection (2)(a), the department shall:

(a) disclose to each ambulatory surgical facility, general acute hospital, and specialty hospital whose data is included in the report:

(i) the entire methodology for analyzing the data; and

(ii) the comparative facility or hospital information and other information the department has compiled for the facility or hospital; and

(b) give the facility or hospital 30 days to suggest corrections or add explanatory comments about the data.

(4) The department shall develop and implement effective safeguards to protect against the unauthorized use or disclosure of ambulatory surgical facility, general acute hospital, and specialty hospital data, including the dissemination of inconsistent, incomplete, invalid, inaccurate, or subjective data.

(5) The report described in Subsection (2)(a):

(a) may include data that compare and identify general acute hospitals, ambulatory surgical centers, and specialty hospitals;

(b) shall contain only statistical, non-identifying information and may not disclose the identity of:

(i) an employee of an ambulatory surgical facility, a general acute hospital, or a specialty hospital;

(ii) a patient; or

(iii) a health care provider licensed under Title 58, Occupations and Professions; and

(c) may not be used as evidence in a criminal, civil, or administrative proceeding.

(6) This section does not limit the department's authority to investigate and collect data regarding infections and communicable diseases under other provisions of state or federal law.

Section ~~{263}~~264. Section **26B-7-222**, which is renumbered from Section 26-6-32 is renumbered and amended to read:

~~[26-6-32]. 26B-7-222. Testing for COVID-19 for high-risk individuals at care facilities -- Collection and release of information regarding risk factors and comorbidities for COVID-19.~~

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(1) As used in this section:

(a) "Care facility" means a facility described in Subsections ~~[26-6-6]~~ 26B-7-206(2) through (6).

(b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(2) (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.

(b) The department:

(i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;

(ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and

(iii) may establish who is responsible for the costs of the testing.

(c) (i) The protocols described in Subsection (2)(b)(i) shall:

(A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and

(B) specify criteria for when an individual's refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

(ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:

(A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident's refusal to submit to testing endangers the health or safety of other individuals at the care facility; and

(B) discharging the resident does not violate federal law.

(3) The department may establish protocols to collect information regarding the individual's age and relevant comorbidities from an individual who receives a positive test 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).

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Section ~~{264}~~265. 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}~~266. 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.

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(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~~

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~~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}~~267. 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}~~26B-8-411.

(4) A general acute hospital shall submit stroke data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to ~~[Chapter 3,]~~ Chapter 8, Part 4, Health Statistics.

(6) No person may be held civilly liable for providing data to the department in

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accordance with this section.

Section ~~{267}~~268. Section **26B-7-226**, which is renumbered from Section 26-8d-103 is renumbered and amended to read:

~~[26-8d-103]~~. **26B-7-226**. **Statewide cardiac registry.**

(1) The department shall establish and supervise a statewide cardiac registry to:

(a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation of cardiac diseases;

(b) promote optimal care for cardiac patients;

(c) alleviate unnecessary death and disability from cardiac diseases;

(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 cardiac care.

(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 cardiac registry on the provision of cardiac 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 cardiac 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}~~26B-8-411.

(4) A general acute hospital shall submit cardiac data in accordance with rules established under Subsection (3).

(5) Data collected under this section shall be subject to ~~[Chapter 3]~~ Chapter 8, Part 4, Health Statistics.

(6) No person may be held civilly liable for providing data to the department in accordance with this section.

Section ~~{268}~~269. Section **26B-7-227**, which is renumbered from Section 26-5-1 is

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renumbered and amended to read:

~~[26-5-1].~~ **26B-7-227.** Chronic disease control -- Establishing a prevention program -- Detection, monitoring, and community education.

(1) As used in this ~~[chapter]~~ section, "chronic disease" means an impairment or deviation from the normal functioning of the human body having one or more of the following characteristics:

- ~~[(1)-It]~~ (a) is permanent;
- ~~[(2)-It]~~ (b) leaves residual disability;
- ~~[(3)-It]~~ (c) is caused by nonreversible pathological alterations;
- ~~[(4)-It]~~ (d) requires special patient education and instruction for rehabilitation; or
- ~~[(5)-It]~~ (e) may require a long period of supervision, observation and care.

(2) The department shall establish and operate reasonable programs to prevent, delay, and detect the onset of chronic diseases including cancer, diabetes, cardiovascular and pulmonary diseases, genetic diseases, and such other chronic diseases as the department determines are important in promoting, protecting, and maintaining the public's health.

(3) (a) The department shall develop and maintain a system for detecting and monitoring chronic diseases within the state and shall investigate and determine the epidemiology of those conditions which contributed to preventable and premature sickness, or both, and to death and disability.

(b) Beginning July 1, 2004, the department shall consider the disease known as "lupus" a chronic disease subject to the detection and monitoring provisions of Subsection (3)(a).

(4) The department shall establish programs of community and professional education relevant to the detection, prevention, and control of chronic diseases.

Section ~~{269}~~270. Section **26B-7-301**, which is renumbered from Section 26-23b-102 is renumbered and amended to read:

Part 3. Treatment, Isolation, and Quarantine Procedures for Communicable Diseases

~~[26-23b-102].~~ **26B-7-301.** Definitions.

As used in this ~~[chapter]~~ part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant,

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or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

(3) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the department which have the potential to cause serious illness or death.

(4) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

(5) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section ~~26B-4-~~
~~101~~26B-4-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to restriction is found.

~~[(5)]~~ (6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

~~[(6)]~~ (7) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

~~[(7)]~~ (8) (a) "Order of constraint" means an order, rule, or regulation issued in response

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to a declared public health emergency under this ~~[chapter]~~ part, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(9) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

~~[(8)]~~ (10) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.

(11) "Public health official" means:

(a) the executive director or the executive director's authorized representative; or

(b) the executive director of a local health department or the executive director's authorized representative.

~~[(9)]~~ (12) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.

~~[(10)]~~ (13) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their

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respective residences; and

(b) may include exceptions for certain essential tasks.

(14) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals is:

(a) 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 to prevent spread of the disease;

(b) 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) in a condition or suspected condition which, if the individual is exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed the individual will pose a threat to public health; or

(d) 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.

Section ~~{270}~~271. Section **26B-7-302**, which is renumbered from Section 26-1-12 is renumbered and amended to read:

~~[26-1-12].~~ 26B-7-302. Executive director -- Power to order abatement of public health hazard.

If the executive director finds that a condition of filth, sanitation, or other health hazard exists which creates a clear present hazard to the public health and which requires immediate action to protect human health or safety, the executive director with the concurrence of the governor may order persons causing or contributing to the condition to reduce, discontinue, or ameliorate it to the extent that the public health hazard is eliminated.

Section ~~{271}~~272. Section **26B-7-303**, which is renumbered from Section 26-6b-1 is renumbered and amended to read:

~~[26-6b-1].~~ 26B-7-303. Applicability -- Administrative procedures.

(1) ~~[This chapter applies]~~ Sections 26B-7-304 through 26B-7-315 apply to involuntary examination, treatment, isolation, and quarantine actions applied to individuals or groups of individuals by the department or a local health department.

(2) The provisions of ~~[this chapter]~~ Sections 26B-7-304 through 26B-7-315 supersede

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the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(3) The [~~Department of Health~~] department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of [~~this chapter~~] Sections 26B-7-304 through 26B-7-315.

Section ~~{272}~~273. Section **26B-7-304**, which is renumbered from Section 26-6b-3 is renumbered and amended to read:

~~[26-6b-3]~~. 26B-7-304. Order of restriction.

(1) Subject to Subsection (5), the department or a local health department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:

(a) issue a written order of restriction for the individual or group of individuals pursuant to Section ~~[26-1-30]~~ 26B-1-202 or Subsection 26A-1-114(1)(b) upon compliance with the requirements of [~~this {} chapter~~] ~~{part}~~Sections 26B-7-304 through 26B-7-314; and

(b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).

(2) (a) A department or local health department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department or local health department, including:

(i) observation;

(ii) information that the department or local health department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the [~~Department of Health~~] department by administrative rule.

(b) An order of restriction issued by the department or a local health department shall:

(i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;

(ii) use the least intrusive method of restriction that, in the opinion of the department or local health department, is reasonable based on the totality of circumstances known to the department or local health department issuing the order of restriction;

(iii) be in writing unless the provisions of Subsection (2)(c) apply; and

(iv) contain notice of an individual's rights as required in Section ~~[26-6b-3.3]~~ ~~{26B-7-~~

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(c) (i) [A] The department or a local health department may issue a verbal order of restriction, without prior notice to the individual or group of individuals if the delay in imposing a written order of restriction would significantly jeopardize the department or local health department's ability to prevent or limit:

(A) the transmission of a communicable or possibly communicable disease that poses a threat to public health;

(B) the transmission of an infectious agent or possibly infectious agent that poses a threat to public health;

(C) the exposure or possible exposure of a chemical or biological agent that poses a threat to public health; or

(D) the exposure or transmission of a condition that poses a threat to public health.

(ii) A verbal order of restriction issued under ~~[the provisions of]~~ Subsection (2)(c)(i):

(A) is valid for 24 hours from the time the order of restriction is issued;

(B) may be verbally communicated to the individuals or group of individuals subject to restriction by a first responder;

(C) may be enforced by the first responder until the department or local health department is able to establish and maintain the place of restriction; and

(D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section ~~[26-6b-3.3]~~ 26B-7-307.

(3) Pending issuance of a written order of restriction under Section ~~[26-6b-3.3]~~ 26B-7-307, or judicial review of an order of restriction ~~[by the district court pursuant to]~~ under Section ~~[26-6b-6]~~ 26B-7-311, an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department or local health department.

(4) The department or local health department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.

(5) (a) The Legislature may at any time terminate by joint resolution an order of

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restriction issued by the department or local health 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 restriction issued by the relevant local health department [~~as described in~~] under this section issued in response to a declared public health emergency.

Section ~~{273}~~274. Section **26B-7-305**, which is renumbered from Section 26-6b-3.1 is renumbered and amended to read:

~~[26-6b-3.1].~~ 26B-7-305. Consent to order of restriction -- Periodic review.

(1) (a) The department or a local health department shall either seek judicial review of an order of restriction under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311, or obtain the consent of an individual subject to an order of restriction.

(b) If the department or a local department obtains consent, the consent shall be in writing and shall inform the individual or group of individuals:

(i) of the terms and duration of the order of restriction;

(ii) of the importance of complying with the order of restriction to protect the public's health;

(iii) that each individual has the right to agree to the order of restriction, or refuse to agree to the order of restriction and seek a judicial review of the order of restriction;

(iv) that for any individual who consents to the order of restriction:

(A) the order of restriction will not be reviewed by the [~~district~~] court unless the individual withdraws consent to the order of restriction in accordance with Subsection (1)(b)(iv)(B); and

(B) the individual shall notify the department or local health department in writing, with at least five business day's notice, if the individual intends to withdraw consent to the order of restriction; and

(v) that a breach of a consent agreement prior to the end of the order of restriction may subject the individual to an involuntary order of restriction under Section [~~26-6b-3.2~~] 26B-7-306.

(2) (a) The department or local health department responsible for the care of an individual who has consented to the order of restriction shall periodically reexamine the reasons upon which the order of restriction was based. This reexamination shall occur at least

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once every six months.

(b) (i) If at any time, the department or local health department determines that the conditions justifying the order of restriction for either a group or an individual no longer exist, the department or local health department shall immediately discharge the individual or group from the order of restriction.

(ii) If the department or local health department determines that the conditions justifying the order of restriction continue to exist, the department or local health department shall send to the individual a written notice of:

(A) the department or local health department's findings, the expected duration of the order of restriction, and the reason for the decision; and

(B) the individual's right to a judicial review of the order of restriction by the [~~district~~] court if requested by the individual.

(iii) Upon request for judicial review by an individual, the department or local health department shall:

(A) file a petition [~~in district~~] with the court within five business days after the individual's request for a judicial review; and

(B) proceed under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311.

Section ~~{274}~~275. Section **26B-7-306**, which is renumbered from Section 26-6b-3.2 is renumbered and amended to read:

[~~26-6b-3.2~~]. 26B-7-306. Involuntary order of restriction -- Notice -- Effect of order during judicial review.

(1) If the department or local health department cannot obtain consent to the order of restriction from an individual, or if an individual withdraws consent to an order under Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B), the department or local health department shall:

(a) give the individual or group of individuals subject to the order of restriction a written notice of:

(i) the order of restriction and any supporting documentation; and

(ii) the individual's right to a judicial review of the order of restriction; and

(b) file a petition for a judicial review of the order of restriction under Section [~~26-6b-4~~] 26B-7-309 in [~~district~~] court within:

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- (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}~~276. 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 medical monitoring;

(g) the medical or scientific information upon which the restriction is based;

(h) a statement advising of the right to a judicial review of the order of restriction by

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the [district] court; and

(i) pursuant to Subsection (2), the rights of each individual subject to restriction.

(2) An individual subject to restriction has the following rights:

(a) the right to be represented by legal counsel in any judicial review of the order of restriction in accordance with Subsection [~~26-6b-4~~] 26B-7-309(3);

(b) the right to be provided with prior notice of the date, time, and location of any hearing concerning the order of restriction;

(c) the right to participate in any hearing, in a manner established by the court based on precautions necessary to prevent additional exposure to communicable or possibly communicable diseases or to protect the public health;

(d) the right to respond and present evidence and arguments on the individual's own behalf in any hearing;

(e) the right to cross examine witnesses; and

(f) the right to review and copy all records in the possession of the department that issued the order of restriction which relate to the subject of the written order of restriction.

(3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local health department issues an order of restriction for a group of individuals, the department or local health department may modify the method of providing notice to the group or modify the information contained in the notice, if the public health official determines the modification of the notice is necessary to:

(i) protect the privacy of medical information of individuals in the group; or

(ii) provide notice to the group in a manner that will efficiently and effectively notify the individuals in the group within the period of time necessary to protect the public health.

(b) When the department or a local health department modifies notice to a group of individuals under Subsection (3)(a), the department or local health department shall provide each individual in the group with notice that complies with the provisions of Subsection (1) as soon as reasonably practical.

(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.

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(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}~~277. Section **26B-7-308**, which is renumbered from Section 26-6b-3.4 is renumbered and amended to read:

~~[26-6b-3.4].~~ 26B-7-308. Medical records -- Privacy protections.

(1) (a) Health care providers as defined in Section 78B-3-403, health care facilities licensed under ~~[Title 26, Chapter 21]~~ Chapter 2, Part 2, Health Care Facility Licensing and Inspection, ~~[Act,]~~ and governmental entities, shall, when requested, provide the public health official and the individual subject to an order of restriction, a copy of medical records that are relevant to the order of restriction.

(b) The records requested under Subsection (1)(a) shall be provided as soon as reasonably possible after the request is submitted to the health care provider or health care facility, or as soon as reasonably possible after the health care provider or facility receives the results of any relevant diagnostic testing of the individual.

(2) (a) The production of records under the provisions of this section is for the benefit of the public health and safety of the citizens of the state. A health care provider or facility is encouraged to provide copies of medical records or other records necessary to carry out the purpose of ~~[this {}}chapter]~~ {part}Sections 26B-7-304 through 26B-7-314 free of charge.

(b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a state governmental entity shall provide medical records or other records necessary to carry out the purposes of ~~[this {}}chapter]~~ {part}Sections 26B-7-304 through 26B-7-314, free of charge.

(c) If a health care provider or health care facility does not provide medical records free of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility may charge a fee for the records that does not exceed the presumed reasonable charges established for workers' compensation by administrative rule adopted by the Labor Commission.

(3) Medical records held by a court related to orders of restriction under ~~[this {}}chapter]~~ {part}Sections 26B-7-304 through 26B-7-314{}} shall be sealed by the ~~[district]~~

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court at the conclusion of the case.

Section ~~{277}~~278. Section **26B-7-309**, which is renumbered from Section 26-6b-4 is renumbered and amended to read:

~~[26-6b-4].~~ 26B-7-309. Judicial review -- Required notice -- Representation by counsel -- Conduct of proceedings.

(1) The provisions of this section and Sections ~~[26-6b-5]~~ 26B-7-310 through ~~[26-6b-7]~~ 26B-7-312 apply if the department or a local health department issues an order for restriction, and:

(a) an individual subject to the order of restriction refuses to consent to the order of restriction;

(b) an individual subject to an order of restriction has withdrawn consent to an order of restriction under the provisions of Subsection ~~[26-6b-3.1]~~ 26B-7-305(1)(b)(iv)(B); or

(c) the department or local health department chooses to not attempt to obtain consent to an order of restriction and files an action for judicial review of the order of restriction.

(2) (a) If the individual who is subject to an order of restriction is in custody, the department or local health department, which is the petitioner, shall provide to the individual written notice of the petition for judicial review of the order of restriction and hearings held pursuant to Sections ~~[26-6b-5]~~ 26B-7-310 through ~~[26-6b-7]~~ 26B-7-312 as soon as practicable, and shall send the notice to the legal guardian, legal counsel for the parties involved, and any other persons and immediate adult family members whom the individual or the ~~[district]~~ court designates.

(b) The notice described in Subsection (2)~~(~~(b)~~)~~(a) shall advise these persons that a hearing may be held within the time provided by this ~~[chapter]~~ part.

~~(b)~~ (c) If the individual has refused to permit release of information necessary for the provision of notice under this Subsection (2), the extent of notice shall be determined by the ~~[district]~~ court.

~~(c)~~ (d) Notwithstanding the notice requirement in Subsection (2)(a), if the court determines that written notice to each individual in a group of individuals subject to an order of restriction is not practical considering the circumstances of the threat to public health, the court may order the department to provide notice to the individual or group of individuals in a manner determined by the court.

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(3) (a) If the individual who is subject to an order of restriction is in custody, he shall be afforded an opportunity to be represented by counsel. If neither the individual nor others provide for counsel, the [district] court shall appoint counsel and allow counsel sufficient time to consult with the individual prior to the hearing. If the individual is indigent, the payment of reasonable attorney fees for counsel, as determined by the [district] court, shall be made by the county in which the individual resides or was found.

(b) The parties may appear at the hearings, to testify, and to present and cross-examine witnesses. The [district] court may, in its discretion, receive the testimony of any other individual.

(c) The [district] court may allow a waiver of the individual's right to appear only for good cause shown, and that cause shall be made a part of the court record.

(d) The [district] court may order that the individual participate in the hearing by telephonic or other electronic means if the individual's condition poses a health threat to those who physically attend the hearing or to others if the individual is transported to the court.

(4) The [district] court may, in its discretion, order that the individual be moved to a more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may transfer the proceedings to any other [district] court within this state where venue is proper, provided that the transfer will not be adverse to the legal interests of the individual.

(5) All persons to whom notice is required to be given may attend the hearings. The [district] court may exclude from the hearing all persons not necessary for the conduct of the proceedings.

(6) All hearings 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 health of the individual or others required to participate in the hearing.

(7) The [district] court shall receive all relevant and material evidence which is offered, subject to Utah Rules of Evidence.

(8) The [district] court may order law enforcement to assist the petitioner in locating the individuals subject to restriction and enforcing the order of restriction.

Section ~~278~~279. Section **26B-7-310**, which is renumbered from Section 26-6b-5 is renumbered and amended to read:

~~26-6b-5~~. 26B-7-310. Petition for judicial review of order of restriction --

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Court-ordered examination period.

(1) (a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the ~~[district]~~ court of the county in which the individual or group of individuals reside or are located.

(b) (i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under ~~[this chapter]~~ ~~part~~ Sections 26B-7-304 through 26B-7-314.

(ii) The Office of the Attorney General shall represent the department when the petitioner is the ~~[Department of Health]~~ department in any proceedings under ~~[this chapter]~~ ~~part~~ Sections 26B-7-304 through 26B-7-314.

(2) The petition under Subsection (1) shall be accompanied by:

(a) written affidavit of the department stating:

(i) a belief the individual or group of individuals are subject to restriction;

(ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;

(iii) this failure would pose a threat to the public health; and

(iv) the personal knowledge of the individual's or group of individuals' condition or the circumstances that lead to that belief; and

(b) a written statement by a licensed physician or physician assistant indicating the physician or physician assistant finds the individual or group of individuals are subject to restriction.

(3) The court shall issue an order of restriction requiring the individual or group of individuals to submit to involuntary restriction to protect the public health if the ~~[district]~~ court finds:

(a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending 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,

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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}~~280. 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

(b) have stipulated to the issuance of an order of restriction.

(2) If the individual or an individual in a group of individuals has stipulated to the

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issuance of an order of restriction, the court may issue an order as provided in Subsection (6) for those individuals without further hearing.

(3) (a) If the examination report required in Section ~~[26-6b-5]~~ 26B-7-310 proves the individual or group of individuals are not subject to restriction, the court may without further hearing terminate the proceedings and dismiss the petition.

(b) The court may, after a hearing at which the individual or group of individuals are present in person or by telephonic or other electronic means and have had the opportunity to be represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual or group of individuals are infected by or contaminated with:

- (i) a communicable or possibly communicable disease that poses a threat to public health;
- (ii) an infectious agent or possibly infectious agent that poses a threat to public health;
- (iii) a chemical or biological agent that poses a threat to public health; or
- (iv) a condition that poses a threat to public health, but, despite the exercise of reasonable diligence the diagnostic studies have not been completed.

(4) The petitioner shall, at the time of the hearing, provide the ~~[district]~~ court with the following items, to the extent that they have been issued or are otherwise available:

- (a) the order of restriction issued by the petitioner;
- (b) admission notes if any individual was hospitalized; and
- (c) medical records pertaining to the current order of restriction.

(5) The information provided to the court under Subsection (4) shall also be provided to the individual's or group of individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.

(6) (a) The ~~[district]~~ court shall order the individual and each individual in a group of individuals to submit to the order of restriction if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:

- (i) the individual or group of individuals are infected with a communicable disease or infectious agent, are contaminated with a chemical or biological agent, or are in a condition that poses a threat to public health;
- (ii) there is no appropriate and less restrictive alternative to a court order of

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examination, quarantine, isolation, and treatment, or any of them;

(iii) the petitioner can provide the individual or group of individuals with treatment that is adequate and appropriate to the individual's or group of individuals' conditions and needs; and

(iv) it is in the public interest to order the individual or group of individuals to submit to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing the following factors:

(A) the personal or religious beliefs, if any, of the individual that are opposed to medical examination or treatment;

(B) the ability of the department to control the public health threat with treatment alternatives that are requested by the individual;

(C) the economic impact for the department if the individual is permitted to use an alternative to the treatment recommended by the department; and

(D) other relevant factors as determined by the court.

(b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

(7) The order of restriction shall designate the period, subject to Subsection (8), for which the individual or group of individuals shall be examined, treated, isolated, or quarantined.

(8) (a) The order of restriction may not exceed six months without benefit of a [~~district~~] court review hearing.

(b) (i) The [~~district~~] court review hearing shall be held prior to the expiration of the order of restriction issued under Subsection (7).

(ii) At the review hearing the court may issue an order of restriction for up to an indeterminate period, if the [~~district~~] court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Section ~~{280}~~281. Section **26B-7-312**, which is renumbered from Section 26-6b-7 is renumbered and amended to read:

[26-6b-7]. 26B-7-312. Periodic review of individuals under court order.

(1) (a) At least two weeks prior to the expiration of the designated period of any court

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order still in effect, the petitioner shall inform the court that issued the order that the order is about to expire.

(b) The petitioner shall immediately reexamine the reasons upon which the court's order was based.

(c) If the petitioner determines that the conditions justifying that order no longer exist, ~~it~~ the petitioner shall discharge the individual from involuntary quarantine, isolation, or treatment and report its action to the court for a termination of the order.

(d) ~~Otherwise~~ If the conditions justifying the order still exist, the court shall schedule a hearing prior to the expiration of ~~its~~ the court's order and proceed under Sections ~~[26-6b-4]~~ 26B-7-309 through ~~[26-6b-6]~~ 26B-7-311.

(2) (a) The petitioner responsible for the care of an individual under a court order of involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month intervals reexamine the reasons upon which the order of indeterminate duration was based.

(b) If the petitioner determines that the conditions justifying that the court's order no longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation, or treatment and immediately report its action to the court for a termination of the order.

(c) If the petitioner determines that the conditions justifying the involuntary quarantine, isolation, or treatment continue to exist, the petitioner shall send a written report of those findings to the court.

(d) The petitioner shall notify the individual and his counsel of record in writing that the involuntary quarantine, isolation, or treatment will be continued, the reasons for that decision, and that the individual has the right to a review hearing by making a request to the court.

(e) Upon receiving the request for a review, the court shall immediately set a hearing date and proceed under Sections ~~[26-6b-4]~~ 26B-6-309 through ~~[26-6b-6]~~ 26B-6-311.

Section ~~{281}~~ 282. Section **26B-7-313**, which is renumbered from Section 26-6b-8 is renumbered and amended to read:

~~[26-6b-8].~~ **26B-7-313. Transportation of individuals subject to temporary or 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

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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}~~283. 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}~~284. 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}~~26B-7-304 through ~~{26B-7-414}~~26B-7-314, if ~~{the provisions}~~a provision or the application of [~~this chapter~~] ~~{the provisions}~~a provision to any person or circumstance[;] is found to be unconstitutional, the provision that is found to be unconstitutional is severable and the balance of [~~this chapter remains~~] any sections not found to be ~~{constitutional}~~unconstitutional remain effective, notwithstanding [~~that unconstitutionality~~] those sections found to be unconstitutional.

Section ~~{284}~~285. Section **26B-7-316**, which is renumbered from Section 26-23b-103 is renumbered and amended to read:

~~[26-23b-103].~~ 26B-7-316. Mandatory reporting requirements -- Contents of reports -- Penalties.

(1) (a) A health care provider shall report to the department any case of any person who the provider knows has a confirmed case of, or who the provider believes in his professional judgment is sufficiently likely to harbor any illness or health condition that may be caused by:

(i) bioterrorism;

(ii) epidemic or pandemic disease; or

(iii) novel and highly fatal infectious agents or biological toxins which might pose a substantial risk of a significant number of human fatalities or incidences of permanent or long-term disability.

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(b) A health care provider shall immediately submit the report required by Subsection (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).

(2) (a) A report required by this section shall be submitted electronically, verbally, or in writing to the department or appropriate local health department.

(b) A report submitted pursuant to Subsection (1) shall include, if known:

(i) diagnostic information on the specific illness or health condition that is the subject of the report, and, if transmitted electronically, diagnostic codes assigned to the visit;

(ii) the patient's name, date of birth, sex, race, occupation, and current home and work address and phone number;

(iii) the name, address, and phone number of the health care provider; and

(iv) the name, address, and phone number of the reporting individual.

(3) The department may impose a sanction against a health care provider for failure to make a report required by this section only if the department can show by clear and convincing evidence that a health care provider willfully failed to file a report.

Section ~~{285}~~286. Section **26B-7-317**, which is renumbered from Section 26-23b-104 is renumbered and amended to read:

~~[26-23b-104]~~. **26B-7-317. Authorization to report -- Declaration of a public health emergency -- Termination of a public health emergency -- Order of constraint.**

(1) A health care provider is authorized to report to the department any case of a reportable emergency illness or health condition in any person when:

(a) the health care provider knows of a confirmed case; or

(b) the health care provider believes, based on the health care provider's professional judgment that a person likely harbors a reportable emergency illness or health condition.

(2) A report ~~{f}~~pursuant to ~~{f under}~~ this section shall include, if known:

(a) the name of the facility submitting the report;

(b) a patient identifier that allows linkage with the patient's record for follow-up investigation if needed;

(c) the date and time of visit;

(d) the patient's age and sex;

(e) the zip code of the patient's residence;

(f) the reportable illness or condition detected or suspected;

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- (g) diagnostic information and, if available, diagnostic codes assigned to the visit; and
- (h) whether the patient was admitted to the hospital.

(3) (a) Subject to Subsections (3)(b) and (4), if the department determines that a public health emergency exists, the department may, with the concurrence of the governor and the executive director or in the absence of the executive director, the executive director's designee, declare a public health emergency, issue an order of constraint, and mandate reporting under this section for a limited reasonable period of time, as necessary to respond to the public health emergency.

(b) (i) During a public health emergency that has been in effect for more than 30 days, the department may not issue an order of constraint until the department has provided notice of the proposed action to the legislative emergency response committee no later than 24 hours before the department issues the order of constraint.

(ii) The department:

(A) shall provide the notice required by Subsection (3)(b)(i) using the best available method under the circumstances as determined by the executive director;

(B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and

(C) shall provide the notice in written form, if practicable.

(c) The department may not mandate reporting under this subsection for more than 90 days.

(4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by the department as described in Subsection (3) expires at the earliest of:

(i) the day on which the department or the governor finds that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by a joint resolution of the Legislature.

(b) (i) The Legislature, by joint resolution, may extend a public health emergency for a time period designated in the joint resolution.

(ii) If the Legislature extends a public health emergency as described in Subsection

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(4)(b)(i), the public health emergency expires on the date designated by the Legislature.

(c) Except as provided in Subsection (4)(d), if a public health emergency declared by the department expires as described in Subsection (4)(a) or (b), the department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the department finds that exigent circumstances exist, after providing notice to the Legislature, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in accordance with Subsection (4)(a) or (b).

(e) If the Legislature terminates a public health emergency declared due to exigent circumstances as described in Subsection (4)(d)(i), the department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(5) During a declared public health emergency declared under this title:

(a) the Legislature may:

(i) at any time by joint resolution terminate an order of constraint issued by the department; or

(ii) by joint resolution terminate an order of constraint issued by a local health department in response to a public health emergency that has been in effect for more than 30 days; and

(b) a county legislative body may at any time terminate an order of constraint issued by a local health department in response to a declared public health emergency.

(6) (a) (i) If the department declares a public health emergency as described in this ~~[chapter]~~ part, and the 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 Legislature as described in this section, the department shall provide written notice to the speaker of the House of Representatives and the president of the Senate at least 10 days before 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

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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 individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of

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constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (8).

(c) During a public health emergency declared as described in ~~this~~this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(9) (a) Unless the provisions of Subsection (3) apply, a health care provider is not subject to penalties for failing to submit a report under this section.

(b) If the provisions of Subsection (3) apply, a health care provider is subject to the penalties of Subsection ~~[26-23b-103]~~ 26B-7-316(3) for failure to make a report under this section.

Section ~~286~~287. Section **26B-7-318**, which is renumbered from Section 26-23b-105 is renumbered and amended to read:

~~[26-23b-105]~~. **26B-7-318. Pharmacy reporting requirements.**

(1) Notwithstanding the provisions of Subsection ~~[26-23b-103]~~ 26B-7-316(1)(a), a pharmacist shall report unusual drug-related events as described in Subsection (2).

(2) Unusual drug-related events that require a report include:

(a) an unusual increase in the number of prescriptions filled for antimicrobials;

(b) any prescription that treats a disease that has bioterrorism potential if that prescription is unusual or in excess of the expected frequency; and

(c) an unusual increase in the number of requests for information about or sales of over-the-counter pharmaceuticals to treat conditions which may suggest the presence of one of

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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 Sections 26B-7-316 through 26B-7-324, the pharmacist in charge shall make the report under this section on behalf of the health care facility.

(4) (a) The report required by this section shall be submitted in accordance with Subsection ~~[26-23b-103]~~ 26B-7-316(2)(a).

(b) A report shall include the name and location of the reporting pharmacist, the name and type of pharmaceuticals that are the subject of the unusual increase in use, and if known, the suspected illness or health condition that is the subject of the report.

(5) A pharmacist is subject to the penalties under Subsection ~~[26-23b-103]~~ 26B-7-316(3) for failing to make a report required by this section.

Section ~~{287}~~ 288. Section **26B-7-319**, which is renumbered from Section 26-23b-106 is renumbered and amended to read:

~~[26-23b-106]~~. **26B-7-319. Medical laboratory reporting requirements.**

(1) Notwithstanding the provisions of Subsection ~~[26-23b-103]~~ 26B-7-316(1), the director of a medical laboratory located in this state is responsible for reporting results of a laboratory test that confirm a condition or illness described in Subsection ~~[26-23b-103]~~ 26B-7-316(1) within 24 hours after obtaining the results of the test. This reporting requirement also applies to results obtained on specimens sent to an out-of-state laboratory for analysis.

(2) The director of a medical laboratory located outside this state that receives a specimen obtained inside this state is responsible for reporting the results of any test that confirm a condition or illness described in Subsection ~~[26-23b-103]~~ 26B-7-316(1), within 24 hours of obtaining the results, provided that the laboratory that performs the test has agreed to the reporting requirements of this state.

(3) If a medical laboratory is part of a health care facility subject to the reporting requirements of ~~[this chapter]~~ part Sections 26B-7-316 through 26B-7-324, the director of the medical laboratory shall make the report required by this section on behalf of the health

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care facility.

(4) The report required by this section shall be submitted in accordance with Subsection ~~[26-23b-103]~~ 26B-7-316(2).

(5) The director of a medical laboratory is subject to the penalties of Subsection ~~[26-23b-103]~~ 26B-7-316(3) for failing to make a report required by this section.

Section ~~{288}~~289. Section **26B-7-320**, which is renumbered from Section 26-23b-107 is renumbered and amended to read:

~~[26-23b-107].~~ **26B-7-320. Exemptions from liability.**

(1) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report ~~[pursuant to this chapter]~~ under Sections 26B-7-316 through 26B-7-323.

(2) A health care provider may not incur any civil or criminal liability as a result of making any report under ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-323 so long as the report is made in good faith.

Section ~~{289}~~290. Section **26B-7-321**, which is renumbered from Section 26-23b-108 is renumbered and amended to read:

~~[26-23b-108].~~ **26B-7-321. Investigation of suspected bioterrorism and diseases -- Termination of orders of constraint.**

(1) Subject to Subsection (6), the department shall:

(a) ascertain the existence of cases of an illness or condition caused by the factors described in Subsections ~~[26-23b-103]~~ 26B-7-316(1) and ~~[26-23b-104]~~ 26B-7-317(1);

(b) investigate all such cases for sources of infection or exposure;

(c) ensure that any cases, suspected cases, and exposed persons are subject to proper control measures; and

(d) define the distribution of the suspected illness or health condition.

(2) (a) Acting on information received from the reports required by ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-320, or other reliable information, the department shall identify all individuals thought to have been exposed to an illness or condition described in Subsection ~~[26-23b-103]~~ 26B-7-316(1).

(b) The department may request information from a health care provider concerning an individual's identifying information as described in Subsection ~~[26-23b-103]~~ 26B-7-316(2)(b) when:

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(i) the department is investigating a potential illness or condition described in Subsection ~~[26-23b-103]~~ 26B-7-316(1) and the health care provider has not submitted a report to the department with the information requested; or

(ii) the department has received a report from a pharmacist under Section ~~[26-23b-105]~~ 26B-7-318, a medical laboratory under Section ~~[26-23b-106]~~ 26B-7-319, or another health care provider under Subsection ~~[26-23b-104]~~ 26B-7-317(1) and the department believes that further investigation is necessary to protect the public health.

(c) A health care provider shall submit the information requested under this section to the department within 24 hours after receiving a request from the department.

(3) The department shall counsel and interview identified individuals as appropriate to:

(a) assist in the positive identification of other cases and exposed individuals;

(b) develop information relating to the source and spread of the illness or condition;

and

(c) obtain the names, addresses, phone numbers, or other identifying information of any other person from whom the illness or health condition may have been contracted and to whom the illness or condition may have spread.

(4) The department shall, for examination purposes, close, evacuate, or decontaminate any facility when the department reasonably believes that such facility or material may endanger the public health due to a condition or illness described in Subsection ~~[26-23b-103]~~ 26B-7-316(1).

(5) The department ~~[will]~~ shall destroy personally identifying health information about an individual collected by the department as a result of a report under ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-322 upon the earlier of:

(a) the department's determination that the information is no longer necessary to carry out an investigation under ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-324; or

(b) 180 days after the information is collected.

(6) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department 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 in response to a declared public health emergency.

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Section ~~{290}~~291. Section **26B-7-322**, which is renumbered from Section 26-23b-109 is renumbered and amended to read:

~~[26-23b-109].~~ **26B-7-322. Enforcement.**

The department may enforce the provisions of ~~[this chapter]~~ Sections 26B-7-316 through ~~{26B-7-323}~~26B-7-324 in accordance with existing enforcement laws and regulations.

Section ~~{291}~~292. Section **26B-7-323**, which is renumbered from Section 26-23b-110 is renumbered and amended to read:

~~[26-23b-110].~~ **26B-7-323. Information sharing with public safety authorities.**

(1) ~~[For purposes of]~~ As used in this section, "public safety authority" means a local, state, or federal law enforcement authority including the Division of Emergency Management, emergency medical services personnel, and firefighters.

(2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records Access and Management Act:

(a) whenever a public safety authority suspects a case of a reportable illness or condition under the provisions of this chapter, it shall immediately notify the department;

(b) whenever the department learns of a case of a reportable illness or condition under this ~~[chapter]~~ part that ~~[it]~~ the department reasonably believes has the potential to be caused by one of the factors listed in Subsection ~~[26-23b-103]~~ 26B-7-316(1), ~~[it]~~ the department shall immediately notify the appropriate public safety authority; and

(c) sharing of information reportable under ~~[the provisions of this chapter]~~ this part between persons authorized by this ~~[chapter]~~ part shall be limited to information necessary for the treatment, control, investigation, and prevention of a public health emergency.

~~[(3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28 apply to this chapter.]~~

Section ~~{292}~~293. Section **26B-7-324** is enacted to read:

26B-7-324. Applicability of confidentiality provisions.

The provisions of Sections 26B-7-217 and 26B-7-218 apply to information collected under Sections 26B-7-316 through 26B-7-323 except to the extent that application of a provision in Section 26B-7-217 or 26B-7-218 is inconsistent with Sections ~~{26B-7-316}~~26B-7-316 through ~~{26B-7-323}~~26B-7-323.

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Section ~~{293}~~294. Section **26B-7-401**, which is renumbered from Section 26-15a-102 is renumbered and amended to read:

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[~~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}~~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.

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~~[(3)]~~ (9) "Food service establishment" means any place or area within a business or organization where potentially hazardous foods, as defined by the department under Section 26B-7-410, are prepared and intended for individual portion service and consumption by the general public, whether the consumption is on or off the premises, and whether or not a fee is charged for the food.

~~[(4) "Local health department" means a local health department as defined in Subsection 26A-1-102(5).]~~

~~[(5) "Potentially hazardous foods" shall be defined by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

(10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the home where ready-to-eat food is handled, stored, prepared, or offered for sale.

(b) "Microenterprise home kitchen" does not include:

(i) a catering operation;

(ii) a cottage food operation;

(iii) a food truck;

(iv) an agritourism food establishment;

(v) a bed and breakfast; or

(vi) a residence-based group care facility.

(11) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.

(12) "Ready-to-eat" means:

(a) raw animal food that is cooked;

(b) raw fruits and vegetables that are washed;

(c) fruits and vegetables that are cooked for hot holding;

(d) a time or temperature control food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(e) a bakery item for which further cooking is not required for food safety.

(13) "Time or temperature control food" means food that requires time or temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

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Section ~~{294}~~295. Section **26B-7-402**, which is renumbered from Section 26-15-2 is renumbered and amended to read:

~~[26-15-2]~~. 26B-7-402. Minimum rules of sanitation established by department.

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of:

(1) restaurants and all places where food or drink is handled, sold or served to the public;

(2) public swimming pools;

(3) public baths including saunas, spas, massage parlors, and suntan parlors;

(4) public bathing beaches;

(5) schools which are publicly or privately owned or operated;

(6) recreational resorts, camps, and vehicle parks;

(7) amusement parks and all other centers and places used for public gatherings;

(8) mobile home parks and highway rest stops;

(9) construction or labor camps;

(10) jails, prisons and other places of incarceration or confinement;

(11) hotels and motels;

(12) lodging houses and boarding houses;

(13) service stations;

(14) barbershops and beauty shops, including a facility in which one or more individuals are engaged in:

(a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or

(b) styling hair in accordance with the exemption from licensure described in Section 58-11a-304(13);

(15) physician and dentist offices;

(16) public buildings and grounds;

(17) public conveyances and terminals; and

(18) commercial tanning facilities.

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Section ~~{295}~~296. 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}~~297. 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}~~298. 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}~~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}~~299. Section **26B-7-406**, which is renumbered from Section 26-15-8 is

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renumbered and amended to read:

[~~26-15-8~~]. 26B-7-406. Periodic evaluation of local health sanitation programs
-- Minimum statewide enforcement standards -- Technical assistance.

(1) The department shall periodically evaluate the sanitation programs of local health departments to determine the levels of sanitation being maintained throughout the state.

(2) (a) The department shall ensure that each local health department's enforcement of the minimum rules of sanitation adopted under Section [~~26-15-2~~] ~~{26B-7-402}~~ 26B-7-402 for restaurants and other places where food or drink is handled meets or exceeds minimum statewide enforcement standards established by the department by administrative rule.

(b) Administrative rules adopted under Subsection (2)(a) shall include at least:

(i) the minimum number of periodic on-site inspections that shall be conducted by each local health department;

(ii) criteria for conducting additional inspections; and

(iii) standardized methods to be used by local health departments to assess compliance with the minimum rules of sanitation adopted under Section [~~26-15-2~~] ~~{26B-7-402}~~ 26B-7-402.

(c) The department shall help local health departments comply with the minimum statewide enforcement standards adopted under this Subsection (2) by providing technical assistance.

Section ~~{299}~~ 300. Section **26B-7-407**, which is renumbered from Section 26-15-13 is renumbered and amended to read:

[~~26-15-13~~]. 26B-7-407. Regulation of tanning facilities.

(1) For purposes of this section:

(a) "Minor" means [~~a person under 18 years of age~~] an individual who is younger than 18 years old.

(b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

(c) (i) "Tanning device" means equipment to which a tanning facility provides access that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including:

(A) a sunlamp; and

(B) a tanning booth or bed.

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(ii) "Tanning device" does not include a phototherapy device.

(d) "Tanning facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.

(2) A tanning facility shall:

(a) annually obtain a permit to do business as a tanning facility from the local health department with jurisdiction over the location in which the facility is located; and

(b) in accordance with Subsection (3) post a warning sign in a conspicuous location that is readily visible to a person about to use a tanning device.

(3) The posted warning and written consent required by Subsections (2) and (5) shall be developed by the department through administrative rules and shall include:

(a) that there are health risks associated with the use of a tanning device;

(b) that the facility may not allow a minor to use a tanning device unless the minor:

(i) has a written order from a physician; or

(ii) at each time of use is accompanied at the tanning facility by a parent or legal guardian who provides written consent authorizing the minor to use the tanning device.

(4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning device unless:

(a) the minor has a written order from a physician as defined in Section 58-67-102, to use a tanning device as a medical treatment; or

(b) (i) the minor's parent or legal guardian appears in person at the tanning facility each time that the minor uses a tanning device, except that the minor's parent or legal guardian is not required to remain at the facility for the duration of the use; and

(ii) the minor's parent or legal guardian signs the consent form required in Subsection (5).

(5) The written consent required by Subsection (4) shall be signed and dated each time the minor uses a tanning device at the facility, and shall include at least:

(a) information concerning the health risks associated with the use of a tanning device; and

(b) a statement that:

(i) the parent or legal guardian of the minor has read and understood the warnings given by the tanning facility, and consents to the minor's use of a tanning device; and

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(ii) the parent or legal guardian agrees that the minor will use protective eye wear.

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(a) minimum requirements a tanning facility shall satisfy to obtain a permit under Subsection (2);

(b) the written information concerning health risks a facility should include in the posted signs required by Subsection (3) and in the consent form required by Subsection (5);

(c) procedures a tanning facility shall implement to ensure a minor and the minor's parent or legal guardian comply with Subsections (4) and (5), including use of a statewide uniform form:

(i) for a parent or legal guardian to certify and give consent under Subsection (5); and

(ii) that clearly identifies the department's seal or other means to indicate that the form is an official form of the department; and

(d) the size, placement, and content of the sign a tanning facility must post under Subsection (2).

(7) (a) A violation of this section:

(i) is an infraction; and

(ii) may result in the revocation of a permit to do business as a tanning facility.

(b) If a person misrepresents to a tanning facility that the person is 18 years ~~[of age]~~ old or older, the person is guilty of an infraction.

(8) This section ~~[supercedes]~~ supersedes any ordinance enacted by the governing body of a political subdivision that:

(a) imposes restrictions on access to a tanning device by a person younger than ~~[age]~~ 18 years old that is not essentially identical to the provisions of this section; or

(b) that require the posting of warning signs at the tanning facility that are not essentially identical to the provisions of this section.

Section ~~{300}~~ 301. Section **26B-7-408**, which is renumbered from Section 26-31-201 is renumbered and amended to read:

~~[26-31-201]~~. **26B-7-408. Procurement and use of a blood product is a service and not a sale -- Blood donation by a minor.**

(1) As used in this section:

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(a) "Blood" means human blood.

(b) "Blood product" includes:

(i) whole blood;

(ii) blood plasma;

(iii) a blood derivative;

(iv) blood platelets; and

(v) blood clotting agents.

(2) The following are considered to be the rendition of a service by each participant and are not considered to be a sale:

[(1)] (a) the procurement, processing, distribution, or use of a blood product for the purpose of injecting or transfusing the blood product into the human body; and

[(2)] (b) the process of injecting or transfusing a blood product.

(3) A minor who is at least 16 years old may donate blood to a voluntary, noncompensatory blood donation program if a parent or legal guardian of the minor consents to the donation.

Section ~~{301}~~302. Section **26B-7-409**, which is renumbered from Section 26-51-201 is renumbered and amended to read:

~~[26-51-201].~~ **26B-7-409.** **Scientific standards for methamphetamine decontamination -- Public education concerning methamphetamine contamination.**

(1) The department shall make rules adopting scientifically-based standards for methamphetamine decontamination.

(2) A local health department, as defined in Title 26A, Local Health Authorities, shall follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

(3) The department shall conduct a public education campaign to inform the public about potential health risks of methamphetamine contamination.

Section ~~{302}~~303. Section **26B-7-410**, which is renumbered from Section 26-15a-104 is renumbered and amended to read:

~~[26-15a-104].~~ **26B-7-410.** **Food service establishment requirements -- Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health departments.**

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(1) Each food service establishment in the state shall be managed by at least one full-time certified food safety manager at each establishment site, who need not be present at the establishment site during all its hours of operation.

(2) Within 60 days of the termination of a certified food safety manager's employment that results in the food service establishment no longer being in compliance with Subsection (1), the food service establishment shall:

(a) employ a new certified food safety manager; or

(b) designate another employee to become the establishment's certified food safety manager who shall commence a department-approved food safety manager training course.

(3) Compliance with the 60-day time period provided in Subsection (2) may be extended by the local health department for reasonable cause, as determined by the department by rule.

(4) (a) The local health department may determine whether a food service establishment is in compliance with this section by visiting the establishment during regular business hours and requesting information and documentation about the employment of a certified food safety manager.

(b) If a violation of this section is identified, the local health department shall propose remedial action to bring the food service establishment into compliance.

(c) (i) A food service establishment receiving notice of a violation and proposed remedial action from a local health department may appeal the notice of violation and proposed remedial action pursuant to procedures established by the local health department, which shall be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(ii) Notwithstanding the provisions of Section 63G-4-402, an appeal of a local health department decision [~~to a district court~~] shall be conducted as an original, independent proceeding, and not as a review of the proceedings conducted by the local health department.

(iii) The [~~district~~] court shall give no deference to the findings or conclusions of the local health department.

(5) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a definition of "potentially hazardous foods" for purposes of this section and Section

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26B-7-401; and

(ii) any provisions necessary to implement this section.

(b) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Section ~~{303}~~304. Section **26B-7-411**, which is renumbered from Section 26-15a-105 is renumbered and amended to read:

~~[26-15a-105].~~ **26B-7-411. Exemptions to food service establishment requirements.**

(1) The following are not subject to the provisions of Section ~~[26-15a-104]~~ 26B-7-410:

(a) special events sponsored by municipal or nonprofit civic organizations, including food booths at school sporting events and little league athletic events and church functions;

(b) temporary event food services approved by a local health department;

(c) vendors and other food service establishments that serve only commercially prepackaged foods and beverages as defined by the department by rule;

(d) private homes not used as a commercial food service establishment;

(e) health care facilities licensed under Chapter ~~[21]~~ 2, Part 2, Health Care Facility Licensing and Inspection ~~[Act]~~;

(f) bed and breakfast establishments at which the only meal served is a continental breakfast as defined by the department by rule;

(g) residential child care providers;

(h) child care providers and programs licensed under ~~[Chapter 39, Utah Child Care Licensing Act]~~ Chapter 2, Part 4, Child Care Licensing;

(i) back country food service establishments;

(j) an event that is sponsored by a charitable organization, if, at the event, the organization:

(i) provides food to a disadvantaged group free of charge; and

(ii) complies with rules established by the department under Subsection (3); and

(k) a lowest risk or permitted food establishment category determined by a risk assessment evaluation established by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Nothing in this section may be construed as exempting a food service establishment

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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}~~305. Section **26B-7-412**, which is renumbered from Section 26-15a-106 is renumbered and amended to read:

~~[26-15a-106]~~. **26B-7-412. Certified food safety manager.**

(1) Before a person may manage a food service establishment as a certified food safety manager, that person shall submit documentation in the format prescribed by the department to the appropriate local health department indicating a passing score on a department-approved examination.

(2) To continue to manage a food service establishment, a certified food safety manager shall:

(a) successfully complete, every three years, renewal requirements established by department rule which are consistent with original certification requirements; and

(b) submit documentation in the format prescribed by the department within 30 days of the completion of renewal requirements to the appropriate local health department.

(3) A local health department may deny, revoke, or suspend the authority of a certified food safety manager to manage a food service establishment or require the completion of 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}~~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:

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(a) may not charge a fee to accept or process the documentation described in Subsections (1) and (2);

(b) shall accept photocopies or electronic copies of the documentation described in Subsections (1) and (2); and

(c) shall allow an individual to submit the documentation described in Subsections (1) and (2) by mail, email, or in person.

(7) Certified food safety managers shall:

(a) establish and monitor compliance with practices and procedures in the food service establishments where they are employed to maintain compliance with department and local health department food safety rules; and

(b) perform such other duties that may be necessary to ensure food safety in the food service establishments where they are employed.

(8) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) statewide, uniform standards for certified food safety managers;

(ii) criteria for food safety certification examinations; and

(iii) any provisions necessary to implement this section.

(b) The department shall approve food safety certification examinations in accordance with this section.

(c) The local health department with jurisdiction over the geographic area in which a food service establishment is located shall enforce the provisions of this section.

Section ~~305~~306. Section **26B-7-413**, which is renumbered from Section 26-15-5 is renumbered and amended to read:

~~[26-15-5]. 26B-7-413. Requirements for food handlers -- Training program and testing requirements for permit -- Rulemaking -- Exceptions.~~

(1) As used in this section:

(a) "Approved food handler training program" means a training program described by this section and approved by the department.

(b) "Food handler" means a person who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a food service establishment.

(c) "Food handler permit" means a permit issued by a local health department to allow

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a person to work as a food handler.

~~[(d) "Food service establishment" has the same meaning as provided in Section 26-15a-102.]~~

~~[(e)]~~ (d) "Instructor" means an individual who is qualified to instruct an approved food handler program on behalf of a provider.

~~[(f)]~~ (e) "Provider" means a person or entity that provides an approved food handler training program.

(2) A person may not work as a food handler for a food service establishment unless the person:

(a) successfully completes an approved food handler training program within 14 days after the day on which the person begins employment that includes food handler services; and

(b) obtains a food handler permit within 30 days after the day on which the person begins employment that includes food handler services.

(3) An approved food handler training program shall include:

(a) at least 75 minutes of training time;

(b) an exam, which requires a passing score of 75% and, except as provided in Subsection (11), consists of:

(i) 40 multiple-choice questions developed by the department, in consultation with local health departments; and

(ii) four content sections designated by rule of the department with 10 randomly selected questions for each content section; and

(c) upon completion, the awarding of a certificate of completion that is valid with any local health department in the state for 30 days after the day on which the certificate is issued:

(i) to a student who:

(A) completes the training; and

(B) passes the exam described in this Subsection (3) or an exam approved by the department in accordance with Subsection (11); and

(ii) which certificate of completion:

(A) includes student identifying information determined by department rule; and

(B) is delivered by mail or electronic means.

(4) (a) A person may obtain a food handler permit by:

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(i) providing a valid certificate of completion of an approved food handler training program and an application, approved by the local health department, to a local health department; and

(ii) paying a food handler permit fee to the local health department.

(b) (i) A local health department may charge a food handler permit fee that is reasonable and that reflects the cost of managing the food safety program.

(ii) The department shall establish by rule the maximum amount a local health department may charge for the fee described in Subsection (4)(b)(i).

(5) A person working as a food handler for a food service establishment shall obtain a food handler permit:

(a) before handling any food;

(b) within 30 days of initial employment with a food service establishment; and

(c) within seven days of the expiration of an existing food handler permit.

(6) (a) A person who holds a valid food handler permit under this section may serve as a food handler throughout the state without restriction.

(b) A food handler permit granted after June 30, 2013, is valid for three years from the date of issuance.

(7) An individual may not serve as an instructor, unless the provider includes the individual on the provider's list of instructors.

(8) The department, in consultation with local health departments, shall:

(a) approve the content of an approved food handler training program required under Subsection (3);

(b) approve, as qualified, each provider; and

(c) in accordance with applicable rules made under Subsection (12), provide a means to authenticate:

(i) documents used in an approved food handler training program;

(ii) the identity of an approved instructor; and

(iii) an approved provider.

(9) An approved food handler training program shall:

(a) provide basic instruction on the Centers for Disease Control and Prevention's top five foodborne illness risk factors, including:

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- (i) improper hot and cold holding temperatures of potentially hazardous food;
- (ii) improper cooking temperatures of food;
- (iii) dirty or contaminated utensils and equipment;
- (iv) poor employee health and hygiene; and
- (v) food from unsafe sources;
- (b) be offered through:
 - (i) a trainer-led class;
 - (ii) the Internet; or
 - (iii) a combination of a trainer-led class and the Internet;
- (c) maintain a system to verify a certificate of completion of an approved food handler training program issued under Subsection (3) to the department, a local health department, and a food service establishment; and
- (d) provide to the department unrestricted access to classroom training sessions and online course materials at any time for audit purposes.

(10) (a) A provider that provides an approved food handler training program may charge a reasonable fee.

(b) If a person or an entity is not approved by the department to provide an approved food handler training program, the person or entity may not represent, in connection with the person's or entity's name or business, including in advertising, that the person or entity is a provider of an approved food handler training program or otherwise represent that a program offered by the person or entity will qualify an individual to work as a food handler in the state.

(11) (a) Subject to the approval of the department every three years, a provider may use an exam that consists of questions that do not conform with the provisions of Subsection (3)(b), if:

- (i) the provider complies with the provisions of this Subsection (11);
- (ii) the provider pays a fee every three years to the department, which fee shall be determined by the department and shall reflect the cost of the review of the alternative test questions; and
- (iii) an independent instructional design and testing expert provides a written report to the department containing a positive recommendation based on the expert's analysis as described in Subsection 11(b).

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(b) (i) A provider may request approval of a different bank of test questions other than the questions developed under Subsection (3) by submitting to the department a proposed bank of at least 200 test questions organized by learning objective in accordance with Subsection (9)(a).

(ii) A provider proposing a different bank of test questions under this Subsection (11) shall contract with an independent instructional design and testing expert approved by the department at the provider's expense to analyze the provider's bank of test questions to ensure the questions:

(A) effectively measure the applicant's knowledge of the required learning objectives; and

(B) meet the appropriate testing standards for question structure.

(c) If the department provides written notice to a provider that any test question of the provider's approved exam under this Subsection (11) inadequately tests the required learning objectives, the provider shall make required changes to the question within 30 days after the day on which written notice is received by the provider.

(d) A food handler exam offered by a provider may be:

(i) a written exam;

(ii) an online exam; or

(iii) an oral exam, if circumstances require, including when an applicant's language or reading abilities interfere with taking a written or online exam.

(e) A provider shall routinely rotate test questions from the test question bank, change the order of test questions in tests, and change the order of multiple-choice answers in test questions to discourage cheating.

(12) (a) When exercising rulemaking authority under this section the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall, by rule, establish requirements designed to inhibit fraud for an approved food handler training program described in this section.

(c) The requirements described in Subsection (12)(b) may include requirements to ensure that:

(i) an individual does not attempt to complete the program or exam in another individual's place;

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(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).

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(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}~~307. Section **26B-7-414**, which is renumbered from Section 26-15-9 is renumbered and amended to read:

~~[26-15-9].~~ 26B-7-414. Impoundment of adulterated food products authorized.

The department and local health departments may impound any food products found in places where food or drink is handled, sold, or served to the public that is intended for but found to be adulterated and unfit for human consumption; and, upon five ~~[days]~~days' notice and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

Section ~~{307}~~308. Section **26B-7-415**, which is renumbered from Section 26-15b-105 is renumbered and amended to read:

**~~[26-15b-105].~~ 26B-7-415. Agritourism food establishment permits --
Permit requirements -- Inspections.**

(1) As used in this section, "operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

(2) (a) A farm may not operate an agritourism food establishment unless the farm 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

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section.

~~[(1)]~~ (4) A farm may qualify for an agritourism food establishment permit if:

(a) poultry products that are served at the agritourism food establishment are slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

(b) meat not described in Subsection ~~[(1)]~~ (4)(a) that is served at the agritourism food establishment is slaughtered and processed in compliance with the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

(c) a kitchen facility used to prepare food for the agritourism food establishment meets the requirements established by the department;

(d) the farm operates the agritourism food establishment for no more than 14 consecutive days at a time; and

(e) the farm complies with the requirements of this section.

~~[(2)]~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.

~~[(3)]~~ (6) A local health department shall:

(a) ensure compliance with the rules described in Subsection ~~[(2)]~~ (5) when inspecting a kitchen facility;

(b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that requests an agritourism food establishment permit only:

(i) for an initial inspection, no more than one week before the agritourism food establishment is scheduled to begin operation;

(ii) for an unscheduled inspection:

(A) of an event scheduled to last no more than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation; or

(B) of an event scheduled to last longer than three days if the local health department conducts the inspection within three days before or after the day on which the agritourism food establishment is scheduled to begin operation, or conducts the inspection during operating hours of the agritourism food establishment; or

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(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice about an inspection; or

(B) the local health department has a valid reason to suspect that the agritourism food establishment 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 permitting inspection, keep a copy of that documentation on file with the agritourism food establishment's permit, and provide a copy of that documentation to the operator.

~~[(4)]~~ (7) An agritourism food establishment 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; and

(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.

~~[(5)]~~ (8) When making the rules described in Subsection ~~[(2)]~~ (5), the department may not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that any food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer;

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(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) reuse by an individual of drinking cups and tableware for multiple portions;

(g) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(h) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(j) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(l) fixed temperature measuring devices or product mimicking sensors for the holding equipment for [~~time/temperature control~~] ~~+~~ ~~time or temperature~~ ~~control~~ controlled food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(m) fixed floor-mounted and table-mounted equipment except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

(n) dedicated laundry facilities, except to require that linens used for the agritourism food establishment are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

(o) water, plumbing, drainage, and waste, except to require that sinks be supplied with hot water;

(p) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

(q) lighting, except to require that food preparation areas are well lit by natural or

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artificial light whenever food is being prepared;

(r) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;

(s) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas during food service and food preparation;

(t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

(u) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;

(v) submission of plans and specifications before construction or remodel of a kitchen facility;

(w) the number and type of [~~time/temperature~~] time or temperature controlled food offered for sale;

(x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

(z) food safety certification, except any individual who is involved in the preparation, storage, or service of food in the agritourism food establishment shall hold a food handler permit as defined in Section [~~26-15-5~~] ~~{26B-7-413}~~ 26B-7-413.

[~~(6)~~] (9) An operator applying for an agritourism food establishment permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the agritourism food establishment; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining [~~time/temperature~~] time or temperature controlled food at the appropriate temperatures for each [~~time/temperature~~] time or temperature controlled food.

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~~[(7)]~~ (10) In addition to a fee charged under ~~[Section ~~(b)~~ 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}~~ 309. Section **26B-7-416**, which is renumbered from Section 26-15c-105 is renumbered and amended to read:

~~[26-15c-105].~~ **26B-7-416. Microenterprise home kitchen permits -- Fees -- Safety and health inspections -- Permit requirements.**

(1) As used in this section, "operator" means an individual who resides in the private home and who manages or controls the microenterprise home kitchen.

(2) (a) An operator may not operate a microenterprise home kitchen unless the operator obtains a permit from the local health department that has jurisdiction over the area in which the microenterprise home kitchen is located.

(b) In accordance with Section 26A-1-121, and subject to the restrictions of this section, the department shall make standards and regulations relating to the permitting of a 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

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the operator.

(b) Nothing in this section prevents a local health department from revoking a microenterprise home kitchen permit issued by the local health department if the operation of the microenterprise home kitchen violates the terms of the permit or this section.

~~[(1)]~~ (4) An operator may qualify for a microenterprise home kitchen permit if:

(a) food that is served at the microenterprise home kitchen is processed in compliance with state and federal regulations;

(b) a kitchen facility used to prepare food for the microenterprise home kitchen meets the requirements established by the department;

(c) the microenterprise home kitchen operates only during the hours approved in the microenterprise home kitchen permit; and

(d) the microenterprise home kitchen complies with the requirements of this section.

~~[(2)]~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for microenterprise home kitchens.

~~[(3)]~~ (6) A local health department shall:

(a) ensure compliance with the rules described in Subsection ~~[(2)]~~ (5) when inspecting a microenterprise home kitchen;

(b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that requests a microenterprise home kitchen permit only:

(i) for an initial inspection, no more than one week before the microenterprise home kitchen is scheduled to begin operation;

(ii) for an unscheduled inspection, if the local health department conducts the inspection:

(A) within three days before or after the day on which the microenterprise home kitchen is scheduled to begin operation; or

(B) during operating hours of the microenterprise home kitchen; or

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice of the inspection; or

(B) the local health department has a valid reason to suspect that the microenterprise

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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

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not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and warewashing areas;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage areas, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that ready-to-eat food is protected from contamination during storage, preparation, handling, transport, and display;

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(g) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(i) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(k) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time or temperature control food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

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- (l) fixed floor-mounted and table-mounted equipment, except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
- (m) dedicated laundry facilities, except to require that linens used for the microenterprise home kitchen are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;
- (n) water, plumbing, drainage, and waste, except to require that:
 - (i) sinks be supplied with hot and cold potable water from:
 - (A) an approved public water system as defined in Section 19-4-102;
 - (B) if the local health department with jurisdiction over the microenterprise home kitchen has regulations regarding the safety of drinking water, a source that meets the local health department's regulations regarding the safety of drinking water; or
 - (C) a water source that is tested at least once per month for bacteriologic quality, and at least once in every three year period for lead and copper; and
 - (ii) food preparation and service is discontinued in the event of a disruption of potable water service;
- (o) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;
- (p) lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;
- (q) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;
- (r) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas;
- (s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
- (t) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;
- (u) submission of plans and specifications before construction or remodel of a kitchen facility;

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(v) the number and type of time or temperature controlled food offered for sale, except:

(i) a raw time or temperature controlled food such as raw fish, raw milk, and raw shellfish;

(ii) any food requiring special processes that would necessitate a HACCP plan; and

(iii) fish from waters of the state;

(w) approved food sources, except to require that:

(i) food in a hermetically sealed container is obtained from a regulated food processing plant;

(ii) liquid milk and milk products are obtained from sources that comply with Grade A standards specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) fish for sale or service are commercially and legally caught;

(iv) mushrooms picked in the wild are not offered for sale or service; and

(v) game animals offered for sale or service are raised, slaughtered, and processed according to rules governing meat and poultry as specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(x) the use of items produced under this chapter; or

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven.

~~[(6)]~~ (9) An operator applying for a microenterprise home kitchen permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the microenterprise home kitchen; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining time or temperature controlled food at the appropriate temperatures for each time or temperature controlled food.

~~[(7)]~~ (10) In addition to a fee charged under ~~Section ~~[(1)]~~ 26-15c-103~~ Subsection (2), if

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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}~~310. Section **26B-7-501**, which is renumbered from Section 26-62-102 is renumbered and amended to read:

Part 5. Regulation of Smoking, Tobacco Products, and Nicotine Products

~~[26-62-102].~~ **26B-7-501. Definitions.**

As used in this ~~[chapter]~~ part:

(1) "Community location" means the same as that term is defined:

- (a) as it relates to a municipality, in Section 10-8-41.6; and
- (b) as it relates to a county, in Section 17-50-333.

(2) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

~~[(2)]~~ (3) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(4) "Electronic cigarette substance" means the same as that term is defined in Section 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

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any local health department enforcing the provisions of this chapter.

~~[(5)]~~ (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

~~[(6)]~~ (8) "Local health department" means the same as that term is defined in Section 26A-1-102. ~~[(7)]~~

~~[(8)]~~ (9) "Manufacture" includes:

(a) to cast, construct, or make electronic cigarettes; or

(b) to blend, make, process, or prepare an electronic cigarette substance.

~~[(9)]~~ (10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:

(a) is prefilled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

~~[(10)]~~ (11) "Manufacturer sealed electronic cigarette product" means:

(a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or

(b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.

~~[(11)]~~ (12) "Nicotine" means the same as that term is defined in Section 76-10-101.

~~[(7)]~~ ~~[(12)]~~ (13) "Nicotine product" means the same as that term is defined in Section 76-10-101.

~~[(13)]~~ (14) "Non-tobacco shisha" means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~[(8)]~~ ~~[(14)]~~ (15) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this chapter.

~~[(9)]~~ ~~[(15)]~~ (16) "Permit" means a tobacco retail permit issued under ~~[this chapter]~~ Section ~~[(26B-7-507)]~~ 26B-7-507.

~~[(16)]~~ (17) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

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- (b) means of transportation or common carrier waiting rooms;
 - (c) restaurants, cafes, or cafeterias;
 - (d) taverns as defined in Section 32B-1-102, or cabarets;
 - (e) shopping malls, retail stores, grocery stores, or arcades;
 - (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;
 - (g) barber shops, hair salons, or laundromats;
 - (h) sports or fitness facilities;
 - (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;
 - (j) (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and
 - (ii) any child care, other than child care as defined in Section ~~{26B-2-401}~~ 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;
 - (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;
 - (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or ~~{their}~~ the members' guests or families;
 - (m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;
 - (n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;
 - (o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and
 - (p) a holder of a bar establishment license, as defined in Section 32B-1-102.
- ~~[10]~~ ~~(17)~~ 18 (a) "Proof of age" means:

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(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(ii) a valid identification that:

(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.

~~(18)~~19 "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

~~(11)~~ ~~(19)~~20 "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

~~(20)~~ ~~(20)~~21 "Shisha" means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

~~(21)~~22 "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

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(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

[~~(12)~~] (~~(22)~~23) "Tax commission license" means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell a cigarette at retail;

(b) Section 59-14-301 to sell a tobacco product at retail; or

(c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

[~~(13)~~] (~~(23)~~24) "Tobacco product" means:

(a) a tobacco product as defined in Section 76-10-101; or

(b) tobacco paraphernalia as defined in Section 76-10-101.

[~~(14)~~] (~~(24)~~25) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Section ~~(310)~~311. Section **26B-7-502**, which is renumbered from Section 26-15-11 is renumbered and amended to read:

[~~26-15-11~~]. 26B-7-502. Statutes on smoking considered public health laws.

[~~Title 26, Chapter 38, Utah Indoor Clean Air Act,~~] Section 26B-7-503 is a public health law and shall be enforced by the department and local health departments.

Section ~~(311)~~312. Section **26B-7-503**, which is renumbered from Section 26-38-3 is renumbered and amended to read:

[~~26-38-3~~]. 26B-7-503. Utah Indoor Clean Air Act -- Restriction on smoking in public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local ordinances.

(1) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), smoking is

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prohibited in all enclosed indoor places of public access and publicly owned buildings and offices.

(2) Subsection (1) does not apply to:

(a) areas not commonly open to the public of owner-operated businesses having no employees other than the owner-operator;

(b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas of these facilities, including dining areas and lobby areas; and

(c) separate enclosed smoking areas:

(i) located in the passenger terminals of an international airport located in the city of the first class;

(ii) vented directly to the outdoors; and

(iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

(3) (a) A person is exempt from the restrictions of Subsection (1) if the person:

(i) is a member of an American Indian tribe whose members are recognized as eligible for the special programs and services provided by the United States to American Indians who are members of those tribes;

(ii) is an American Indian who actively practices an American Indian religion, the origin and interpretation of which is from a traditional American Indian culture;

(iii) is smoking tobacco using the traditional pipe of an American Indian tribal religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of that ceremony; and

(iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine person recognized by the tribe of which the person is a member and the Indian community.

(b) This Subsection (3) takes precedence over Subsection (1).

(c) A religious ceremony using a traditional pipe under this section is subject to any applicable state or local law, except as provided in this section.

(4) (a) An owner or the agent or employee of the owner of a place where smoking is prohibited under Subsection (1) who observes a person smoking in apparent violation of this section shall request the person to stop smoking.

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(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 ~~fin~~into 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}~~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}~~313. 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

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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}~~314. Section **26B-7-505**, which is renumbered from Section 26-57-103 is renumbered and amended to read:

~~[26-57-103].~~ **26B-7-505. Electronic cigarette products -- Labeling --**

Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.

(1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:

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- (a) labeling;
- (b) nicotine content;
- (c) packaging; and
- (d) product quality.

(3) (a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).

(4) (a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.

(5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

(6) Any nicotine product shall contain the statement described in Subsection (7) if the nicotine product:

(a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

(ii) is not otherwise required under federal or state law to contain a nicotine warning; and

(b) contains nicotine.

(7) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6) as follows:

"This product contains nicotine."

Section ~~{314}~~315. Section **26B-7-506**, which is renumbered from Section 26-62-103 is renumbered and amended to read:

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~~[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}~~316. 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}~~317. 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,

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Subsection (4); and

(b) meets all requirements for a permit under this chapter.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section ~~[26-62-203]~~ 26B-7-509.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this chapter;

~~[(ii) Chapter 38, Utah Indoor Clean Air Act;]~~

(ii) Section ~~{26B-7-503}~~ 26B-7-503;

(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) 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; and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

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- (i) 1,000 feet of a community location;
- (ii) 600 feet of another retail tobacco specialty business; or
- (iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Section ~~{317}~~318. Section **26B-7-509**, which is renumbered from Section 26-62-203 is renumbered and amended to read:

~~[26-62-203].~~ 26B-7-509. Permit term and fees.

(1) (a) The term of a permit issued ~~[under this chapter]~~ to a retail tobacco specialty business is one year.

(b) The term of a permit issued ~~[under this chapter]~~ to a general tobacco retailer is two years.

(2) (a) A local health department may not issue a permit ~~[under this chapter]~~ until the applicant has paid a permit fee to the local health department of:

- (i) \$30 for a new permit;
- (ii) \$20 for a permit renewal; or
- (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to expire.

(b) A local health department that collects fees under Subsection (2)(a) shall use the fees to administer the permit requirements ~~[under this chapter]~~ described in Sections ~~{26B-7-506}~~26B-7-506 through ~~{26B-7-521}~~26B-7-521.

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(c) In addition to the fee described in Subsection (2)(a), a local health department may establish and collect a fee to perform a plan review for a retail tobacco specialty business permit.

(3) A permit holder may apply for a renewal of a permit no earlier than 30 days before the day on which the permit expires.

(4) A tobacco retailer that fails to renew a permit before the permit expires may apply to reinstate the permit by submitting to the local health department:

(a) the information required in Subsection [26-62-202] ~~26B-7-508~~ 26B-7-508(3) and, if applicable, Subsection [26-62-202] ~~26B-7-508~~ 26B-7-508(4);

(b) the fee for the reinstatement of a permit; and

(c) a signed affidavit affirming that the tobacco retailer has not violated the prohibitions in Subsection [26-62-201] ~~26B-7-507~~ 26B-7-507(1)(b) after the permit expired.

Section ~~318~~ 319. Section **26B-7-510**, which is renumbered from Section 26-62-204 is renumbered and amended to read:

~~[26-62-204].~~ **26B-7-510. Permit nontransferable.**

(1) A permit is nontransferable.

(2) If the information described in Subsection [26-62-202] ~~26B-7-508~~ 26B-7-508(3) changes, a tobacco retailer:

(a) may not renew the permit; and

(b) shall apply for a new permit no later than 15 days after the information in Subsection [26-62-202] ~~26B-7-508~~ 26B-7-508(3) changes.

Section ~~319~~ 320. Section **26B-7-511**, which is renumbered from Section 26-62-205 is renumbered and amended to read:

~~[26-62-205].~~ **26B-7-511. Permit requirements for a retail tobacco specialty business.**

(1) A retail tobacco specialty business shall:

(a) electronically verify proof of age for any individual that enters the premises of the business in accordance with ~~Part 4, Proof of Age Requirements~~ Section 26B-7-521;

(b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business if the individual is under 21 years old; and

(c) prominently display at the retail tobacco specialty business a sign on the public

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entrance of the business that communicates:

(i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in Subsection 76-10-105.1(4); and

(ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1, and 76-10-114.

(2) A retail tobacco specialty business may not:

(a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product.

Section ~~{320}~~321. Section **26B-7-512**, which is renumbered from Section 26-62-206 is renumbered and amended to read:

~~[26-62-206]~~. **26B-7-512**. **Requirements for the sale of tobacco product, electronic cigarette product, or nicotine product.**

(1) A tobacco retailer shall:

(a) provide the customer with an itemized receipt for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:

(i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;

(ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and

(iii) the date and time of the sale; and

(b) maintain an itemized transaction log for each sale of a tobacco product, an electronic cigarette product, or a nicotine product that separately identifies:

(i) the name of the tobacco product, the electronic cigarette product, or the nicotine product;

(ii) the amount charged for each tobacco product, electronic cigarette product, or nicotine product; and

(iii) the date and time of the sale.

(2) The itemized transaction log described in Subsection (1)(b) shall be:

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(a) maintained for at least one year after the date of each transaction in the itemized transaction log;

(b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer; and

(c) in addition to any documentation required under Section 59-1-1406 and Subsection 59-14-805(2).

Section ~~{321}~~322. Section **26B-7-513**, which is renumbered from Section 26-62-207 is renumbered and amended to read:

~~[26-62-207].~~ 26B-7-513. Permit requirements for the sale of tobacco products and electronic cigarette products.

(1) A tobacco retailer shall:

(a) provide the customer with an itemized receipt for each sale of a tobacco product or an electronic cigarette product that separately identifies:

(i) the name of the tobacco product or the electronic cigarette product;

(ii) the amount charged for each tobacco product or electronic cigarette product; and

(iii) the time and date of the sale; and

(b) maintain an itemized transaction log for each sale of a tobacco product or an electronic cigarette product that separately identifies:

(i) the name of the tobacco product or the electronic cigarette product;

(ii) the amount charged for each tobacco product or electronic cigarette product; and

(iii) the date and time of the sale.

(2) The itemized transaction log described in Subsection (1)(b) shall be:

(a) maintained for at least one year after the date of each transaction in the itemized transaction log; and

(b) made available to an enforcing agency or a peace officer at the request of the enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

Section ~~{322}~~323. Section **26B-7-514**, which is renumbered from Section 26-62-301 is renumbered and amended to read:

~~[26-62-301].~~ 26B-7-514. Permit violation.

A person is in violation of the permit issued under this chapter if the person violates:

(1) a provision of this chapter;

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- (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}~~324. 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}~~26B-7-506 through ~~{26B-7-521}~~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}~~325. 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.

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Part 1140; or

(5) has violated any other provision of state law or local ordinance.

Section ~~{325}~~326. Section **26B-7-517**, which is renumbered from Section 26-62-304 is renumbered and amended to read:

~~[26-62-304].~~ **26B-7-517. Hearing -- Evidence of criminal conviction.**

(1) At a civil hearing conducted under Section ~~[26-62-302]~~ ~~{26B-7-515}~~26B-7-515, evidence of the final criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this chapter for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this chapter.

(2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing agency:

(a) shall assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained; and

(b) shall revoke or suspend a permit in accordance with Section ~~[26-62-305]~~ ~~{26B-7-518}~~26B-7-518.

Section ~~{326}~~327. Section **26B-7-518**, which is renumbered from Section 26-62-305 is renumbered and amended to read:

~~[26-62-305].~~ **26B-7-518. Penalties.**

(1) (a) If an enforcing agency determines that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose the penalties described in this section.

(b) If multiple violations are found in a single inspection by an enforcing agency or a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).

(2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing agency shall:

(a) on a first violation at a retail location, impose a penalty of \$1,000;

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(b) on a second violation at the same retail location that occurs within one year of a previous violation, impose a penalty of \$1,500;

(c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:

(i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or

(ii) a penalty of \$2,000; and

(d) on a fourth or subsequent violation within two years of three previous violations:

(i) impose a penalty of \$2,000;

(ii) revoke a permit of the retailer; and

(iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:

(a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and

(b) on the second violation for the same general tobacco retailer within one year of the first violation:

(i) impose a fine of \$5,000; and

(ii) revoke the permit for the general tobacco retailer.

(4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall:

(a) on the first violation:

(i) impose a fine of \$5,000; and

(ii) immediately suspend the permit for 30 consecutive days; and

(b) on the second violation at the same retail location within two years of the first violation:

(i) impose a fine of \$10,000; and

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(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~~328. Section **26B-7-519**, which is renumbered from Section 26-62-306 is renumbered and amended to read:

~~[26-62-306]~~. **26B-7-519. Recognition of tobacco retailer training program.**

(1) In determining the amount of the monetary penalty to be imposed for a violation of this chapter, 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.

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(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}~~329. Section **26B-7-520**, which is renumbered from Section 26-62-307 is renumbered and amended to read:

~~[26-62-307]~~. **26B-7-520**. **Allocation of civil penalties.**

Civil monetary penalties collected under ~~[this chapter]~~ Section ~~{26B-7-518}~~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}~~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}~~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}~~330. Section **26B-7-521**, which is renumbered from Section 26-62-401 is renumbered and amended to read:

~~[26-62-401]~~. **26B-7-521**. **Verification of proof of age.**

(1) As used in this section:

(a) "Employee" means an employee of a retail tobacco specialty business.

(b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.

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(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.

(3) To comply with Subsection (2), an employee shall:

(a) request the individual present proof of age; and

(b) verify the validity of the proof of age electronically in accordance with Subsection

(4).

(4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.

(5) (a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.

(b) Information obtained under this section:

(i) shall be kept for at least 180 days; and

(ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.

(6) (a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:

(i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

(ii) purchase a tobacco product or an electronic cigarette product.

(b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is:

(i) accompanied by a parent or legal guardian who provides proof of age; or

(ii) (A) present at the retail tobacco specialty business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;

(B) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(C) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).

(7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present proof of age:

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- (a) an employee;
- (b) a peace officer; or
- (c) a representative of an enforcing agency.

Section 331. Coordinating S.B. 41 with S.B. 272 -- Substantive and technical amendments.

If this S.B. 41 and S.B. 272, Funds Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication on July 1, 2023, by amending Subsection 26B-5-601(8) (renumbered from Section 62A-17-102) in this S.B. 41 to read:

"(8) "Psychiatrist" means an individual who:

- (a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
- (b) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists."

Section ~~{330}~~332. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) not enroll this bill if any of the following bills do not pass:

(a) S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;

(b) S.B. 39, Health and Human Services Recodification - ~~{Prevention, Supports, Substance Use}~~ Health Care Assistance and ~~{Mental Health}~~ Data; or

(c) S.B. 40, Health and Human Services Recodification - Health Care ~~{Assistance}~~ Delivery and ~~{Data}~~ Repeals; and

(2) in any new language added to the Utah Code by legislation passed during the 2023 General Session, replace any references to ~~{Titles}~~ Title 26 or 62A with the renumbered reference as it is renumbered in this bill.