

Representative Steve Eliason proposes the following substitute bill:

MODIFICATIONS TO CIVIL COMMITMENT

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses civil commitment.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "substantial danger" for purposes of civil commitment;
- ▶ provides that an individual may apply for voluntary admission to a mental health facility after an evaluation for temporary commitment;
- ▶ clarifies that certain processes for release of a patient from voluntary civil commitment apply to adult patients;
- ▶ subject to certain requirements, extends the maximum period for adult temporary civil commitment;
- ▶ requires a local mental health authority to inform an adult who is temporarily civilly committed of the reason for commitment;
- ▶ describes certain rights of an adult who is temporarily civilly committed;
- ▶ requires a court to order an applicant to consult with the appropriate local mental health authority before the court issues an order of civil commitment;
- ▶ clarifies that a party may be transferred or substituted in accordance with the Utah Rules of Civil Procedure if a civil commitment case is transferred to another court;



- 26 ▶ subject to certain requirements, allows a designated examiner to conduct an
- 27 evaluation of an individual for civil commitment through telehealth;
- 28 ▶ provides that at a hearing for civil commitment, the court may order assisted
- 29 outpatient treatment if the individual does not meet the conditions for civil
- 30 commitment;
- 31 ▶ requires a court to dismiss commitment proceedings if the individual does not meet
- 32 the conditions for civil commitment or assisted outpatient treatment; and
- 33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40 **62A-15-602**, as last amended by Laws of Utah 2021, Chapter 122
- 41 **62A-15-625**, as last amended by Laws of Utah 2021, Chapter 260
- 42 **62A-15-627**, as last amended by Laws of Utah 2018, Chapter 322
- 43 **62A-15-629**, as last amended by Laws of Utah 2020, Chapter 225
- 44 **62A-15-631**, as last amended by Laws of Utah 2021, Chapter 122



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

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

48 **62A-15-602. Definitions.**

49 As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of
50 Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah
51 Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part
52 12, Essential Treatment and Intervention Act:

- 53 (1) "Adult" means an individual 18 years [~~of age~~] old or older.
- 54 (2) "Approved treatment facility or program" means a treatment provider that meets the
- 55 standards described in Subsection **62A-15-103(2)(a)(v)**.
- 56 (3) "Assisted outpatient treatment" means involuntary outpatient mental health

57 treatment ordered under Section [62A-15-630.5](#).

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

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

65 (6) "Designated examiner" means:

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

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

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

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

78 (9) "Harmful sexual conduct" means the following conduct upon an individual without
79 the individual's consent, including the nonconsensual circumstances described in Subsections
80 [76-5-406\(2\)\(a\)](#) through (l):

81 (a) sexual intercourse;

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

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

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

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

88 her intention to waive that right.

89 (11) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

90 (12) "Local substance abuse authority" means the same as that term is defined in
91 Section 62A-15-102 and described in Section 17-43-201.

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

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

99 (a) apply for and provide certification for a temporary commitment; or

100 (b) assist in the arrangement of transportation to a designated mental health facility.

101 (15) "Mental illness" means:

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

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

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

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

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

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

112 (b) undergoing essential treatment and intervention.

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

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

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

117 (18) "Serious bodily injury" means bodily injury that involves a substantial risk of
118 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or

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

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

122 (a) suicide;

123 (b) serious bodily self-injury;

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

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

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

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

129 that:

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

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

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

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

138 **62A-15-625. Voluntary admission of adults.**

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

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

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

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

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

150 Section 3. Section 62A-15-627 is amended to read:

151 **62A-15-627. Release of voluntary adult -- Exceptions.**

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

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

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

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

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

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

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

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

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

175 Section 4. Section 62A-15-629 is amended to read:

176 **62A-15-629. Temporary commitment -- Requirements and procedures -- Rights.**

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

179 (a) a written application that:

180 (i) is completed by a responsible individual who has reason to know, stating a belief

181 that the adult, due to mental illness, is likely to pose substantial danger to self or others if not
182 restrained and stating the personal knowledge of the adult's condition or circumstances that
183 lead to the individual's belief; and

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

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

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

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

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

195 (ii) completing a temporary commitment application that:

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

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

199 (C) states the specific nature of the danger;

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

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

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

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

209 ~~[(a)]~~ (i) as described in Section [62A-15-631](#), an application for involuntary
210 commitment is commenced, which may be accompanied by an order of detention described in
211 Subsection [62A-15-631\(4\)](#); ~~[or]~~

212 ~~[(b)]~~ (ii) the patient makes a voluntary application for admission[-]; or
213 (iii) before expiration of the 24 hour period, a licensed physician or designated
214 examiner examines the patient and certifies in writing that:
215 (A) the patient, due to mental illness, poses a substantial danger to self or others;
216 (B) additional time is necessary for evaluation and treatment of the patient's mental
217 illness; and
218 (C) there is no appropriate less-restrictive alternative to commitment to evaluate and
219 treat the patient's mental illness.
220 (b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48
221 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays,
222 Sundays, and legal holidays.
223 (c) Subsection (3)(a)(iii) applies to an adult patient.
224 (4) Upon a written application described in Subsection (1)(a) or the observation and
225 belief described in Subsection (1)(b)(i), the adult shall be:
226 (a) taken into a peace officer's protective custody, by reasonable means, if necessary for
227 public safety; and
228 (b) transported for temporary commitment to a facility designated by the local mental
229 health authority, by means of:
230 (i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;
231 (ii) an ambulance, if a peace officer is not necessary for public safety, and
232 transportation arrangements are made by a physician, designated examiner, or mental health
233 officer;
234 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the
235 location where the ~~[individual to be committed]~~ adult is present, if the ~~[individual]~~ adult is not
236 transported by ambulance;
237 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law
238 enforcement authority described in Subsection (4)(b)(iii) and the ~~[individual]~~ adult is not
239 transported by ambulance; or
240 (v) nonemergency secured behavioral health transport as that term is defined in Section
241 26-8a-102.
242 (5) Notwithstanding Subsection (4):

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

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

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

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

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

257 (i) ~~H→ [within three hours after arrival at the local mental health authority, make a~~
 258 telephone call, at the expense of the local mental health authority, to an individual of the
 259 patient's choice; and] subject to Subsection (6)(c), make a telephone call to an individual of the
 259a patient's choice, at the expense of the local mental health authority, within three hours after
 259b arrival at the local mental health authority and at least once during each 24-hour period of
 259c commitment under this section; and ←H

260 (ii) see and communicate with an attorney.

260a H→ (c) The local mental health authority may restrict an adult patient's telephone calls
 260b if the local mental health authority determines the patient's medical welfare requires the
 260c restriction. ←H

261 ~~[(6)]~~ (7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this
 262 section.

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

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

265 **62A-15-631. Involuntary commitment under court order -- Examination --**
 266 **Hearing -- Power of court -- Findings required -- Costs.**

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

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

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

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

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

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

284 (B) is sworn to under oath; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

391 (d) meets the criteria for assisted outpatient treatment described in Section
392 62A-15-630.5.

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

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

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

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

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

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

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

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

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

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

422 (A) the detention order;

423 (B) admission notes;

424 (C) the diagnosis;

425 (D) any doctors' orders;

426 (E) progress notes;

427 (F) nursing notes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

491 of indeterminate commitment was based.

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

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

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

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

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

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

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

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